

CHAPTER 30

PUBLIC SAFETY

ARTICLE I - CIVIL EMERGENCY

30-1-1 DEFINITIONS.

"CIVIL EMERGENCY" is hereby defined to be:

(A) A "riot or unlawful assembly" characterized by the use of actual force or violence or any power to execute by **three (3)** or more persons acting together without authority of law; or

(B) Any "natural disaster" or "man-made calamity", including flood, conflagration, cyclone, tornado, earthquake, or explosion within the corporate limits of the City resulting in the death or injury of persons or the destruction of property to such an extent that extraordinary measures must be taken to protect the public health, safety and welfare.

"CURFEW" is hereby defined as a prohibition against any person or persons walking, running, loitering, standing or motoring upon any alley, street, highway, public property or vacant premises within the corporate limits of the City excepting officials of any governmental unit and persons officially designated to duty with reference to the civil emergency.

30-1-2 DECLARATION OF EMERGENCY. Whenever an emergency as defined in **Section 30-1-1** exists, the Mayor shall declare the existence by means of a written declaration, setting forth the facts which constitute the emergency.

30-1-3 CURFEW. After proclamation of a civil emergency by the Mayor, he may order a general curfew applicable to such geographical areas of the City or to the City as a whole as he deems advisable and applicable during such hours of the day or night as he deems necessary in the interest of the public safety and welfare.

30-1-4 AUTHORITY OF MAYOR TO ISSUE ORDERS. After the proclamation of a civil emergency, the Mayor may also, in the interest of public safety and welfare, make any or all of the following orders.

(A) Order the closing of all retail liquor stores including taverns and private clubs or portions thereof wherein the consumption of intoxicating liquor and beer is permitted.

(B) Order the discontinuance of the sale of alcoholic liquor by any wholesaler or retailer.

(C) Order the discontinuance of selling, distributing or giving away of gasoline or other flammable liquid or combustible products in any container other than a gasoline tank properly affixed to a motor vehicle.

(D) Order the discontinuance of selling, distributing, dispensing or giving away of any firearms or ammunition of any character whatsoever.

(E) Issue such other orders as are imminently necessary for the protection of life and property.

30-1-5 EFFECTIVENESS. The proclamation herein authorized shall be effective for a period of **forty-eight (48) hours** unless sooner terminated by a proclamation of the Mayor indicating that the civil emergency no longer exists. The Mayor shall have the power to reproclaim the existence of a civil emergency at the end of each **forty-eight (48) hour** period during the time the civil emergency exists.

30-1-6 NOTIFICATION. Upon issuing the proclamation herein authorized, the Mayor shall notify the news media situated within the City and shall cause **three (3) copies** of the proclamation declaring the existence of the emergency to be posted at the following places within the City:

- (A) The City Hall.
- (B) The Post Office.
- (C) The Police Station.

(See 65 ILCS Sec. 5/11-1-6)

ARTICLE II - POLICE DEPARTMENT

DIVISION I - DEPARTMENT ESTABLISHED

30-2-1 OFFICE CREATED - TERM. There are created the offices of Chief of Police and Assistant Chief of Police of the City of Gibson City. The Chief of Police shall; hold his office under the terms of his appointment. The Assistant Chief of Police shall hold his office during the term of his appointment. **(Ord. No. 92-0-14; 06-08-92)**

30-2-2 APPOINTMENT – OATH - BOND. The Chief of Police shall be appointed and may be discharged by the Mayor with the advice and consent of the City Council. Before entering upon the duties of Chief, said appointee shall take the oath prescribed for other City officers and enter into a bond in the penal sum of **Two Thousand Dollars (\$2,000.00)** with good and sufficient sureties to be approved by the City Council, for the faithful discharge of the duties of the office, and shall acknowledge that he/she has read the rules and regulations of that office and that he/she understands the rules and regulations. The prior position of "Assistant Chief of Police" is hereby eliminated. The position of Captain shall be a position appointed by the Chief of Police and shall be assigned the duties and responsibilities as determined by the Chief of Police. The City Council will determine the appropriate compensation for the position of Captain. **(Ord. No. 19-10; 05-13-19)**

30-2-3 RANK. The Chief of Police shall be the head of the Department and have supervision over all officers and members thereof.

30-2-4 DEVOTE ENTIRE TIME - OFFENDERS. The Chief of Police shall devote his whole time and energy to the discharge of the duties of his office, and shall see that the laws and ordinances of the City are enforced as far as possible by the force under his command, and that all offenders are reported to some proper tribunal for punishment.

30-2-5 CONTROL OF POLICE FORCE – ABSENCE OR DISABILITY. The Chief of Police shall be the commanding officer of the entire police force of the City, subject only to the Mayor; the Chief of Police shall assign to the Captain, policemen or patrolmen under him/her their different duties, beats or districts, and their respective hours of service, and shall see that each member of the Police Department is on duty during the whole time of their respective watch; in the event of the necessary absence from the City, or temporary disability, of the Police Chief, the Captain shall assume and be

responsible for all of the duties of the Police Chief during such absence or disability. The Chief of Police may designate and delegate areas of responsibility to the Captain at such time as such officers are on duty or are subject to call to duty. **(Ord. No. 19-10; 05-13-19)**

30-2-6 REPORT AND SUSPENSION OF MEMBERS. It is the duty of the Chief of Police of the City to promptly report to the Mayor any member of the police force who may be guilty of drunkenness, neglect of duty, disobedience of orders, or violation of the standing rules and regulations of the Police Department; and during the pendency of formal charges against any police officer or patrolman on the force, the Chief of Police may, with the consent of the Mayor, suspend such officer or patrolman from duty until such charges can be investigated.

30-2-7 KEEP RECORDS. The Chief of Police shall keep or cause to be kept, books of record of the Police Department and of all persons arrested or committed by the police, showing the time and place of each arrest, the offense for which the same was made, the court before whom such person was tried and the disposition of the case.

30-2-8 MONTHLY REPORT. The Chief of Police shall make a monthly report to the City Council, or more often if required, in writing, of the state of the Police Department, with such statistics and suggestions as the Chief may deem advisable for the improvement of the police force, or its discipline. Such report shall also show the number of arrests made by the police force during the preceding month, the offenses charged and the amount of fines collected.

30-2-9 POWERS OF POLICE – ARREST AND DETENTION. Each police officer of the City shall have the power to arrest or to cause to be arrested, with or without process, all persons found violating any City, State, County or Federal law. Such persons arrested may be detained or admitted to jail according to the existing law or ruling of Courts of competent jurisdiction.

30-2-10 RECORD OF ARREST. All police officers making an arrest shall record the name and physical description of the person arrested, where arrested, and on what charge; what property, if any, was taken or found on such person, and how disposed of; and also record his own name as the officer making the arrest and all such records shall become the property of the City Police Department.

30-2-11 DUTIES OF CHIEF.

(A) The Chief of Police shall keep such records and make such reports, not in conflict with existing law, concerning the activities of the Department as may be required by statute or by the City Council. The Chief shall be responsible for the performance of the Police Department of its functions and all persons who are members of the Police Department of its functions and all persons who are members of the Police Department shall serve subject to the orders of the Chief of Police.

(B) The Chief of Police may make or prescribe such rules and regulations as he shall deem advisable; such rules shall be binding on such members. Such rules and regulations may cover conduct of the members, uniforms and equipment to be worn or carried, hour of service and vacations not in conflict with the current City Personnel Policy, and all other similar matters necessary for the efficiency of the Department.

(C) The Chief of Police shall have the custody of all lost, abandoned or stolen property recovered in the City. The above property shall be surrendered by the officer(s) before the end of his shift by depositing the same with the Chief of Police or by placing the property in the locked transfer areas or in the custody and control of a towing service when a vehicle is involved; such evidence shall be returned to the lawful owner when no longer needed as evidence in any pending court action or destroyed on order of the court or destroyed if the item is contraband.

30-2-12 PART-TIME POLICE.

(A) **Employment.** The City may employ part-time police officers from time to time as it deems necessary.

(B) **Duties.** A part-time police officer shall have all the responsibilities of a full-time police officer and such specific duties as delineated in the General Orders of the City Police Department by its Chief of Police, but the number of hours a part-time officer may work within a calendar year is restricted to no more as permitted by law or as prescribed by the Illinois Law Enforcement Training and Standards Board as may be amended from time to time. Part-time police officers shall not be assigned to supervise or direct full-time police officers. Part-time police officers shall be trained in accordance with the Illinois Police Training Act (**50 ILCS 705/1 et seq.**) and the rules and requirements of the ILETSB.

(C) **Hiring Standards.** Any person employed as a part-time police officer must meet the following standards:

- (1) Be of good moral character, of temperate habits, of sound health, and physically and mentally able to perform assigned duties.
- (2) Be at least **twenty-one (21) years** of age.
- (3) Pass a medical examination.
- (4) Possess a high school diploma or GED certificate.
- (5) Possess a valid State of Illinois driver's license.
- (6) Possess no prior felony convictions.
- (7) Any individual who has served in the U.S. military must have been honorably discharged.

(D) **Discipline.** Part-time officers shall be under the disciplinary jurisdiction of the Chief of Police. Part-time police officers serve at the discretion of the City authorities, shall not have any property rights in said employment, and may be removed by the City authorities at any time. Part-time police officers shall comply with all applicable rules and General Orders issued by the Police Department. **(Ord. No. 12-10; 07-09-12)**

30-2-13 POSITION OF SERGEANT. The position of Sergeant is hereby created and shall be a position created by the Chief of Police and shall be assigned the duties and responsibilities as determined by the Chief of Police. The City Council shall determine the appropriate compensation for the position of Sergeant. **(Ord. No. 07-17; 08-27-07)**

30-2-14 TELECOMMUNICATORS' AGREEMENT. The collective bargaining agreement between the City and the Telecommunicators of the City of Gibson City is hereby included as Exhibit "A". **(Ord. No. 06-25; 08-28-06)**

30-2-15 POLICE OFFICERS' AGREEMENT. The collective bargaining agreement between the City and the police officers of the City of Gibson City is hereby included as Exhibit "B". **(Ord. No. 08-18; 09-22-08)**

30-2-16 CITY OF PAXTON AGREEMENT. The Agreement with the City of Paxton, a copy **(Addendum "C")** of which is attached hereto and made a part hereof, for Police Service Assistance, is hereby approved and adopted. **(Ord. No. 08-04; 04-14-08)**

30-2-17 COUNTY OF FORD AGREEMENT. The Agreement with the County of Ford, a copy **(Addendum "D")** of which is attached hereto and made a part hereof, for Police Service Assistance, is hereby approved and adopted. **(Ord. No. 08-05; 04-14-08)**

ARTICLE III - AUXILIARY POLICE

30-3-1 APPOINTMENT. The Mayor is hereby authorized to appoint auxiliary policemen and part-time policemen as employees from people recommended by the Chief of Police, subject to the advice and consent of the City Council. Prior to appointment, all proposed auxiliary and part-time policemen shall be fingerprinted and their fingerprints shall be checked with the Federal Bureau of Identification, Washington, D.C., for any possible criminal record. No person shall be appointed as an auxiliary or part-time policeman if he has been convicted of a felony or other crime involving moral turpitude. The appointment of any or all auxiliary or part-time policemen may be terminated by the Mayor, subject to the advice and consent of the City Council. **(Ord. No. 92-0-15; 06-08-92)**

30-3-2 NOT MEMBERS OF POLICE DEPARTMENT. Such auxiliary policemen shall not be members of the regular Police Department of the City. Auxiliary policemen shall be residents of the City. Identification symbols worn by such auxiliary policemen shall be different and distinct from those used by the regular Police Department and shall be selected and chosen by the Chief of Police of the City. Auxiliary policemen shall, at all times, during the performance of their duties, be subject to the direction and control of the Chief of Police of this City.

30-3-3 POWERS AND DUTIES. Auxiliary policemen shall have the following powers and duties when properly assigned and on duty:

- (A) To aid or direct traffic in this Municipality.
- (B) To aid in control of natural or man-made disasters.
- (C) To aid in case of civil disorder.
- (D) In cases which render it impractical for members of the regular police force to perform normal and regular duties, the Chief is authorized to assign auxiliary policemen to perform such normal and regular duties.
- (E) To be conservators of the peace.

Identification worn by such auxiliary policemen shall be different and distinct from those used by regular police. Such auxiliary policemen shall at all times be subject to the direction and control of Chief of Police and that they be subject to all rules and regulations of the department.

Such auxiliary policemen shall not carry firearms, except with the consent of Chief of Police and while in uniform and on duty.

30-3-4 ARMS TRAINING. Auxiliary policemen prior to entering upon their duties shall receive a course of training in use of weapons and other police procedures as shall be determined from time to time by the Mayor with consent of Council.

No person shall be appointed as an auxiliary policeman if he has been convicted of a felony or other crime involving moral turpitude. **(See Section 30-3-10)**

30-3-5 POLICE MATRONS. The Mayor with the advice and consent of the City Council may appoint **one (1)** or more police matrons for a term of **one (1) year** as is deemed necessary. Prior to entering any duties, such matron shall receive a course of training in weapons and other police procedure as shall be determined from time to time by the Mayor with the consent of the Council.

30-3-6 OATH - BOND. Each policemen shall, before entering upon the duties of his office, take and subscribe the oath provided by law for City officers and give a bond to City in the sum of **One Thousand Dollars (\$1,000.00)**, with such sureties as the City Council shall approve, conditioned for the faithful performance of the duties of the office.

30-3-7 RULES AND REGULATIONS OF POLICE OFFICERS. The City Council may by resolution enact such rules and regulations for police officers as it deems appropriate.

30-3-8 COMPENSATION. Auxiliary policemen may receive compensation as may be set from time to time by the appropriation ordinance. **(See 65 ILCS Sec. 5/3-6-5)**

30-3-9 PART-TIME OFFICER. Is any officer who does not meet the definition of auxiliary police, is a sworn officer with full peace officer powers, but is employed less than full-time. **(Ord. No. 92-0-15; 06-08-92)**

30-3-10 PART-TIME OFFICER TRAINING.
(A) All police officers, other than those officers who shall be employed on a full-time basis, shall be qualified to enter and successfully complete any training mandated by the Illinois Law Enforcement Training Standards Board.
(B) The aforesaid hiring standard, particularly with respect to part-time police officers employed by the City shall be submitted to the Illinois Law Enforcement Training Standards Board, as required by statute. **(Ord. No. 2011-0-04; 05-09-11) (See 65 ILCS 5/3.1-30-21)**

30-3-11 COMPENSATION. Part-time police officers shall receive compensation as set from time to time by the appropriation ordinance and regulations governing part-time employees. **(Ord. No. 92-0-15; 06-08-92)**

ARTICLE IV
EMERGENCY SERVICES AND DISASTER AGENCY
(ESDA)

30-4-1 POLICY AND PROCEDURES.

(A) Because of the possibility of the occurrence of disasters of unprecedented size and destructiveness resulting from the explosion in this or in a neighboring municipality of atomic or other means from without, or by means of sabotage or other disloyal actions within, or from fire, flood, earthquake, or other natural or man-made causes, and in order to insure that this municipality will be prepared to and will adequately deal with any such disasters, preserve the lives and property of the people of this municipality and protect the public peace, health and safety in the event of such a disaster, it is found and declared to be necessary:

- (1) To create a municipal emergency services and disaster 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 services and disaster operations.

(B) Whenever the Mayor determines after an investigation that a dangerous situation or a potentially dangerous situation exists which could cause death to individuals or serious injury to property or the health and welfare of public, the Mayor may declare that a state of emergency exists. The extraordinary powers may not be exercised until an ordinance shall have been adopted which shall establish standards for the determination by the Mayor of when the state of emergency exists and shall provide that the Mayor may not exercise such extraordinary power and authority except after signing under oath a statement finding that such standards have been met, setting forth facts to substantiate such findings, describing the nature of the emergency and declaring that a state of emergency exists. This statement shall be filed with the Clerk of the municipality as soon as practical. A state of emergency shall expire not later than the adjournment of the first regular meeting of the corporate authorities after the state of emergency is declared. A subsequent state of emergency may be declared if necessary.

(C) It is further declared to be the purpose of this Code and the policy of the municipality that all emergency management programs of this municipality be coordinated to the maximum extent with the comparable functions of the federal and state governments, including their various departments and agencies, of other municipalities and localities and private agencies of every type, to the end that the most effective preparation and use may be made of the nation's manpower, resources, and facilities for dealing with any disaster that may occur.

30-4-2 LIMITATIONS. Nothing in this Code shall be construed to:

- (A) Interfere with the course or conduct of a private labor dispute, except that actions otherwise authorized by this Code or other laws may be taken when necessary to forestall or mitigate imminent or existing danger to public health or safety;
- (B) Interfere with dissemination of news or comment of public affairs; but any communications facility or organization (including but not limited to radio and television stations, wire services, and newspapers) may be requested to transmit or print public service messages furnishing information or instructions in connection with a disaster;
- (C) Affect the jurisdiction or responsibilities of police forces, fire fighting forces, units of the armed forces of the United States, or of any personnel thereof, when on active duty; but state and local emergency operations plans shall place reliance upon the forces available for performance of functions related to disaster emergencies;
- (D) Limit, modify, or abridge the authority of the Mayor and the City Council to exercise any other powers vested in them under the constitution, statutes, or common law of this State, independent of or in conjunction with any provisions of this Code.

30-4-3 DEFINITIONS. As used in this Code, unless the context clearly indicates otherwise, the following words and terms shall have the definitions hereinafter ascribed:

- (A) **Coordinator** means the staff assistant to the Mayor with the duty of carrying out the requirements of this Code.
- (B) **Disaster** means an occurrence or threat of widespread or severe damage, injury or loss of life or property resulting from any natural or man-made cause, including but not limited to fire, flood, earthquake, wind, storm, hazardous materials spill or other water contamination requiring emergency action to avert danger or damage, epidemic, air contamination, blight, extended periods of severe and inclement weather, drought, infestation, explosion, critical shortages of essential fuels and energy, riot, or hostile military or paramilitary action.
- (C) **Emergency Management** means the efforts of this municipality to develop, plan, analyze, conduct, implement and maintain programs for disaster mitigation.
- (D) **Emergency Operations Plan** means the written plan of the municipality describing the organization, mission and functions of the government and supporting services for responding to and recovery from disasters.
- (E) **Emergency Services** means the preparation for and the carrying out of such functions, other than functions for which military forces are primarily responsible, as may be necessary or proper to prevent, minimize, repair and alleviate injury and damage resulting from disasters caused by fire, flood, earthquake, or other man-made or natural causes. These functions including, without limitation, fire-fighting services, police services, emergency aviation services, medical and health services, rescue, engineering, warning services, communications, radiological, chemical and other special weapons defense, evacuation of persons from stricken areas, emergency assigned functions of plant protection,

temporary restoration of public utility services and other functions related to civilian protection, together with all other activities necessary or incidental to protecting life or property.

(F) **Political Subdivision** means any county, city, village, or incorporated town.

30-4-4 EMERGENCY SERVICES AND DISASTER AGENCY.

(A) There is hereby created an emergency services and disaster agency and a coordinator of the emergency services and disaster agency, herein called the "coordinator", who shall be the head thereof. The coordinator shall be appointed by the Mayor with the advice and consent of the Council. He shall serve at the pleasure of the Mayor.

(B) The Emergency Services and Disaster Agency shall obtain, with Council approval, such technical, clerical, stenographic and other administrative personnel, and may make such expenditures within their appropriation therefor as may be necessary to carry out the purpose of this Code.

(C) The coordinator, subject to the direction and control of the Mayor, shall be the executive head of the Municipal Emergency Service and Disaster Agency, and shall be responsible under the direction of the Mayor for carrying out the program for emergency services and disaster operations of this municipality. He shall coordinate the activities of all organizations for emergency services and disaster operations within this municipality and shall maintain liaison, and cooperate with, the civil defense and emergency management agencies and organization of the county, other counties and municipalities, and of the federal and state government.

In the event of the absence, resignation, death, or inability to serve by the coordinator, the Mayor or any persons designated by him, shall be and act as coordinator until a new appointment is made as provided in this Code.

(D) The Municipal Emergency Services and Disaster Agency shall take an integral part in the development and revision of the local emergency operations plan.

(E) In the development of the emergency operations plan, the municipal emergency services and disaster agency shall interrelate with business, labor, industry, agriculture, civic and volunteer organizations, and community leaders.

(F) The Municipal Emergency Services and Disaster Agency shall:

- (1) Determine the requirements of the municipality for food, clothing and other necessities in the event of an emergency;
- (2) Develop an Emergency Operations Plan that meets the standards promulgated by the Illinois Emergency Management Agency;
- (3) Biannually review and revise the local Emergency Operations Plan;
- (4) Establish a register of persons with types of training and skills in emergency prevention, preparedness, response and recovery;
- (5) Establish a register of government and private response resources available for use in a disaster;

- (6) Prepare, for issuance by the Mayor, ordinances, proclamations and regulations as necessary or appropriate in coping with disasters.
- (7) Cooperate with the federal, state and county government and any public or private agency or entity in achieving any purpose of this Code and in implementing programs for disaster prevention, preparation, response and recovery;
- (8) Initiate and coordinate planning for:
 - (a) The establishment of an emergency operating center;
 - (b) The implementation of a 911 system.
- (9) Do all other things necessary, incidental or appropriate for the implementation of this Code.

30-4-5 EMERGENCY SERVICES AND DISASTER POWERS OF THE MAYOR.

(A) The Mayor shall have the general direction and control of the emergency services and disaster agency, and shall be responsible for the carrying out of the provisions of this 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 services and disaster 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 services and disaster organizations in advance of actual disaster to insure the furnishing of adequately trained and equipped forces for disaster operations.
 - (4) Out of funds appropriated for such purposes, to make such studies and surveys of the industries, resources and facilities in this municipality as may be necessary to ascertain the capabilities of the municipality for the emergency management phases of preparedness, response, and recovery, and to plan for the most efficient emergency use thereof.

(D) The Mayor is authorized to designate space in a municipal building, or elsewhere for the emergency services and disaster agency as its office.

30-4-6 FINANCING.

(A) It is the intent of the City Council and declared to be the policy of the municipality that every effort shall be made to provide funds for disaster emergencies.

(B) It is the City Council's intent that the first recourse shall be to funds regularly appropriated to the agency. If the Mayor finds that the demands placed upon these funds in coping with a particular disaster are unreasonably great, and the Governor has proclaimed the municipality a disaster, he may make application for funds from the state disaster relief fund. If monies available from the fund are insufficient, and if the Mayor finds that other sources of money to cope with the disaster are not available or are insufficient, he shall issue a call for an immediate session of the City Council for the purpose of enacting ordinances as the City Council may deem necessary to transfer and expend monies appropriated for other purposes, or borrow monies from the United States Government or other public or private sources. If less than a quorum of the members of the City Council is

capable of convening in session to enact such ordinances for the transfer, expenditure or loan of such monies, the Mayor is authorized to carry out those decisions until such time as a quorum of the City Council can convene.

(C) Nothing contained in this Section shall be construed to limit the Mayor's authority to apply for, administer and expend grants, gifts, or payments in aid of disaster prevention, preparedness, response or recovery.

30-4-7 LOCAL DISASTER EMERGENCIES.

(A) A local disaster emergency may be declared only by the Mayor or City Council. If declared by the Mayor, it shall not be continued for a period in excess of **seven (7) days** except by or with the consent of the City Council. Any order or proclamation declaring, continuing or terminating a local disaster emergency shall be given prompt and general publicity, and shall be filed promptly with the municipal clerk.

(B) The effect of a declaration of a local disaster emergency is to activate any and all applicable local emergency operations plans and to authorize the furnishing of aid and assistance thereunder.

(C) During a local disaster emergency, the Mayor may suspend the provisions of any municipal ordinance prescribing procedures for the conduct of municipal business, or the orders, rules and regulations of any municipal agency, if strict compliance with the provisions of any ordinance, rule or regulation would in any way prevent, hinder or delay necessary action in coping with the emergency, as authorized by "**The Illinois Emergency Management Agency Act**", provided that, if the City Council meets at such time, he shall act subject to the directions and restrictions imposed by that body.

30-4-8 TESTING OF DISASTER WARNING DEVICES. The testing of disaster devices including outdoor warning sirens shall be held only on the first Tuesday of each month at **10 o'clock** in the morning.

30-4-9 MUTUAL AID ARRANGEMENTS BETWEEN POLITICAL SUBDIVISIONS. The coordinator for emergency services and disaster operations may, in collaboration with other public agencies within his immediate vicinity, develop or cause to be developed mutual aid arrangements with other political subdivisions, municipal corporations or bodies politic within this state for reciprocal disaster response and recovery in case a disaster is too great to be dealt with unassisted. The mutual aid shall not, however, be effective unless and until approved by each of such political subdivisions, municipal corporations or bodies politic as are parties thereto, in the manner provided by law, and unless and until filed with and approved in writing by the state director. Such arrangements shall be consistent with the state and local emergency management operations plan and program, and in the event of such disaster as described in **Section 30-4-3** of this Code, it shall be the duty of each local and department for emergency services and disaster operations to render assistance in accordance with the provisions of such mutual aid arrangements.

30-4-10 COMMUNICATIONS. The local Emergency Services and Disaster Agency shall ascertain what means exist for rapid and efficient communications in times of disaster emergencies. The agency shall consider the desirability of supplementing these communications resources or of integrating them into a comprehensive system or network. In studying the character and feasibility of any system or its several parts, the agency shall evaluate the possibility of multipurpose use thereof for general municipal and local governmental purposes. The agency shall make recommendations to the Mayor as appropriate.

30-4-11 IMMUNITY. Neither the municipality, the agency or any member thereof or any person acting at their direction, engaged in any emergency services and disaster operations or disaster activities, while complying with or attempting to comply with this Code or any rule or regulations promulgated pursuant to this Code is liable for the death of or any injury to persons, or damage to property, as a result of such activity. This section does not, however, affect the right of any person to receive benefits to which he would otherwise be entitled under this act under the Worker's Compensation Act or the Worker's Occupational Diseases Act, or under any pension law, and this Section does not affect the right of any such person to receive any benefits or compensation under any Act of Congress.

30-4-12 PROFESSIONS, TRADES AND OCCUPATIONS. If such disaster as is described in **Section 30-4-3** occurs in this municipality and the services of persons who are competent to practice any profession, trade or occupation are required in this municipality to cope with the disaster situation and it appears that the number of persons licensed or registered in this municipality to practice such profession, trade or occupation may be insufficient for such purpose, then any persons who are licensed elsewhere to practice any such profession, trade or occupation may, if a member of another political subdivision rendering aid in this municipality pursuant to the order of the head of that political subdivision and upon the request of the municipality, or if otherwise requested so to do by the Mayor or the coordinator of this municipality, during the time the disaster condition continues, practice such profession, trade or occupation in this municipality without being licensed or registered in this municipality.

30-4-13 APPROPRIATIONS AND LEVY OF TAX. The City Council may make appropriations for emergency services and disaster 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 services and disaster operations a tax not to exceed **.05%** of the full, fair cash value as equalized or assessed by the Department of Revenue on all taxable property in the municipality for the current year. However, the amount collectible under such a levy shall in no event exceed **Twenty-Five Cents (\$0.25)** per capita. The annual tax shall be in addition to and in excess of the amount authorized to be levied for general corporate purposes.

30-4-14 AUTHORITY TO ACCEPT SERVICES, GIFTS, GRANTS OR LOANS. Whenever the federal or state governments, or any agency or officer thereof, or whenever any person, firm or corporation shall offer to the municipality services, equipment, supplies, materials or funds by way of gift or grant for purposes of emergency management, the municipality, acting through the Mayor or through its City Council, may accept such offer and upon such acceptance the Mayor or the City Council may authorize any officer of the municipality to receive such services, equipment, supplies, materials or funds on behalf of the municipality.

30-4-15 ORDERS, RULES AND REGULATIONS.
(A) The Mayor shall file a copy of every rule, regulation or order and any amendment thereof made by him pursuant to the provisions of this Code in the office of the Municipal Clerk. No such rule, regulation or order, or any amendment thereof, shall be effective until **ten (10) days** after such filing; provided, however, that upon the declaration of such a disaster emergency by the Mayor as is described in **Section 30-4-7**, the provision relating to the effective date of any rule, regulation order or amendment issued pursuant to this Code and during the state of such disaster emergency, is abrogated, and said rule, regulation, order or amendment shall become effective immediately upon being filed with the Municipal Clerk, accompanied by a certificate stating the reason for the emergency.

(B) The Emergency Services and Disaster 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 Services and Disaster Agency shall have available for inspection at its office all orders, rules and regulations made by the Governor, or under this authority. The State Emergency Management Agency shall furnish such orders, rules and regulations to the agency.

30-4-16 UTILIZATION OF EXISTING AGENCY, FACILITIES AND PERSONNEL. In carrying out the provisions of this Code, the Mayor and the coordinator of the emergency services and disaster agency are directed to utilize the services, equipment, supplies and facilities of existing departments, offices and agencies of the municipality to the maximum extent practicable, and the officers and personnel of all such departments, offices and agencies are directed, upon request, to cooperate with and extend such services and facilities to the coordinator and the emergency services and disaster agency.

30-4-17 SEVERABILITY. If any provision of this Code or the application thereof to any person or circumstances be held invalid, such invalidity shall not affect such other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Code are hereby declared to be severable.

30-4-18 NO PRIVATE LIABILITY.

(A) Any person owning or controlling real estate or other premises who voluntarily and without compensation grants a license or privilege, or otherwise permits the designation or use of the whole or any part or parts of such real estate or premises for the purpose of sheltering persons during an actual or impending disaster, or a mock or practice disaster response activity together with his successors in interest, if any, shall not be civilly liable for negligently causing the death of, or injury to, any person on or about such real estate or premises under such license, privilege or other permission, or for negligently causing loss of, or damage to, the property of such person.

(B) Any private person, firm or corporation and employees and agents of such person, firm or corporation in the performance of a contract with, and under the direction of, the municipality under the provisions of this Code, shall not be civilly liable for causing death of, or injury to, any person or damage to any property except in the event of willful misconduct.

(C) Any private person, firm or corporation, and any employee or agency of such person, firm or corporation, who renders assistance or advice at the request of the municipality, shall not be civilly liable for causing the death of, or injury to, any person or damage to any property except in the event of willful misconduct. The immunities provided in Subsection (C) shall not apply to any private person, firm or corporation, or to any employee or agent of such person, firm or corporation whose act or omission caused in whole or in part such actual or impending disaster and who would otherwise be liable therefore.

30-4-19 SUCCESSION. In the event of the death, absence from the municipality or other disability of the Mayor preventing him from acting under this Code or for any other municipal purpose, and until the office is filled in the manner prescribed by law, the coordinator of the emergency services and disaster agency shall succeed to the duties and responsibilities of the Mayor.

30-4-20 COMPENSATION. The City Council, by its annual appropriations ordinance, may provide for the payment of the salary of the coordinator and such other office staff and personnel as may be expressly provided for in the ordinance. Nothing herein contained shall prohibit any member of the agency from receiving compensation from the State of Illinois Emergency Management Agency under any provisions of that agency.

30-4-21 PERSONNEL OATH. Each person, whether compensated or noncompensated, who is appointed to serve in any capacity in the municipal Emergency Service and Disaster Agency, shall, before entering upon his duties, take an oath, in writing, before the coordinator of the municipal Emergency Service and Disaster Agency before a person authorized to administer oaths in this municipality, which oath shall be filed with the coordinator of the Emergency Services and Disaster Agency, and which oath shall be substantially as follows:

"I, _____ do solemnly swear (or affirm) that I will support and defend and bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of Illinois, and the territory, institutions and facilities thereof, both public and private, against all enemies, foreign and domestic; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter. And I do further swear (or affirm) that I do not advocate, nor am I, nor have I been a member of any political party or organization that advocates the overthrow of the government of the United States or of this State by force or violence; and that during such time I am affiliated with the City, I will not advocate nor become a member of any political party or organization that advocates the overthrow of the government of the United States or of this State by force or violence."

30-4-22 EMERGENCY TERMINATION OR REDUCTION OF ELECTRICAL SERVICE.

(A) **Declaration of Emergency Condition.** When in the judgment of the Mayor or City Council, as provided herein in **Section 30-4-7(A)**, a local disaster emergency requires the termination or reduction of electrical service, the Mayor or City Council shall forthwith declare in writing the existence of the emergency condition and order the termination or reduction.

30-4-23 PENALTY. Any person convicted of violating this Code or any order thereunder shall be punished by a fine of not exceeding **Seven Hundred Fifty Dollars (\$750.00)**.

(See 20 ILCS Sec. 3305/1 et seq.)

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EXHIBIT "A"

GIBSON CITY COLLECTIVE BARGAINING AGREEMENT WITH ILLINOIS FRATERNAL ORDER OF POLICE LABOR COUNCIL

TELECOMMUNICATORS' BARGAINING UNIT

MAY 1, 2006 - APRIL 30, 2008

ARTICLE I - PREAMBLE

This Agreement is entered into by and between the City of Gibson (herein referred to as the "Employer") and the Illinois Fraternal Order of Police Labor Council representing Gibson City Telecommunicators (herein referred to as the "Labor Council").

The purpose of this Agreement is to provide an orderly collective bargaining relationship between the Employer and the Labor Council representing the employees in the bargaining unit, and to make the basic terms upon which such relationship depends. It is the intent of both the Employer and the Labor Council to work together to provide and maintain satisfactory terms and conditions of employment, and to prevent as well as to adjust misunderstandings and grievances relating to employees' wages, hours and working conditions.

In consideration of mutual promises, covenants and Agreement contained herein, the parties hereto, by their duly authorized representatives and/or agents, do mutually covenant and agree as follows:

ARTICLE II – RECOGNITION

Pursuant to the certification of the Illinois State Labor Relations Board, Certification No. S-RC-06-074, the Employer recognizes the Labor Council as the sole and exclusive collective bargaining representative for the purpose of collective bargaining on any and all matters related to wages, hours and other terms and conditions of employment of all Employees in the bargaining unit. The bargaining unit shall include all full-time Telecommunicators employed by the City of Gibson City.

Positions excluded from the above bargaining unit shall include: All full-time or part-time police officers, all other employees of the City of Gibson City; all professional employees; confidential employees; managerial employees and/or supervisors within the meaning of the Illinois Public Labor Relations Act.

ARTICLE III – EMPLOYEE TESTING

The policy with regard to drug and alcohol testing is incorporated into and made a part of this Agreement. A copy of the policy is attached to this Agreement as Appendix "E".

ARTICLE IV – DUES DEDUCTION AND FAIR SHARE

Section 1. Dues Deduction. Upon receipt of a written and signed authorization form from an employee, the Employer shall deduct the amount of Labor Council dues set forth in such form and any authorized increase thereof, and shall remit such deductions monthly to the Illinois Fraternal Order of Police Labor Council, at the address designated by the Labor Council in accordance with the laws of the State of Illinois. The Labor Council shall advise the Employer of any increase in dues, in writing, at least **thirty (30) days** prior to its effective date.

Section 2. Dues. With respect to any employee on whose behalf the Employer receives a written authorization in a form agreed upon by the Labor Council and the Employer, the Employer shall deduct from the wages of the employee the dues and/or financial obligation uniformly required and shall forward the full amount to the address designated by the Labor Council. The amounts deducted shall be in accordance with the schedule to be submitted to the Employer by the Labor Council. Authorization for such deduction shall be irrevocable unless revoked by written notice to the Employer and the Labor Council.

Section 3. Fair Share. Any present employee who is not a member of the Labor Council shall be required to pay a fair share (not to exceed the amount of Labor Council dues) of the cost of the collective bargaining process, contract administration and pursuing matters affecting wages, hours and other conditions of the employment, but not to exceed the amount of dues uniformly required of the members. All employees hired on or after the effective date of this Agreement and who have not made application for membership, after the **thirtieth (30th) day** of their hire, shall also be required to pay a fair share as defined above.

Section 4. Indemnification. The Labor Council hereby indemnifies and agrees to save the Employer harmless against any and all judgments that may arise out of or by any reason of any proper action taken by the Employer for the purpose of complying with the provisions of this Section.

ARTICLE V – MANAGEMENT RIGHTS

The Employer has and will continue to retain and exercise the following rights, provided that no right is exercised contrary to or inconsistent with the specific terms of this Agreement.

- (a) To determine the organization of operations;
- (b) To determine and change the purpose, composition and function of each of its constituent departments and subdivision;
- (c) To set standards for services to be offered to the public;
- (d) To direct the employees, including the right to assign work and overtime;
- (e) To hire, examine, classify, select, promote, restore to a career service position, train, transfer, assign and schedule employees;
- (f) To increase, reduce or change, modify or alter the composition and size of the workforce, including the right to relieve employees from duties in accordance with the Layoff Article because of lack of work or funds or other proper reasons;
- (g) To contract out work to non-employees when essential in the operation;
- (h) To utilize part-time employees as needed so long as full-time employees have **forty (40) hours** per week scheduled or on approved leave;
- (i) To establish work schedules and to determine the starting and quitting time and the number of hours to be worked;

- (j) To establish, modify, combine or abolish job positions and classifications;
- (k) To add, delete or alter methods of operation, equipment or facilities;
- (l) To establish, implement and maintain an effective internal control program;
- (m) To suspend, demote, discharge or take other disciplinary actions against non-probationary employees for just cause;
- (n) To add, delete or alter policies, procedures and regulations; and
- (o) If in the sole discretion of the Employer, it is determined that civil emergency conditions exist, including but not limited to riots, civil disorders, tornado conditions, floods or similar catastrophes, the provisions of this Agreement may be suspended by the Employer during the time of the emergency, provided the wage rate and all economic benefits shall not be suspended. Grievances regarding Employer actions under these circumstances will not be processed or upheld, unless it is asserted that the Employer has repeatedly and in bad faith declared emergency circumstances to exist when they were not present. Written notice of the declaration of emergency conditions shall be forwarded to a Labor Council representative at a practical time.

Inherent managerial functions, prerogatives and policy-making rights, whether listed above or not, which the Employer has not expressly restricted by a specific provision of this agreement, shall remain vested exclusively with the Employer.

With the exception of (o) above, nothing in this Article shall abrogate or alter the other Articles of this Agreement.

ARTICLE VI – NO STRIKE

Section 1. No Strike Commitment. Neither the Labor Council nor any employee will call, initiate, authorize, participate in, sanction, encourage, or ratify any work stoppage or the concerted interference with the full, faithful and proper performance of the duties of employment with the Employer during the term of this Agreement. Neither the Labor Council nor any employee shall refuse to cross any picket line, by whoever established.

Section 2. Resumption of Operations. In the event of action prohibited by Section 1 above, the Labor Council immediately shall disavow such action and request the employees to return to work, and shall use its best efforts to achieve a prompt resumption of normal operations. The Labor Council, including its officials and agents, shall not be liable for any damages, direct or indirect, upon complying with the requirements of this Section.

Section 3. Labor Council Liability. Upon the failure of the Labor Council to comply with the provisions of Section 2 above, any agent or official of the Labor Council who is an employee covered by this Agreement may be subject to the provisions of Section 4 below.

Section 4. Discipline of Strikers. Any employee who violates the provisions of Section 1 of this Article shall be subject to immediate discharge. Any action taken by the Employer against any employee who participates in action prohibited by Section 1 above shall not be subject to the provisions of the grievance procedure, except that the issue of whether an employee in fact participated in a prohibited action shall be subject to the grievance and arbitration procedure.

ARTICLE VII – DISCIPLINE AND DISCHARGE

Section 1. Definition. The parties agree with the tenets of corrective and progressive discipline. Disciplinary action shall include only the following:

- Oral warning
- Written warning
- Suspension without pay
- Discharge

Section 2. Just Cause. The Employer agrees that disciplinary action shall be imposed only for just cause and shall be imposed as soon as practical after the Employer learns of the occurrence giving rise to the need for disciplinary action and after the Employer has had a reasonable opportunity to investigate the facts.

Section 3. Limitation. The agreement to use progressive disciplinary action does not prohibit the Employer from using a more severe measure when the circumstances warrant it. Discharge may be used when the offense indicates that a substantial shortcoming or action of an employee rendered the continuation of employment of the employee in some way detrimental to the Employer or the public.

Section 4. Disciplinary Action Subject to the Grievance Procedure. A non-probationary employee has the right to file a grievance on an oral warning or written warning which is posted for record (PFR). A PFR means that the grievance will not be processed but will be considered in conjunction with subsequent discipline if needed. That means that if there is a proposed suspension or discharge of an employee and oral or written warnings constitute a basis for the suspension or discharge, grievances which have been submitted under a PFR will be considered at that time.

Section 5. Pre-Disciplinary Meeting. For discipline other than oral and written reprimands, prior to notifying the employee of the contemplated discipline to be imposed, the Chief shall meet with the employee involved and inform the employee of the reason for such contemplated discipline, including the names of potential witnesses and copies of pertinent documents. The employee shall be informed of his/her contractual right to Labor Council representation and shall be entitled to such if so requested by the employee.

Nothing in this Section is intended or should be construed to waive an employee's right to union representation (as provided by the Illinois Public Labor Relations Act) during the questioning that the employee reasonably believes may lead to discipline. Bargaining unit employees shall have such rights as set forth in the United States Supreme Court decision in NLRB v. Weingarten, 420 U.S. 251 (1975), and Central Management Services and Corrections (Morgan) decision, 1 PERI par. 2020 (ISLRB 1985).

ARTICLE VIII – IMPASSE RESOLUTION

Prior to either party declaring an impasse in bargaining, the parties agree to seek the assistance of Federal Mediation and Conciliation Service to provide a mediator who will attempt to resolve the differences. The parties agree that they will continue to work in good faith to resolve the

differences during this process. Should the mediation fail, either party may declare an impasse and take those actions allowed by law.

ARTICLE IX – DISPUTE RESOLUTION AND GRIEVANCE PROCEDURE

Section 1. Grievance Procedure.

Step 1. The employee with or without a Labor Council Representative, may file a written grievance with the police chief within **fourteen (14) calendar days** of an occurrence or management decision or when the employee reasonably should have been aware of the occurrence or management decision. Nothing in this Article shall discourage or restrict the employee from informally attempting to resolve differences with a supervisor or the police chief prior to filing a written grievance. In no event shall a grievance be filed more than **thirty (30) calendar days** after its occurrence. When a written grievance is filed, a meeting may be convened by the chief or his designee and a written decision will be provided within **fourteen (14) days** of the submission of the written grievance.

Step 2. If the grievance is not settled in Step 1, the grievance may be referred in writing to the Mayor. Within **twenty (20) calendar days** after the grievance has been filed with the Mayor, he shall meet with the Labor Council Representative and the grievant to discuss the grievance and make a good faith effort to resolve the grievance. Nothing in this Article prohibits the Mayor from having the police chief or counsel present at this meeting. Following the meeting, the Mayor shall respond in writing to the grievant within **fourteen (14) calendar days**.

Step 3. If the grievance is not settled in Step 2, the matter shall be referred to arbitration by written request by the Labor Council. This written request must be made within **ten (10) calendar days** of the Employer's answer in Step 2. A representative of the Employer and the Labor Council shall meet to select an arbitrator from a panel provided by Federal Mediation and Conciliation Service. From a list of **seven (7)** arbitrators the parties shall alternately strike until one name remains. The party to strike first shall be determined by a coin toss. Each party reserves the right to reject one list of arbitrators in its entirety. The arbitrator shall be notified of his selection by a joint letter from the Employer and the Labor Council. Such letter shall request the arbitrator to set a time and place for the hearing subject to the availability of the Employer and the Labor Council representative and shall notify the arbitrator of the issue(s). All hearings shall be held in Gibson City, Illinois, unless otherwise agreed to by the parties.

Both parties agree to make a good faith attempt to arrive at a joint statement of facts and issues to be submitted to the arbitrator. The Employer or Labor Council shall have the right to request the arbitrator to require the presence of witnesses and/or documents. Each party shall bear the expense of its witness.

Questions of arbitrability shall be decided by the arbitrator. The arbitrator shall make a preliminary determination of the questions of arbitrability. Once a determination is made that the matter is arbitrable or if such preliminary determination cannot be made, the arbitrator shall then proceed to determine the merits of the dispute.

The expenses and fees of the arbitrator mutually agreed to and the cost of the hearing room shall be shared equally by the parties. The decision and award of the arbitrator shall be made within **forty-five (45) days** following the hearing and shall be final and binding on the Employer, the Labor Council, and the employee or employees involved. The arbitrator shall have no power to amend, modify, nullify, ignore, add to or subtract from the provisions of the agreement.

Section 2. Representation. Grievance may be processed by the Labor Council on behalf of an employee or on behalf of a group of employees. Either party may have the grievant or a grievant representing a group of grievants present at any step of the grievance procedure, or the employee is entitled to Labor Council representation at each and every step of the grievance procedure upon request.

Grievances may be filed on behalf of two or more employees only if the same facts, issues and requested settlement apply to all employees in the group.

Section 3. Subject Matter. Only one subject matter shall be covered in any one grievance. A grievance shall contain a statement of the grievant's position, the Article and Section of the Agreement allegedly violated, the date of the alleged violation, the relief sought, the signature of the grieving employee(s) and the date.

Section 4. Time Limitations. Grievances may be withdrawn at any step of the grievance procedure without precedent. Grievances not appealed within the designated time limits will be treated as withdrawn grievances.

The Employer's failure to respond within the time limits shall not find in favor of the grievant, but shall automatically advance the grievance to the next step. Time limits may be extended by mutual agreement.

ARTICLE X – LABOR MANAGEMENT CONFERENCES

At the request of either the Labor Council or the Employer, a labor-management conference will be scheduled. The meeting shall be scheduled by agreement of the parties at a time which does not interfere with provision of service. Grievances being processed pursuant to the grievance procedure shall not be considered at such meetings, nor shall negotiation for the purpose of altering or adding to any or all terms of this Agreement be carried out at such meetings. Such meetings shall be limited to:

- (a) Discussion on the implementation and general administration of this Agreement;
- (b) A sharing of general information of interest to the parties; and
- (c) Discussion of non-bargaining conditions of employment by the Employer which may affect employees. If the Employer requires the attendance of a particular employee at such meeting, the employee will remain in pay status. Absent the Chief's requirement of attendance, employees will not be on paid status while attending these meetings.

ARTICLE XI – LAY-OFF AND RECALL

Section 1. Layoff. When there is an impending layoff with respect to employees in the bargaining unit, the Employer shall inform the Labor Council in writing as soon as the City Council has decided the issue. The Employer will provide the Labor Council with the names of all employees to be laid off as soon as available.

Employees shall be laid off in accordance with seniority as defined in Article 12. The employees with the least amount of seniority shall be laid off first. Probationary employees will be laid off prior to the layoff of non-probationary employees. However, part-time employees may be utilized by the Employer in a similar manner to their use prior to layoff.

Section 2. Recall. Any employee who has been laid off shall be placed on the appropriate reinstatement list and shall be recalled on the basis of seniority. Recall rights under this provision shall terminate **twenty-four (24) months** after layoff.

If the employee does not return to duty or turns down the right to resume employment, then his or her name shall be removed from the reinstatement list and he or she shall be deemed to have lost all seniority and recall rights.

In the event of recall, eligible employees shall receive a written notice of recall by personal delivery, certified mail with return receipt requested, or posting of the notice at the affected employee's most recent address as supplied by said employee. It is the responsibility of all employees eligible for recall to keep the Chief notified of their current address. Upon receipt of the notice of recall, the employee shall have **three (3) calendar days** to notify the Chief of their acceptance of the recall. In the event the employee has elected to return to work, the employee shall have **eleven (11) calendar days** from the date of such election to report to duty, unless a longer period of time is authorized in writing by the Chief.

ARTICLE XII – SENIORITY

Section 1. Definition. For full-time employees as used herein, the term "seniority" shall refer to and be defined as the continuous length of full-time service or employment from date of last hire in the Gibson City Police Department.

Section 2. Seniority Lists. The Employer shall prepare a list setting forth the present seniority dates of all employees covered by this Agreement. Any dispute as to the seniority listing prepared by the Employer shall be resolved in the grievance procedure.

Section 3. Termination of Seniority. All seniority shall be lost by an employee who:

- (a) quits or resigns;
- (b) is discharged for just cause;
- (c) retires;
- (d) is laid off pursuant to the provisions of Article 11, or is absent from work for any reason, for a period of **twenty-four (24) months**, or the employee's seniority at the time the absence began, whichever is less;
- (e) is absent without notice for **three (3) consecutive work days**, unless the employee demonstrates just cause for the absence, and for the failure to provide proper notice;

- (f) fails to return to work at the conclusion of scheduled vacation, or leave of absence, unless the employee demonstrates just cause for the absence, and for the failure to provide proper notice;
- (g) accepts gainful employment while on an approved leave of absence.

Section 4. Accrual of Seniority. Employees will not accrue seniority credit for time spent on unpaid leave of absence.

ARTICLE XIII – NEW EMPLOYEE PROBATIONARY PERIOD

All employees shall be on a probationary status for a period of **one (1) year** from their date of hire. Probationary status means their employment may be terminated at any time during said period and that termination is not subject to the dispute resolution and grievance procedure (Article 9), nor is it subject to the discipline and discharge procedures (Article 7).

ARTICLE XIV – FOP REPRESENTATION

For the purpose of administering and enforcing the provisions of this Agreement, the Employer agrees as follows:

Section 1. Grievance Processing. The investigation of grievances by the Labor Council and its representatives shall be conducted so as not to interfere with the operations of the Department. Neither the representatives, nor witnesses being interviewed shall be compensated for time spent investigating grievances or preparing for the hearings. All meetings and arbitration shall be scheduled such that minimal disruption of Department activities shall take place. In those instances where an employee is required to provide information during the course of her schedule duty, and attendance is less than **one-half (1/2) hour** duration, no reduction in pay shall take place.

Section 2. Labor Council Negotiating Team. The Labor Council shall designate two bargaining unit members as representatives for purposes of attending labor negotiations. In any given session only one representative will be necessary. Labor negotiations will be scheduled when one of the representatives is off duty and will not be compensated for attending the negotiating session. Scheduling shall also be done to avoid morning meetings immediately following a work shift.

ARTICLE XV

Intentionally left blank.

ARTICLE XVI – BULLETIN BOARDS

The Employer shall provide the Labor Council with adequate space for a bulletin board for the purposes of the Labor Council.

ARTICLE XVII – LEAVE TIME

Each full-time employee shall be allowed sick leave with pay because of personal illness or because of serious illness or death of a member of his or her immediate family. Immediate family includes parents, spouses, brothers, sisters, children, stepchildren, grandparents, grandchild, parents-in-law, brother-in-law, sister-in-law, legal guardians and significant others.

The Employer may require any full-time employee requesting sick leave to provide a statement from a licensed physician stating the nature of the illness. The Employer may also designate the number of days or hours a full-time employee may be on sick leave due to the death of a member of his immediate family, considering the relationship of the deceased to the employee, distance traveled and other relevant circumstances involved.

Sick leave shall be allowed to accumulate at the rate of **one (1) day** per month up to a maximum of **ninety (90) working days**. In the event a full-time employee uses more than his accumulated sick leave, he may request a medical leave of absence, without pay, for a period of up to **one (1) year**. This request shall be in writing to the City Council for their consideration.

Upon retirement those employees with **fifteen (15)** or more years of service and **ninety (90) days** of accumulated sick leave will be paid for **ten (10)** of the accumulated sick leave days.

ARTICLE XVIII – WAGE RATE

Section 1. Wages. Wages for the bargaining unit employees shall be as provided below. All wages are retroactive to **May 1, 2006**:

| | 5/1/06 | 5/1/07 |
|----------|--------|--------|
| Start | 11.40 | 11.80 |
| 5 Years | 11.55 | 12.00 |
| 7 Years | 11.73 | 12.09 |
| 10 Years | 11.90 | 12.36 |
| 12 Years | 12.07 | 12.52 |
| 15 Years | 12.24 | 12.67 |

Step increases for years of service become effective at the beginning of the first full pay period following the employee's anniversary date.

Section 2. Shift Differential. In addition to the wages provided above, employees who are regularly scheduled to work on the second shift at least **twenty-four (24) hours** per week shall receive an additional **Fifteen Cents (\$0.15)** per hour. Employees who are regularly scheduled to work at least **twenty-four (24) hours** per week on the third shift shall receive an additional **Twenty Cents (\$0.20)** per hour. Payment for shift differential under this Section shall begin with the first full pay period following the execution of this Agreement.

ARTICLE XIX – VACATIONS

After **one (1) full year** of service, each and every full-time employee shall be annually entitled to **one (1) week** vacation pay. After **two (2) full years** of service and annually thereafter, each full-time employee shall be entitled to **two (2) weeks** annual vacation with pay. After completion of their **fifth (5th) year** of service and annually thereafter, each full-time employee shall be entitled to **three (3) weeks** annual vacation with pay. Vacation time is accrued on the anniversary date of employment and must be taken within the year following the anniversary day or it will be forfeited. The Police Chief may establish a vacation selection process to reserve time off for vacation.

ARTICLE XX – HEALTH INSURANCE

For the duration of this contract, the Employer agrees to continue funding **seventy-five percent (75%)** of employee premiums for individual group health insurance coverage. Should the employee elect such coverage, the employee shall be responsible for payment of **twenty-five percent (25%)** of the premium for the employee and **one hundred percent (100%)** of the premium for coverage of dependents.

ARTICLE XXI – HOLIDAYS

Section 1. Holidays. Employees shall receive the following paid holidays:

New Year's Day
President's Day
Good Friday
Memorial Day
Independence Day
Labor Day
Thanksgiving
Day after Thanksgiving
Christmas

Employees shall receive holiday recognition pay in the amount of **eight (8) hours'** straight time pay.

Section 1.2. Work on a Holiday. An employee who works on one of the above holidays shall be paid in addition to the above recognition pay, at the rate of **one and one-half (1.5) times** their normal rate of pay for all hours worked on that day.

ARTICLE XXII – HOURS AND OVERTIME

Section 1. Work Day and Work Week. The work day will consist of **eight (8) or ten (10) continuous hours**. The work week will consist of **five (5) consecutive days** followed by **two (2) consecutive days** off if working an **eight (8) hour** schedule or **four (4) consecutive days** followed by **three (3) consecutive days** off if assigned to work a **ten (10) hour** day. All time in excess of **forty (40) hours** during the pay week shall be compensated as provided in Section 2.

Meal periods and other breaks are to be taken when practical. Because meal periods are paid time, occasional loss of a meal period will not be compensated.

Section 2. Overtime Payment. Overtime earnings will be paid in cash on the payroll period during which the overtime was earned.

Section 3. Call-Back. A call back is defined as an official assignment of work which does not continuously precede or follow an employee's regularly scheduled working hours. Employees working a call back shall be compensated for **two (2) hours** or the actual time worked, whichever is greater. If the call-back is during a week in which the employee had a previously scheduled and approved vacation for the entire work week, overtime rate will be automatically paid. The compensation for either **two (2) hours** or the actual time worked will be paid at the overtime rate if that additional time is in excess of **forty (40) hours** during the work week.

ARTICLE XXIII – GENERAL PROVISIONS

Section 1. FOP Representatives on Premises. The Employer agrees that representatives of the Illinois Fraternal Order of Police Labor Council and their local, state and national affiliates shall have reasonable access and use of the facilities and premises of the Employer, upon a minimum of **twenty-four (24) hour** notice to the Police Chief, for purposes of conducting council business so long as this activity does not impair the efficient operation of the Department.

Section 2. FOP Right to Examine Records. The Labor Council or a representative shall have the right to examine time sheets and other records pertaining to the computation of compensation of any employee whose pay is in dispute or any other records of the employee pertaining to a specific grievance, at reasonable times with the consent of the Chief or Chief's designee.

Section 3. Repair and Replace. The Employer agrees to repair or replace as necessary an employee's eyeglasses, contact lenses and prescription sunglasses up to a value of **Two Hundred Dollars (\$200.00)** if damaged in the line of duty. Employer also agrees to repair or replace watches or time pieces damaged in the line of duty up to a value of **Fifty Dollars (\$50.00)**. A written report regarding the circumstances of damage may be required. Other items of personal property, if damaged during the course of a prisoner search, may be repaired or replaced by the Police Chief at his discretion.

Section 4. Part-Time Employees. This Agreement does not cover part-time employees.

ARTICLE XXIV – ENTIRE AGREEMENT

The parties acknowledge that during the negotiations which preceded this Agreement, each had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter not removed by law from the area of collective bargaining. The understandings and agreements arrived at by the parties after the exercise of that right and opportunity are set forth in this Agreement.

ARTICLE XXV – SAVINGS CLAUSE

If any provision of this Agreement or any application thereof should be rendered or declared unlawful, invalid or unenforceable by virtue of any judicial action, or by any existing or subsequently enacted Federal or State legislation or by Executive Order, the remaining provisions of this Agreement shall remain in full force and effect. In such event, upon the request of either party, the parties shall meet promptly and negotiate with respect to substitute provisions for those provisions rendered or declared unlawful, invalid, or unenforceable.

ARTICLE XXVI – DURATION

This Agreement shall be effective from **May 1, 2006**, and shall remain in full force and effect until **April 30, 2008**. Notice to renegotiate shall be provided by the Labor Council on or about **one hundred twenty (120) days** prior to **April 30, 2008**. If such notice is given, negotiations shall begin no later than **sixty (60) days** prior to **April 30, 2008**. The provisions of this Agreement shall remain in full force and effect after **April 30, 2008**, during the period of negotiations, unless or until impasse is declared.

(Ord. No. 06-25; 08-28-06)

APPENDIX A – DUES AUTHORIZATION FORM

**ILLINOIS FRATERNAL ORDER OF POLICE
LABOR COUNCIL
974 CLOCKTOWER DRIVE
SPRINGFIELD, ILLINOIS 62704**

I, _____, hereby authorize my employer, the City of Gibson City, Illinois, to deduct from my wages the uniform amount of monthly dues set by the Illinois Fraternal Order of Police Labor Council, for expenses connected with the cost of negotiating and maintaining the collective bargaining agreement between the parties and to remit such dues to the Illinois Fraternal Order of Police Labor Council as it may from time to time direct.

Date: _____

Signed: _____

Address: _____

City: _____

State: _____ Zip: _____

Telephone: _____

Please remit all dues deductions to:

Illinois Fraternal Order of Police Labor Council
Attn: Accounting
974 Clocktower Drive
Springfield, Illinois 62704

(217) 698-9433

Dues remitted to the Illinois FOP Labor Council are not tax deductible as charitable contributions for federal income tax purposes; however, they may be deductible on Schedule A of Form 1040 as a miscellaneous deduction.

APPENDIX B – FAIR SHARE AUTHORIZATION FORM

**ILLINOIS FRATERNAL ORDER OF POLICE
LABOR COUNCIL
974 CLOCKTOWER DRIVE
SPRINGFIELD, ILLINOIS 62704**

I, _____, hereby authorize my employer, the City of Gibson City, Illinois, to deduct from my wages the uniform amount of monthly fair share fees set by the Illinois Fraternal Order of Police Labor Council, for expenses connected with the cost of negotiating and maintaining the collective bargaining agreement between the parties and to remit such fees to the Illinois Fraternal Order of Police Labor Council as it may from time to time direct.

Date: _____

Signed: _____

Address: _____

City: _____

State: _____ Zip: _____

Telephone: _____

Please remit all fees deductions to:

Illinois Fraternal Order of Police Labor Council
Attn: Accounting
974 Clocktower Drive
Springfield, Illinois 62704

(217) 698-9433

Fair share fees remitted to the Illinois FOP Labor Council are not tax deductible as charitable contributions for federal income tax purposes; however, they may be deductible on Schedule A of Form 1040 as a miscellaneous deduction.

APPENDIX E – ALCOHOL AND SUBSTANCE ABUSE POLICY

Section 1-1.

- A. Gibson City recognizes that drug and alcohol abuse are pervasive in our society. The City further recognizes that the workplace is not exempt from the use and abuse of such substances.
- B. The use and misuse of alcohol and drugs by the Gibson City's employees is contrary to a drug free workforce and workplace. The use of these substances increases the potential for accidents, absenteeism, substandard performance, turnover, misconduct, poor employee morale, damage to property, injury to the public and/or other employees, or degradation of trust in the City to service its citizens effectively. Therefore, the following Alcohol and Substance Abuse Policy is adopted.

Section 1-2.

- A. All employees of Gibson City shall be governed by the principles of a drug free workforce and workplace, and
 1. Shall not be under the influence of alcohol, illegal drugs or other dangerous substances while performing their assigned duties or while "on-call" for duty;
 2. Shall not use, distribute, sell, or possess illegal drugs;
 3. Shall not use alcohol or other dangerous substances during working hours, during breaks or meal periods, when scheduled to return to work or when subject to being called to work;
 4. Shall not possess, store or transport alcohol or illegal drugs while on City premises, at City work locations or in City vehicles or equipment. The employer recognizes that the possession of alcohol or illegal drugs may be necessary in the line of duty.
 5. Shall not sell, distribute, dispense or transfer alcohol, illegal drugs or prescription drugs and medications to any other employee or to any person while on duty or acting in an official capacity. The employer recognizes that the possession of alcohol or illegal drugs may be necessary in the line of duty.
- B. All employees are governed by these requirements and should be aware that violations will result in disciplinary action up to and including termination. Nothing in this policy shall be considered as limiting the City's right to take administrative or disciplinary action, up to and including termination, for involvement with illegal drugs or alcohol not specifically addressed in this policy.

Section 1-3. Drug and Alcohol Testing.

- A. Because of the City's concern for its obligation to provide a safe work place and to provide its citizens with the most efficient and effective services, it will test applicants and employees (including managers and supervisors) under the following circumstances:
 1. Pre-Employment: All applicants to whom an offer of employment has been extended shall be tested for alcohol and illegal drugs. The offer of employment will be revoked for any applicant who tests positive for alcohol or illegal drugs.
 2. Promotion to a Higher Classification: The City will test any employee being promoted to a higher Classification. Any such employee who tests positive will

- become ineligible for the promotion and will be subject to disciplinary action, including termination.
3. Reasonable Suspicion: If the City has reasonable suspicion that an employee has violated any provision of this policy pertaining to illegal drugs or alcohol, the employee shall be required to submit to testing. Reasonable suspicion is defined in the "Definitions" section of this policy.
 4. Post-Accidents: All employees who may have contributed to a work-related accident or are directly or indirectly involved in an accident shall be tested. This applies to any accident whether it involves a vehicle, equipment, or personal injury.
- B. Employees who violate the alcohol or drug regulations must submit to unannounced follow-up tests after they return to work. In the first 12 months after returning, an employee must take at least six tests. Follow-up testing may be extended for up to 60 months following return to duty.

Section 1-4. Testing Procedures.

- A. While the City reserves the right to establish the procedures under which employees will be tested for alcohol and illegal drugs, to the extent circumstances permit, the City will observe the following:
1. Every effort will be made to respect the privacy and dignity of employees in the test sample collection process.
 2. Will use only a clinical laboratory or hospital facility that is licensed pursuant to the Illinois Clinical Laboratory Act that has been or is capable of being accredited by the National Institute of Drug Abuse (NIDA). The name and address of the facility will be available to employees upon request.
 3. Ensure that the facility has established "chain of custody" procedures for both the sample collection and testing that will ensure the integrity of the identity of each sample and test result.
 4. Positive drug test results are subject to a second confirmatory test and Medical Review Officer review.
 5. The Director of Administration will receive drug and alcohol test results.
 6. Drug and alcohol test results will be filed in the employee's medical file and will be treated as a confidential medical record. Supervisors or managers may be informed of drug testing results and/or employee's participation in a substance abuse rehabilitation program as such information relates to the employee's performance of work duties and/or reasonable accommodation issues.
 7. Provide each employee tested with a copy of all information and reports received in connection with the testing and the results.

Section 1-5. Discipline.

- A. Positive Test Results: Where the employee tests positive on both the initial and confirmatory tests for drugs or alcohol, the employee shall be subject to disciplinary action which can lead to discharge or be required to complete a drug/alcohol rehabilitative treatment program. An employee who wishes to have a second test done at the testing facility or at a different testing facility may do so at the employee's expense.
- B. Refusal to Provide a Blood, Breath, or Urine Specimen: An employee's refusal to provide a urine, breath and/or blood specimen for laboratory testing when requested by the City

shall constitute cause for disciplinary action and can lead to discharge of the employee. If the employee is physically unable to provide a urine specimen, the City may request a blood specimen for laboratory testing.

- C. Tampering With or Substitution of a Specimen: Intentionally tampering with, causing another person to tamper with, substituting for, or causing another person to substitute for a urine and/or blood specimen, whether the employee's own specimen or another employee's specimen, shall constitute cause for disciplinary action which can lead to discharge of the employee who engages in such activity.
- D. Drug-Related Felony Conviction: The conviction of an employee for any felony involving illegal possession, sale, use or distribution of a drug shall constitute cause for disciplinary action which can lead to discharge, whether or not such felony occurred during normal work hours. Such convictions must be reported to the employee's supervisor within **five (5) working days** of such conviction.

Section 1-6. Employee Assistance Program.

- A. The Employee Assistance Program (EAP) of Gibson City is available to employees who desire to seek help for an alcohol, drug, or substance abuse problem. Contact with the EAP can be made directly or through referral.
- B. An employee may desire to come forward on a self-initiated basis to seek help for an alcohol or drug abuse problem and to resolve that problem voluntarily. Employees are encouraged to do so before they are found in violation of this policy. Employees voluntarily seeking assistance for a problem involving illegal drug use or alcohol abuse may avail themselves of his help once during the employee's tenure.
- C. The employee will not be subject to disciplinary action for voluntarily coming forward for help. However, employee will not escape discipline by requesting such assistance after being requested to take an alcohol and/or drug test or violating City policies and rules on conduct. Voluntary requests for help will be kept confidential.
- D. The Gibson City is committed to providing reasonable accommodation to those employees with diagnosed alcohol or drug dependencies, as required by applicable federal and/or state law, provided such dependencies do not constitute threats to property or safety and further provided that the employee has not committed an offense for which termination may result.

Section 1-7. Searches.

- A. In order to accomplish the goals of this policy, the City may search employees and inspect their personal property (i.e., locker, work area, vehicles, etc.), at the City's discretion.
- B. All searches and inspections will be performed with appropriate regard and concern for the personal privacy of the employee to the extent possible without jeopardizing the investigation. Failure to submit to or cooperate in such a search may result in disciplinary action, including termination.
- C. The City may, under certain circumstances, request the presence of a representative of the appropriate law enforcement agency when conducting a search or inspection.

Section 1-8. Definitions.

- A. Illegal Drug or Drugs: A drug is any non-prescribed controlled substance that the employee is not authorized to possess or consume by law.

- B. Alcohol: Includes any distilled spirits, wine, malt beverage or other intoxicating liquors.
- C. Drug/Alcohol Test: Any chemical, biological or physical instrumental analysis administered for the purpose of determining the presence or absence of alcohol or a drug or its metabolites.
- D. Positive Test Result:
 - 1. A blood or breath specimen provided by the employee measured an ethyl alcohol concentration of .02 or more;
 - 2. Or a urine specimen provided by the employee which detects any amount of a drug.
- E. Reasonable Suspicion: Reasonable suspicion shall be defined as an articulate belief based on specific facts and reasonable inferences that the employee is under the influence of drugs or alcohol, is using drugs or alcohol, or is in possession of or selling drugs or alcohol. Circumstances which may constitute a basis for determining reasonable suspicion may include, but are not limited to:
 - 1. A pattern of abnormal or erratic behavior;
 - 2. A noticeable change in work performance;
 - 3. Direct observation of drug or alcohol use;
 - 4. Presence of physical symptoms of drug or alcohol use (glassy or blood shot eyes, slurred speech, poor coordination or the odor of an alcoholic beverage on/about the person or breath of the employee).

GRIEVANCE

(use additional sheets where necessary)

Department: _____

Date Filed: _____

Grievant: _____
Last First MI

STEP ONE

Date of Incident or Date Knew of Facts Giving Rise to Grievance: _____

Article(s) and Section(s) of Contract Violated: _____

Briefly state the facts: _____

Remedy Sought: _____

Given To: _____

Date/Time: _____

Grievant's Signature

FOP Representative Signature

EMPLOYER'S STEP ONE RESPONSE

Employer Representative Signature

Police Chief

Person to Whom Response Given

Date

STEP TWO

Reasons for Advancing Grievance: _____

Given To: _____

Date/Time: _____

Grievant's Signature

FOP Representative Signature

EMPLOYER'S STEP TWO RESPONSE

Employer Representative Signature

Mayor

Person to Whom Response Given

Date

REFERRAL TO ARBITRATION by Illinois FOP Labor Council

Person to Whom Referral Given

Date

FOP Labor Council Representative

ADDENDUM "A"

INTERAGENCY AGREEMENT REGARDING EMERGENCY DISPATCHING, COMMUNICATIONS AND OTHER SERVICES

Whereas, the Ford County Sheriff's Office and Recipient(s) are empowered to provide emergency communications services to the citizens within their respective jurisdictions and may, therefore enter into an Interagency Agreement with one another and with other public agencies to perform such services; and,

Whereas, the Ford County Sheriff's Office has an emergency communications dispatch center and systems capable of providing emergency communications services to law enforcement agencies, fire departments, fire districts and emergency medical services providers within Ford County and beyond; and,

Whereas, the Ford County Sheriff's Office and the parties to this agreement believe emergency dispatch and communications services as well as other services would be best served by being managed through the Ford County Sheriff's Office and "Oversight Board"; and,

Whereas, Paxton Police Department, Gibson City Police Department, Piper City Police Department, Ford County E911 Board, Gibson Area Hospital and Ambulance Services, Ford County Area Fire Departments, (herein called the "Oversight Board") desires to obtain emergency dispatch and emergency communications services from the Ford County Sheriff's Office Telecommunications Center; and,

Whereas, the parties hereto recognize that it is in the best interests of the citizens within their respective jurisdictions and in the furtherance of the health, safety and welfare of the citizens to have a unified emergency dispatch and communications system having the advantage of economies of scale; and,

Whereas, the governing body of each party has resolved, agreed, or ordained that this interagency agreement may be entered into;

Now, Therefore, in consideration of the mutual covenants contained herein, it is hereby agreed as follows:

I. Definitions.

Ford County Telecommunications Center: To be administered by this agreement.

There shall be an Oversight Board composed of **eight (8) persons** as follows:

- A. The Gibson City Police Chief of Designee
- B. The Paxton Police Chief or Designee
- C. The Piper City Police Chief of Designee
- D. The Ford County E911 Director or Designee
- E. The Gibson Area Ambulance Director or Designee
- F. A Fire Department Representative
- G. A Ford County Board Member
- H. The Ford County Sheriff

II. Functions and Authority of the Oversight Board.

- A. The Ford County Sheriff shall be the permanent chairperson of the Oversight Board.
- B. A quorum for the Oversight Board shall consist of **five (5) members**.
- C. The Oversight Board shall meet at least **two (2) times** annually and appoint a secretary who shall keep good and sufficient minutes of the meetings.
- D. Conduct a bi-annual performance review of the Ford County Telecommunications Center.
- E. Evaluate and make recommendations to the Ford County Sheriff concerning policies and procedures of the Ford County Telecommunications Center.
- F. Evaluate and make recommendations to the Ford County Sheriff concerning development, programming, operational and personnel policies and equipment usage.
- G. Oversight Board may call a special meeting at any reasonable time to address recipient concerns involving the Ford County Telecommunications Center.
- H. Any increase in funds for dispatch services imposed by Ford County towards the recipients must be approved by the Oversight Board by a **two-thirds (2/3)** majority vote.
- I. The Oversight Board shall promptly forward minutes of its meetings to member Village and City Clerks.

III. **Admission of New Recipients.**

Public safety entities that are not recipients under this agreement may be added to this agreement as recipients upon meeting any terms and conditions as determined by the Oversight Board.

IV. **Duration and Termination.**

Except as otherwise specifically provided herein, any party to this agreement may withdraw from the Oversight Board upon at least **one (1) year** written notice to the Oversight Board. Said termination must be received by **December 1st** of the year prior to the termination effective on **December 1st** of the following year.

V. **Amendments.**

This agreement may be amended at any time by the majority action of the Oversight Board and ratified by the majority of the legislative bodies of all Parties of this agreement.

VI. **Severability.**

If a provision of this agreement of application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the agreement, which can be given effect without invalid provision or application, and to this end, the provisions of the agreement are declared to be severable.

VII. **Execution of Agreement.**

Each party to this agreement may bind itself with all other parties to this agreement to form the Oversight Board by signing a duplicate original to the Oversight Board. It is understood that such execution shall not require that one original agreement be signed by all parties to this agreement, but that there will be several duplicate originals signed by each party to this agreement. The purpose of this provision is to facilitate the signing of this agreement

and to avoid undue delay in the execution of this agreement. This agreement however, shall be executed on behalf of each member by its authorized representative and pursuant to the appropriate motion, resolution or ordinance of each local government or other entity as the case may be. Each party to this agreement shall be bound to it as of the date it is signed by that member.

VIII. Indemnity Agreement.

Each party to this agreement agrees to hold harmless and indemnify the other parties to this agreement for loss or damage of any nature arising from provision of law enforcement, fire, medical aid services and/or equipment by each party's employees or agents in aid of any other party. Specifically, action under the direction and control of a party to this agreement shall be interpreted solely as direct control of actions by the party receiving the aid. Otherwise the primary commissioning agency remains liable or responsible for the actions of its employees or agents.

GIBSON CITY POLICE DEPARTMENT

BY: _____
Chief or Designee

ATTEST: _____

PIPER CITY POLICE DEPARTMENT

BY: _____
Chief or Designee

ATTEST: _____

PAXTON POLICE DEPARTMENT

BY: _____
Chief or Designee

ATTEST: _____

FORD COUNTY E911

BY: _____
Director or Designee

ATTEST: _____

GIBSON AREA AMBULANCE SERVICE

BY: _____
Director or Designee

ATTEST: _____

FIRE DEPARTMENT

BY: _____
Representative

ATTEST: _____

FORD COUNTY BOARD

BY: _____
Chairman or Designee

ATTEST: _____

FORD COUNTY SHERIFF

BY: _____
Sheriff

ATTEST: _____

(Ord. No. 07-14; 07-23-07)

ADDENDUM "B"

INTERGOVERNMENTAL POLICE RADIO ASSISTANCE AGREEMENT

THIS AGREEMENT entered into by and between the City of Gibson, a Municipal Government and the COUNTY OF FORD, a County Government, both located in the State of Illinois,

WITNESSETH:

Whereas, the City of Gibson and the County of Ford desire to enter into an Intergovernmental Agreement to provide police radio assistance to the City of Gibson and

Whereas, the 1970 Illinois Constitution (Article VII, Section 10) and the Intergovernmental Cooperation Act (5 ILCS 220/1, et seq.), provide authority for intergovernmental cooperation.

Now, Therefore, in consideration of the mutual covenants and agreements contained in this Agreement, the City of Gibson and the COUNTY OF FORD agree as follows:

SECTION 1. The COUNTY OF FORD hereby grants to the City of Gibson the right to the officers and employees of the Police Department of the City of Gibson to use the COUNTY OF FORD Police Radio Network in its daily operating procedures, subject to the terms, covenants and conditions of this Agreement.

SECTION 2. The City of Gibson agrees to furnish all equipment needed by the officers and employees of the Police Department of the City of Gibson to utilize the COUNTY OF FORD Police Radio Network.

SECTION 3. The COUNTY OF FORD agrees to furnish the following items:

- A. The base radio station and antenna and all Equipment normally associated therewith; and
- B. All personnel necessary to operate the base radio equipment.

SECTION 4. The City of Gibson shall have the right to use the COUNTY OF FORD Police Radio Network at all times during each day during the term of this Agreement.

SECTION 5. The City of Gibson agrees to abide by all written COUNTY OF FORD Sheriff's Office rules, regulations and procedures which govern the use of the COUNTY OF FORD Police Radio Network.

SECTION 6. For the use of the COUNTY OF FORD Police Radio Network the City of Gibson agrees to pay the COUNTY OF FORD the sum of **One Thousand Three Hundred Thirty-Three Dollars Thirty-Three Cents (\$1,333.33)** per month, payable, without demand, on the **fifteenth (15th)** day of each month, commencing **September 1, 2007**, which monthly payment shall continue for the term of this Agreement. Said sum shall be paid to the County Treasurer of the COUNTY OF FORD.

SECTION 7. Each party to this Agreement agrees to obtain, and to maintain during the time that this Agreement is in effect, a General Liability Insurance Policy with a minimum coverage of **Five Million Dollars (\$5,000,000.00)**.

SECTION 8. This Agreement shall not be construed as or deemed to be an agreement for the benefit of any third party or parties, and no third party or parties shall have any right of action under this Agreement for any cause whatsoever.

SECTION 9. The term of the Agreement shall be for the period commencing **September 1, 2007**, and terminates **September 1, 2008**, at **11:59 P.M.**

SECTION 10. This Agreement shall become effective for each party when that party by Ordinance of its governing body adopts and approves this Agreement and authorizes the proper official to execute the Agreement. This Agreement shall be executed in duplicate and the office of the Clerk of each party to this Agreement shall maintain an executed copy in its records.

SECTION 11. If any provision of this Agreement is invalid for any reason, such invalidation shall not render invalid other provisions of this Agreement which can be given effect without the invalid provision.

SECTION 12. This Agreement shall be construed in accordance with the law and Constitution of the State of Illinois.

(Ord. No. 07-15; 07-23-07)

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EXHIBIT "B"

**COLLECTIVE BARGAINING AGREEMENT
BY AND BETWEEN
GIBSON CITY, ILLINOIS
AND
ILLINOIS FRATERNAL ORDER OF POLICE LABOR COUNCIL

POLICE OFFICERS' BARGAINING UNIT

MAY 1, 2015 - APRIL 30, 2019**

PREAMBLE

This Agreement is entered into by and between Gibson City, Illinois, hereinafter referred to as the "Employer"; and Illinois Fraternal Order of Police Labor Council, representing Gibson City Police Officers, hereinafter referred to as the "Labor Council".

The purpose of this Agreement is to provide an orderly collective bargaining relationship between the Employer and the Labor Council representing the employees in the bargaining unit, and to make clear the basic terms upon which such relationship depends. It is the intent of both the Employer and the Labor Council to work together to provide and maintain satisfactory terms and conditions of employment, and to prevent as well as to adjust misunderstandings and grievances relating to employees' wages, hours and other terms and conditions of employment.

In consideration of mutual promises, covenants and agreements contained herein, the parties, being Gibson City and the Illinois Fraternal Order of Police Labor Council, by their duly authorized representatives and/or agents, do mutually covenant and agree as follows:

ARTICLE I – PURPOSE AND RECOGNITION

Section 1. General. It is the intent and purpose of the parties hereto to set forth the Agreement between them for the terms hereof concerning rates of pay, wages, hours of employment, and other working conditions to be observed by the parties and the employees covered hereby.

Section 2. Recognition. Pursuant to the certification of the Illinois State Labor Relations Board, Certification No. S-RC-06-072, the Employer recognizes the Labor Council, its agents, representatives, or successors, as the sole and exclusive bargaining agent for employees who are employed in the following classifications:

Included: All full-time police officers below the rank of sergeant employed by Gibson City.

Excluded: All other employees of Gibson City, all other sworn police officers with rank of sergeant and above, all part-time officers, professional employees and all confidential and managerial employees and supervisors within the meaning of the Illinois Public Labor Relations Act.

Section 3. Management Rights. Except as limited by the provisions of this Agreement, the Employer shall continue to retain the right to manage and direct its affairs in each and every respect, included but not limited to the following:

- A. To plan, direct, control and determine the budget and all operations, services, and missions of the Police Department;
- B. To supervise and direct the work force, including the right to assign work and overtime;
- C. To establish qualifications for employment and to hire employees;
- D. To establish work and productivity standards, and from time to time, to change those standards; to evaluate;
- E. To determine the methods, means, organization, and number of personnel by which such operations and services shall be made or purchased;
- F. To make, alter and enforce reasonable rules, regulations, orders, and policies; and
- G. To discipline, suspend, and/or discharge non-probationary employees for just cause.

Inherent managerial functions and rights, whether listed or not, which the Employer has not expressly limited by the provisions of this Agreement, shall remain exclusively vested in the Employer, subject to the provisions of the Illinois Public Labor Relations Act.

Section 4. Civil Emergencies. If in the sole discretion of the Employer, it is determined that civil emergency conditions exist, including but not limited to riots, civil disorders, tornado conditions, floods, or similar catastrophes, the provisions of this Agreement may be suspended by the Employer during the time of the emergency, provided the wage rate and all economic benefits shall not be suspended. Grievances regarding employer actions under these circumstances will not be processed or upheld, unless it is asserted that the Employer has repeatedly and in bad faith declared emergency circumstances to exist when they were not present. Written notice of the declaration of emergency conditions shall be forwarded to an FOP representative at a practical time.

Section 5. No Strike. Neither the Labor Council nor any employee will call, initiate, authorize, participate in, sanction, encourage or ratify any work stoppage or the concerted interference with the full faithful and proper performance of the duties of employment with the Employer during the term of this Agreement. Neither the Labor Council nor any employee shall refuse to cross any picket line, by whoever established. Any employee who violates the provision of this Section shall be subject to immediate discharge and the discharge shall not be subject to the provisions of the grievance procedure, except that the issue of whether an employee in fact participated in a prohibited action shall be subject to the grievance and arbitration procedure.

ARTICLE II – NEW CLASSIFICATIONS AND VACANCIES

Section 1. New Classifications. Where the Employer finds it necessary to create a new job classification, the work of which falls within the scope of the bargaining unit, the Employer and Labor Council agree to jointly petition the State Labor Board to seek the necessary clarification. If the inclusion of a new position classification is agreed to by the parties or found appropriate by the Labor Board, the parties shall negotiate as to the proper pay grade for the classification. However, if no agreement is reached within **thirty (30) calendar days** from the date its inclusion was determined, Employer may establish a pay grade for the position no lower than the highest offer made by Employer during the course of negotiations. The position may be filled subject to a retroactive increase in pay if granted during the arbitration.

In the dispute resolution procedure, the Arbitrator shall determine the reasonableness of the established salary grade in relationship to:

- A. The job content and responsibilities attached thereto in comparison with the job content and responsibilities of other position classifications in the Employer's workforce;
- B. Like positions with similar job content and responsibilities within the labor market generally; and
- C. Significant differences in working conditions to comparable position classifications.

The pay grade originally assigned by the Employer shall remain in effect pending the decision.

If the decision of the Arbitrator is to increase the pay grade of the position classification, such rate change shall be applied retroactive to the date of its installation.

Upon installation of the new position classification, the filling of such position classification shall be in accordance with Section 2 below.

Section 2. Vacancies. When a vacancy exists as a result of the creation of a new classification, position or a promotion within the bargaining unit, the Employer agrees to post a notice of the vacancy and allow **fourteen (14) calendar days** for eligible employees to apply for the vacancy. This provision shall not restrict the Employer from placing the most qualified individual in the vacancy.

ARTICLE III – DUES, DEDUCTION AND FAIR SHARE

Section 1. Dues Deduction. Upon receipt of a written and signed authorization form from an employee, the Employer shall deduct the amount of Labor Council dues set forth in such form and any authorized increase thereof, and shall remit such deductions monthly to the Illinois Fraternal Order of Police Labor Council, at the address designated by the Labor Council in accordance with the laws of the State of Illinois. The Labor Council shall advise the Employer of any increase in dues, in writing, at least **thirty (30) days** prior to its effective date. Attached to this agreement as Appendix "A" is the Dues Authorization form which shall be tendered to every employee upon becoming a member of the bargaining unit.

Section 2. Dues. With respect to any employee on whose behalf the Employer receives a written authorization in a form agreed upon by the Labor Council and the Employer, the Employer shall deduct from the wages of the employee the dues and/or financial obligation uniformly required and shall forward the full amount to the address designated by the Labor Council. The amounts deducted shall be in accordance with the schedule to be submitted to the Employer by the Labor Council. Authorization for such deduction shall be irrevocable unless revoked by written notice to the Employer and the Labor Council.

Section 3. Fair Share. Any present employee who is not a member of the Labor Council shall be required to pay a fair share (not to exceed the amount of the Labor Council dues) of the cost of the collective bargaining process, contract administration and pursuing matters affecting wages, hours and other conditions of the employment, but not to exceed the amount of dues uniformly required of the members. All employees hired on or after the effective date of this Agreement and who have not made application for membership, after the **thirtieth (30th) day** of their hire, shall also be required to pay a fair share as defined above.

Section 4. Indemnification. The Labor Council hereby indemnifies and agrees to save the Employer harmless against any and all judgments that may arise out of or by any reason of any proper action taken by the Employer for the purpose of complying with the provisions of this Section.

ARTICLE IV – LABOR COUNCIL SECURITY/REPRESENTATIVES

Section 1. Labor Council Membership. The parties mutually agree not to interfere with, restrain, coerce or discriminate against any employees in connection with their membership in the Labor Council.

Section 2. Labor Council Activity. **Two (2) employees** within the bargaining unit shall be designated by the Labor Council as local representatives. Whenever possible, Labor Council activities shall be carried out by one of the two representatives who is not scheduled to work at the time the activity is necessary. When it is not possible to schedule the off duty representative, or the Police Chief approves, and the Labor Council activity lasts less than **one-half (1/2) hour** during the representative's scheduled work hours, the time spent on the administration of the Agreement will be paid time. For all

other activities of the labor representatives involving the administration of this Agreement, the time spent will not be paid by the Employer.

If scheduling allows, the Employer agrees to grant the necessary time off, with use of paid leave available to the officer, and without discrimination or loss of seniority rights, to any employee designated by the Labor Council to attend a labor convention or serve in any capacity on any other official Labor Council business.

Section 3. Labor Council Negotiating Team. The Labor Council shall designate two bargaining unit members as representatives for purposes of attending labor negotiations. In any given session only one representative will be necessary. Labor negotiations will be scheduled when one of the representatives is off-duty and will not be compensated for attending this session.

Section 4. Visits by FOP Representatives. The Employer agrees that representatives of the Illinois Fraternal Order of Police Labor Council and their local, state and national affiliates shall have reasonable access and use of the facilities and premises of the Employer, upon at least **twenty-four (24) hour** notice to the Police Chief, for the purposes of conducting council business so long as this activity does not impair the efficient operation of the Department.

ARTICLE V – DISCIPLINE

Section 1. Definition. The parties agree with the tenets of corrective and progressive discipline. Disciplinary action shall include only the following:

- Oral warning
- Written warning
- Suspension without pay
- Discharge

Section 2. Just Cause. The Employer agrees that disciplinary action shall be imposed only for just cause and shall be imposed as soon as practical after the Employer learns of the occurrence giving rise to the need for disciplinary action and after the Employer has had a reasonable opportunity to investigate the facts.

Section 3. Limitation. The agreement to use progressive disciplinary action does not prohibit the Employer from using a more severe measure when the circumstances warrant it. Discharge may be used when the offense indicates that a substantial shortcoming or action of an employee rendered the continuation of employment of the employee in some way detrimental to the Employer or the public. Notification of oral warnings and written warnings shall not be considered for purposes of progressive discipline beyond **two (2) years** from the date of the issuance of the oral or written warning if no further oral or written warnings are given during the **two (2) year** period.

Section 4. Disciplinary Action Subject to the Grievance Procedure. A non-probationary employee has the right to file a grievance on an oral warning or written warning which is posted for record (PFR). A PFR means that the grievance will not be processed but will be considered in conjunction with subsequent discipline if needed. That means that if there is a proposed suspension or discharge of an employee and oral or written warnings constitute a basis for the suspension or discharge, grievances which have been submitted under a PFR will be considered at that time.

In instances of suspension or discharge, the grievance process shall begin at Step 2, the Mayor, within **fourteen (14) calendar days** of receipt.

Section 5. Pre-Disciplinary Meeting. For discipline other than oral and written reprimands, prior to notifying the employee of the contemplated discipline to be imposed, the Chief shall meet with the

employee involved and inform the employee of the reason for such contemplated discipline, including the names of potential witnesses and copies of pertinent documents. The employee shall be informed of his/her contractual right to Labor Council representation and shall be entitled to such if so requested by the employee.

Nothing in this Section is intended or should be construed to waive an employee's right to union representation (as provided by the Illinois Public Labor Relations Act) during the questioning that the employee reasonably believes may lead to discipline. Bargaining unit employees shall have such rights as set forth in the United States Supreme Court decision in NLRB v. Weingarten, 420 U.S. 251 (1975), and Central Management Services and Corrections (Morgan) decision, 1 PERI par. 2020 (ISLRB 1985).

Where applicable, the procedures under the Uniform Peace Officers Disciplinary Act, 50 ILCS 725/1 et seq., shall be followed.

ARTICLE VI – GRIEVANCE PROCEDURE

Section 1. Definition of Grievance. A grievance is defined as any dispute or difference between the Employer, a bargaining unit employee and/or the Labor Council with respect to the meaning, interpretations or application of any of the provisions of this Agreement.

Grievances may be processed by the Labor Council on behalf of any bargaining unit employee or on behalf of a group of bargaining unit employees. Formal grievances shall only proceed through the grievance process with the approval of the Labor Council.

Section 2. Grievance Procedure Steps. Grievances arising after the effective date of the signing of this Agreement shall be raised, discussed and taken up in accordance with the following procedure:

Step 1. Chief of Police. The Labor Council shall raise a grievance with the Chief of Police. (Nothing in this Agreement is intended to prohibit or limit individual officers from discussing any issues with the Police Chief. However, the formal grievance procedure must be initiated or approved by the Labor Council.) Grievances will be presented in writing to the Chief within **fourteen (14) calendar days** of the event giving rise to the grievance, or within **fourteen (14) calendar days** of the date the employee could have reasonably known of the issue. The Chief of Police shall have **seven (7) calendar days** in which to respond to the grievance. All grievances, even those arising from decisions by the Chief, will commence at Step 1.

Step 2. Mayor. If the grievance is not resolved in Step 1, the grievance shall be reduced to writing on a standard grievance form and presented personally, by fax or by mail to the Mayor within **fourteen (14) calendar days** of the Chief's Step 1 response, or the date such reply was due. The Mayor will hold a meeting to review the grievance at a time when the Labor Council is available to attend. If no settlement or decision is reached at Step 2, the Mayor will give a written response to the grievance within **twenty-one (21) calendar days** of the Step 2 meeting.

Step 3. Arbitration. If the grievance is not resolved in Step 2 or an answer is not given in the time specified, the grievance may be advanced by the Labor Council to arbitration. The Labor Council shall request the Federal Mediation and Conciliation Service to submit a list of **seven (7)** arbitrators. Any fees for obtaining a list of arbitrators from FMCS will be shared equally by the parties. Upon arrival of the list, the parties shall alternately strike the names of **three (3)** arbitrators each. The first strike will be determined by a coin toss. The person who remains shall be the arbitrator. The arbitrator shall be notified of selection by a joint letter from the Employer and Labor Council requesting that he/she set a time for that hearing. The hearing shall be held in Gibson City, Illinois. If possible, the parties shall provide the arbitrator with an agreed statement of the issue or issues at hand.

The Employer or Labor Council shall have the right to request the arbitrator to require the presence of witnesses and/or documents. The scheduling of witnesses shall be such as to provide the least interference with the operations of the Employer. Each party shall bear the expense of its own witnesses.

Questions of the ability to arbitrate shall be decided by the arbitrator. The arbitrator shall make a preliminary determination on the question of the ability to arbitrate. Once a determination is made that the matter is arbitrable or if such preliminary determination cannot be reasonably made, the arbitrator shall then proceed to determine the merits of the dispute.

The decision of the arbitrator shall be final and binding upon both parties to this Agreement. The expenses and fees of the arbitrator, any cost of hearing room, the cost of preparation of a verbatim record and any other costs of conducting the arbitration shall be shared equally by the parties.

Nothing in this Article shall preclude the parties from mutually agreeing to the appointment of permanent arbitrators during the term of this Agreement or the use of the expedited arbitration procedures of the American Arbitration Association or the Federal Mediation and Conciliation Services.

Section 3. Investigation of Grievances. The investigation of grievances by the Labor Council and its representatives shall be conducted so as not to interfere with the operations of the Department. Neither the representatives nor witnesses being interviewed shall be compensated for time spent investigating grievances or preparing for hearings. All meetings and arbitrations shall be scheduled such that minimal disruption of Department activities shall take place. In those instances where an on-duty officer is required by Labor Council to provide information during the course of a grievance meeting or arbitration, and the attendance is less than **one-half (1/2) hour** duration; no reduction in pay shall take place. In those instances where an on-duty officer is required by the employer to provide information, no reduction in pay shall take place regardless of duration.

Section 4. Right to Examine Records. The Labor Council or its representative shall have the right to examine timesheets and other records pertaining to the computation of compensation of any employee whose pay is in dispute. Reasonable requests to review additional Employer's business records shall not be denied.

ARTICLE VII – HOURS OF WORK AND OVERTIME

Section 1. Workday and Workweek. The workday is a scheduled shift. The current work schedule consists of **four (4) consecutive ten (10) hour** days, followed by **three (3) consecutive days** off. This general schedule shall not be permanently changed, barring emergencies, without **twenty-eight (28) days'** notice of such change.

Officers may trade shifts with the Chief's prior approval. Requests for trades must be made in writing and signed or initialed by each officer. Requests for trades which would have the affect of increasing overtime may be denied by the Chief. Employees will be entitled to a **thirty (30) minute** lunch break, if practical, during which time they may be out of service, subject only to a service call.

Overtime at the rate of time and one-half will be paid for hours worked over **forty (40) hours** in one workweek. The following paid leave hours, not worked, vacations, sick leave or personal leave, shall be counted toward the weekly total for overtime accumulation. However, if an officer has used one of these paid leave times off earlier in the workweek, at the Police Chief's discretion, the officer may be called back into work later in the workweek and paid at straight time if the paid leave is re-credited to the officer for future use at an hour per hour basis. Unpaid hours of leave shall not be counted as hours of work for any purpose.

Section 2. Overtime Opportunities. All full-time employees shall be given equal opportunity for extra overtime hours or shifts. This shall not restrict the Chief from selecting individual officers for a specific assignment. Also, this provision shall not prohibit the Chief from assigning work opportunities to part-time employees during workweeks when all eligible full-time employees have at least **forty (40) hours** of work scheduled. This also shall not prohibit the Department from requiring an individual officer to report early or stay late beyond a scheduled shift.

Section 3. Callback Pay. Whenever an employee is called out for work outside regular working hours for an emergency, he will be paid for a minimum of **two (2) hours** at overtime pay. This provision does not apply to instances where the employee is required to report prior to his scheduled shift or required to remain on duty after his regularly scheduled shift.

Section 4. Court Witness Pay. Officers shall sign a waiver of compensation otherwise due them for witness fees.

Section 5. Overtime Payments. Overtime earnings will be paid in cash on the payroll period during which the overtime was earned.

Section 6. Jury Duty. An employee required to serve on a grand jury petit jury shall be granted leave for the period required to serve on such jury without loss of pay. "Required to serve" means only that time actually required to be present in court and reasonable time before and after for travel to court in preparation for work. Such employees shall sign a waiver of any compensation otherwise due them for serving on such jury.

Section 7. Court Time. Court time is compensated the same as regular hours, that is, court time which falls within the regularly scheduled shift of an officer is paid at a regular rate. If the officer is required to attend court and that time results in more than **forty (40) hours** per workweek, the time will be compensated at time and one-half. As with other call backs, employees shall receive a minimum of **two (2) hours** or actual hours worked whichever is greater, unless the court time is immediately before or immediately after the officer's shift.

Section 8. Seniority Shift Bidding. Once every **four (4) months**, in May, September and January, officers shall conduct a bid for available shifts based on seniority. The shift assignments for the following year shall be posted immediately following the shift selection in January. The Chief may change assignments for shifts for law enforcement purposes. In addition, when an officer has requested vacation or requires time off for illness, injury or unforeseen circumstances, the Chief has the authority to adjust shifts as he determines to be reasonable and shall announce the schedule changes as soon as practical.

ARTICLE VIII – WORK RULES

The Employer agrees to post or make available in the Department a complete copy of all applicable policies and procedures within **six (6) months** of the signing of this Agreement. Whenever the Employer changes policies or procedures applicable to bargaining unit employees, the Labor Council shall be given at least **seven (7) calendar days** prior notice before the effective date of the work rules, except in cases of emergency. Upon request of the Labor Council, the employer shall meet and discuss the proposed changes. Any such discussion will not delay the implementation of such changes.

ARTICLE IX – LABOR MANAGEMENT MEETINGS

Section 1. Subject Matter and Agenda. From time to time either the Labor Council or the employer may request Labor Management meetings as necessary. Requests for such meetings shall be made at least **seven (7) days** in advance and the topics or agenda for the meeting will be provided with the

notice. Grievances being processed pursuant to the grievance procedure shall not be considered at such

meetings, nor shall negotiation for the purpose of altering any or all terms of this Agreement be carried out on such meetings.

Section 2. Attendance. Labor management meetings shall be scheduled such that employees who need or wish to attend will not be required to miss regularly scheduled work. If it is anticipated that the meeting will last more than **one-half (1/2) hour**, and an employee scheduled to work desires to attend, relief will be scheduled, if possible, and the affected employee will be released from duty without pay for that time period. Adjustments in schedules for purposes of scheduling or attendance of labor management meetings shall be accomplished at the discretion of the Employer.

ARTICLE X – SAFETY ISSUES

Section 1. Employee Safety. Recognizing that police service is highly dangerous profession that frequently exposes employees to risks and dangers beyond those encountered by employees in other professions, each party pledges its best effort to make safe working conditions for the employees covered by the terms of this Agreement. To that end, the City agrees to take reasonable measures for the safety and protection of employees during their work hours in their performance of their duty. Should issues arise as to whether steps taken by the City are reasonable, the judgment and decision of the Employer shall be given great deference.

Section 2. Safety Meetings. At the request of the Labor Council, the Police Chief agrees to meet with the Labor Council's designee to discuss safety issues. The parties shall meet to discuss safety issues as they arise. An agenda will be submitted in advance, in writing, by the Labor Council.

ARTICLE XI – TRAINING

Section 1. General Policy. Training opportunities shall be provided on an as-needed basis by the Employer. The Chief shall encourage equal access to training opportunities. Where training opportunities are to be scheduled on a volunteer basis, the Department will post such opportunities and give full-time officers first opportunity to volunteer. There is no minimum requirement for training under the terms of this contract.

Section 2. Training Costs. The Employer will pay the appropriate rate for hours spent in mandatory training. Travel time for training at City Hall or within Ford or Champaign Counties, Illinois, will not be compensated. Travel time for training outside this area shall be compensated at the appropriate rate of pay. If an employee uses his own vehicle for transportation or training outside Ford and Champaign Counties, he will be paid mileage at the rate allowed by the IRS. Lodging outside Ford or Champaign Counties will be paid at the actual cost upon presentation of receipts. All training opportunities must be approved by the Chief. Reimbursement for meals will be made consistent with per diem rates for the location as provided by recognized standards.

Section 3. Firearms Training. Fifty (50) rounds of service ammunition will be available to each officer per month for use at the Gibson City firing range, provided that rounds must be used at times when there is an instructor present. Unused rounds shall be returned to the department. Officers must use the ammunition during the month received, and return any unused ammunition.

ARTICLE XII – HOLIDAYS

Section 1. Holidays. Employees shall receive the following paid holidays:

New Year's Day
President's Day
Good Friday
Memorial Day
Independence Day
Labor Day
Veteran's Day
Thanksgiving
Day after Thanksgiving
Christmas

Employees shall receive holiday recognition pay in the amount of **eight (8) hours'** straight time pay.

Section 2. Work on a Holiday. An employee who works on one of the above holidays shall be paid in addition to the above recognition pay, at the rate of **one and one-half (1.5) times** their normal rate of pay for all hours worked on that day.

ARTICLE XIII – VACATIONS

Section 1. Vacation Time. After **one (1) full year** of service, each and every full-time employee shall be annually entitled to **one (1) week** vacation pay. After **two (2) full years** of service and annually thereafter, each full-time employee shall be entitled to **two (2) weeks** annual vacation with pay. After completion of their **fifth (5th) year** of service and annually thereafter, each full-time employee shall be entitled to **three (3) weeks** annual vacation with pay. Vacation time is accrued on the anniversary date of employment and must be taken within the year following the anniversary day or it will be forfeited. The Police Chief may establish a vacation selection process to reserve time off for vacation.

ARTICLE XIV – WAGES AND COMPENSATION

Section 1. Wage Schedule. The following shall be the wage schedule for employees for the term of this contract:

Gibson City Police Officer Wages

| Years of Service | Current Wages | Effective 5/1/2015 | Effective 5/1/2016 | Effective 5/1/2017 | Effective 5/1/2018 |
|------------------|---------------|--------------------|--------------------|--------------------|--------------------|
| | | 3.50% | 3.00% | 3.50% | 3.00% |
| 0-2 Years | \$18.96 | \$19.62 | \$20.21 | \$20.92 | \$21.55 |
| 3 to 4 Years | \$19.25 | \$19.92 | \$20.52 | \$21.24 | \$21.88 |
| 5 to 9 Years | \$20.43 | \$21.15 | \$21.78 | \$22.54 | \$23.22 |
| 10 to 14 Years | \$20.94 | \$21.67 | \$22.32 | \$23.10 | \$23.80 |
| 15 to 19 Years | \$21.33 | \$22.08 | \$22.74 | \$23.53 | \$24.24 |
| 20+ Years | | \$22.74 | \$23.42 | \$24.24 | \$24.97 |

Effective May 1, 2015 a new step "20+ Years", in the amount of 3.00% above the "15+ Years" Step shall be added to the wage schedule.

Adjustments:

- A. The wage rates shall be adjusted effective **May 1, 2015** and officers shall receive back pay consistent with the adjustments.

- B. New hires with prior experience are assigned a pay rate consistent with 0-9 year's service at the discretion of the Department. This means, for wages only, the new officer will be given a spot on the pay grid either 0-2, 3-4 or 5-9 and assigned an anniversary date for moving to next steps. (Example: An employee hired with 10 years' experience on January 1, 2009, could be assigned 5 years for purposes of this Section and given an anniversary date for wages only of January 1, 2004.)

Section 2. Shift Differential. Currently, the shifts are from **7:00 A.M. to 5:00 P.M.** (day), **5:00 P.M. to 3:00 A.M.** (evening) and **9:00 P.M. to 7:00 A.M.** (night). Officers who are regularly scheduled to work on the evening shift shall receive shift differential payment of **Thirty-Five Cents (\$0.35)** per hour for all hours worked during the workweek. Officers scheduled to work the night shift shall receive **Fifty Cents (\$0.50)** per hour for all hours worked in the workweek. All overtime payments shall be made at time and a half of the hourly rate plus shift differential for all overtime hours worked by the officer regularly scheduled for the evening or night shift. No shift differential payment is made to officers regularly scheduled to work the day shift regardless of the hours outside that shift they are required to work. The shift differential for officers regularly scheduled to work the evening shift is **Twenty Cents (\$0.20)** per hour regardless of the time of day their hours are worked. Officers regularly scheduled for the night shift are paid **Twenty-Seven Cents (\$0.27)** per hour for additional hours worked regardless of the time of day those hours are worked.

Should the employer decide to change the shifts, except in emergencies, the Employer agrees to bargain in good faith with the Labor Council to amend Section 2.

Section 3. Canine Officer. The Canine Officer shall receive **three and one-half (3.5) hours** of pay per work week while assigned the duties of Canine Officer.

Section 4. Investigator. If an officer is assigned full time duties as an investigator, he/she shall be paid an additional **One Dollar (\$1.00)** per hour. The fact that patrol officers shall from time to time be assigned investigative duties does not affect their rate of pay.

ARTICLE XV – SICK LEAVE/BEREAVEMENT LEAVE

Each full-time employee shall be allowed sick leave with pay because of personal illness or because of serious illness or death of a member of his or her immediate family. Immediate family includes parents, spouses, brothers, sisters, children, stepchildren, grandparents, grandchild, parents-in-law, brother-in-law, sister-in-law, legal guardians and significant others.

The Employer may require any full-time employee requesting sick leave to provide a statement from a licensed physician stating the nature of the illness. The Employer may also designate the number of days or hours a full-time employee may be on sick leave due to the death of a member of his immediate family, considering the relationship of the deceased to the employee, distance traveled and other relevant circumstances involved.

Sick leave shall be allowed to accumulate at the rate of **one (1) day** per month up to a maximum of **ninety (90) working days**. In the event a full-time employee uses more than his accumulated sick leave, he may request a medical leave of absence, without pay, for a period of up to **one (1) year**. This request shall be in writing to the City Council for their consideration.

Upon retirement those employees with **fifteen (15)** or more years of service and **ninety (90) days** of accumulated sick leave will be paid for **ten (10)** of the accumulated sick leave days.

ARTICLE XVI – GENERAL PROVISIONS

Section 1. Light Duty. Nothing in this Agreement shall prohibit the Employer from making light duty assignments as the Employer at its discretion.

Section 2. Secondary Employment. Prior to accepting employment outside of the Department, Employee shall notify the Chief in writing. Officers understand that employment which may, in the opinion of the Chief, create a conflict of interest or constitute an embarrassment to the Department can be denied. Also, outside employment may not interfere with reasonable requests for overtime assignments by the Employer.

Section 3. Inoculations. The Employer agrees to pay for inoculations or testing if an Employee reasonably believes he has been exposed to HIV or Hepatitis in the line of duty. If the Employee tests positive for one of these diseases contracted in the line of duty, the Employee's immediately family, meaning those members of the Employee's family permanently residing in the Employee's residence, will be tested and/or inoculated at the Employer's expense. Documentation of the "line of duty" exposure may be required.

Section 4. Subcontracting. The Employer may subcontract repairs, building maintenance, vehicle maintenance or other types of work which are not traditionally performed by bargain unit members. In addition, during those workweeks when full-time Employees are scheduled for at least **forty (40) hours** or are on approved leaves of absence, the Employer may schedule part-time Employees. It is agreed that the use of part-time Employees on an extended basis will not be used to substitute for hiring full-time Employees.

Section 5. Bulletin Boards. The Employer shall provide the Labor Council with designated space on available bulletin boards, or provide bulletin boards on a reasonable basis, where none are available for purposes of the Labor Council.

Section 6. Damaged Personal Equipment. The Employer agrees to repair or replace as necessary an employee's eyeglasses, contact lenses and prescription sunglasses up to a value of **Two Hundred Dollars (\$200.00)** if damaged in the line of duty. Employer also agrees to repair or replace watches or timepieces damaged in the line of duty up to a value of **Fifty Dollars (\$50.00)**. A written report regarding the circumstances of damage may be required.

Section 7. Residency. Within **sixty (60) days** of successful completion of probation, employees must reside within the corporate limits of Gibson City or within **one (1) mile** of any boundary of Gibson City as a term of their employment.

Section 8. Indemnification. Employees shall have legal representation paid for by the Employer in a civil cause of action brought against the employee resulting from or arising out of the performance of duties. The Employer shall pay legal fees at a rate normally paid for such services in the community, provided, however, that the Employer retains the right to select qualified counsel. The Employer further agrees to provide such indemnification as provided in Illinois State Statutes.

Employees shall cooperate with the Employer during the course of the investigation, administration or litigation of any claim arising under this Section.

Section 9. Disability Pay. Under the provisions of the Public Employee's Disability Act, an officer will be provided up to **twelve (12) months'** leave at full pay when required due to any work related injury. No officer will lose any benefits while on this injury leave and will continue to accumulate all benefits provided under the contract. However, the provisions of Section 1 regarding light duty will continue to apply and the officer may be assigned to any duties within the police department which are consistent with the officer's medical restrictions.

Section 10. Cell Phones. The City will supply the patrol units with **two (2)** department cell phones to be used for department purposes while on duty.

Section 11. Personal Days. Employees shall receive **two (2) personal days** annually; with the personal days being the same number of hours as the employees regularly scheduled work day.

ARTICLE XVII – SENIORITY

Section 1. Termination of Seniority. An officer's seniority consists of continuous service with the City from the officer's most recent date of full-time hire. An officer's seniority and employment relationship with the City shall terminate if the officer:

- (a) Quits by written resignation;
- (b) Is discharged for just cause;
- (c) Is absent for **three (3) consecutive days** without notifying the Employer;
- (d) is absent from work for more than **one (1) month** for any reason other than an approved leave of absence;
- (e) Does not return to work at the end of an approved leave of absence; or
- (f) Does not return to work within **seven (7) days** after being notified of a recall from layoff.

Section 2. Definition of Seniority. Seniority is the length of continuous service an Employee has been employed full-time by the Gibson City Police Department.

ARTICLE XVIII – PROBATIONARY PERIOD

The probationary period shall be **eighteen (18) months** from their date of hire. Probationary employees are at will and have no right to grieve either discipline or termination of employment. Probationary employees shall have the right to grieve other claimed violations of the Agreement.

ARTICLE XIX – UNIFORMS AND EQUIPMENT

Employer agrees to continue providing uniforms and equipment throughout the term of this Agreement as are being provided on the date of execution of the Agreement.

ARTICLE XX – HEALTH INSURANCE

For the duration of this contract, the Employer agrees to pay **seventy-five percent (75%)** of health insurance premiums for the employee and dependent coverage if elected by the employee. The employee shall pay **twenty-five percent (25%)** of the premium cost in any event.

ARTICLE XXI – LAY-OFF/RECALL

Section 1. Layoff. When there is an impending layoff with respect to the employees in the bargaining unit, the Employer shall inform the Labor Council in writing as soon as the City Council has decided the issue. A layoff may be initiated by the Employer where there is insufficient funds to pay the employees and/or there is a lack of work available. The Employer will provide the Council with the names of all employees to be laid off as soon as available.

Probationary employees, temporary and part-time employees shall be laid off first, and then employees shall be laid off in accordance with their seniority. The employees with the least amount of seniority shall

be laid off first. All employees shall receive notice in writing of the lay off as soon as practical following the decision by the City Council to lay off employees.

Section 2. Recall. Any employee who has been laid off shall be placed on the appropriate reinstatement list and shall be recalled on the same basis of seniority, the last laid off is the first recalled.

ARTICLE XXII – PERSONNEL FILES

The Employer agrees to abide by the provisions of the Illinois Personnel Record Review Act, **820 ILCS 40/0.01 et seq.**

ARTICLE XXIII – IMPASSE RESOLUTION

The resolution procedure of any bargaining impasse shall be that specified in Section 14 of the Illinois Public Labor Relations Act, **5 ILCS 315**, as amended. Prior to either party requesting arbitration of an impasse, the parties agree to seek the assistance of Federal Mediation and Conciliation Service to provide a mediator who will attempt to resolve the impasse and the parties agree to work in good faith to that end.

ARTICLE XXIV – ENTIRE AGREEMENT

The parties acknowledge that during the negotiations which preceded this Agreement, each had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter not removed by law from the area of collective bargaining. The understandings and agreements arrived at by the parties after the exercise of that right and opportunity are set forth in this Agreement.

ARTICLE XXV – SAVINGS CLAUSE

If any provision of this Agreement or any application thereof should be rendered or declared unlawful, invalid or unenforceable by virtue of any judicial action, or by any existing or subsequently enacted Federal or State legislation, or by Executive Order or other competent authority, the remaining provisions of this Agreement shall remain in full force and effect. In such event, upon the request of either party, the parties shall meet promptly and negotiate with respect to substitute provisions for those provisions rendered or declared unlawful, invalid or unenforceable.

ARTICLE XXVI – TERM OF AGREEMENT

This Agreement shall be effective from **May 1, 2015**, and shall remain in full force and effect until **April 30, 2019**. Notice to renegotiate shall be provided by the Labor Council no earlier than **one hundred twenty (120) days** nor later than **ninety (90) days** prior to the expiration of this Agreement. If such notice is given, negotiations shall begin no later than **sixty (60) days** prior to the expiration date. The provisions of this Agreement shall remain in full force and effect after the expiration date during the period of negotiations, until the negotiation process is complete.

ARTICLE XXVII – EMPLOYEE TESTING

The policy with regard to alcohol or to drug and alcohol testing is incorporated into and made part of this Agreement. A copy of the policy is attached to this Agreement as Appendix C.

(Ord. No. 15-10; 07-13-15)

APPENDIX A – DUES AUTHORIZATION FORM

**ILLINOIS FRATERNAL ORDER OF POLICE
LABOR COUNCIL
974 CLOCKTOWER DRIVE
SPRINGFIELD, ILLINOIS 62704**

I, _____, hereby authorize my employer, the City of Gibson City, to deduct from my wages the uniform amount of monthly dues set by the Illinois Fraternal Order of Police Labor Council, for expenses connected with the cost of negotiating and maintaining the collective bargaining agreement between the parties and to remit such dues to the Illinois Fraternal Order of Police Labor Council as it may from time to time direct. (In addition, I authorize my Employer to deduct from wages any back dues owed to the Illinois Fraternal Order of Police Labor Council from the date of its certification as exclusive bargaining representative to the date this dues deduction is implemented, in such manner as it so directs.)

Date: _____

Signed: _____

Address: _____

City: _____

State: _____ Zip: _____

Telephone: _____

Employment Start Date: _____

Title: _____

Employer, please remit all dues deductions to:

Illinois Fraternal Order of Police Labor Council
Attn: Accounting
974 Clocktower Drive
Springfield, Illinois 62704
(217) 698-9433

Dues remitted to the Illinois Fraternal Order of Police Labor Council are not tax deductible as charitable contributions for federal income tax purposes; however, they may be deductible on Schedule A of Form 1040 as a miscellaneous deduction.

APPENDIX B

GRIEVANCE FORM
Illinois Fraternal Order of Police Labor Council
(use additional sheets where necessary)

Department: _____ Date Filed: _____

Grievant's Name: _____
Last First MI

STEP ONE

Date of Incident or Date Knew of Facts Giving Rise to Grievance: _____

Article(s) and Section(s) of Contract Violated: _____

Briefly state the facts: _____

Given To: _____ Date/Time: _____

Grievant's Signature _____ FOP Representative Signature _____

EMPLOYER'S STEP ONE RESPONSE

Employer Representative Signature _____ Position _____

Person to Whom Response Given _____ Date _____

STEP TWO

Reasons for Advancing Grievance: _____

Given To: _____ Date/Time: _____

Grievant's Signature _____ FOP Representative Signature _____

EMPLOYER'S STEP TWO RESPONSE

Employer Representative Signature _____ Position _____

Person to Whom Response Given _____ Date _____

STEP THREE

Reasons for Advancing Grievance: _____

Given To: _____ Date/Time: _____

Grievant's Signature _____ FOP Representative Signature _____

EMPLOYER'S STEP THREE RESPONSE

Employer Representative Signature _____ Position _____

Person to Whom Response Given _____ Date _____

STEP FOUR

Reasons for Advancing Grievance: _____

Given To: _____ Date/Time: _____

Grievant's Signature _____ FOP Representative Signature _____

EMPLOYER'S STEP FOUR RESPONSE

Employer Representative Signature _____ Position _____

Person to Whom Response Given _____ Date _____

REFERRAL TO ARBITRATION by Illinois FOP Labor Council

Person to Whom Referral Given _____ Date _____

FOP Labor Council Representative

APPENDIX C – ALCOHOL AND SUBSTANCE ABUSE POLICY

Section 1-1.

- A. Gibson City recognizes that drug and alcohol abuse are pervasive in our society. The City further recognizes that the workplace is not exempt from the use and abuse of such substances.
- B. The use and misuse of alcohol and drugs by the Gibson City's employees is contrary to a drug free workforce and workplace. The use of these substances increases the potential for accidents, absenteeism, substandard performance, turnover, misconduct, poor employee morale, damage to property, injury to the public and/or other employees, or degradation of trust in the City to service its citizens effectively. Therefore, the following Alcohol and Substance Abuse Policy is adopted.

Section 1-2.

- A. All employees of Gibson City shall be governed by the principles of a drug free workforce and workplace, and
 1. Shall not be under the influence of alcohol, illegal drugs or other dangerous substances while performing their assigned duties or while "on-call" for duty;
 2. Shall not use, distribute, sell, or possess illegal drugs;
 3. Shall not use alcohol or other dangerous substances during working hours, during breaks or meal periods, when scheduled to return to work or when subject to being called to work;
 4. Shall not possess, store or transport alcohol or illegal drugs while on City premises, at City work locations or in City vehicles or equipment. The employer recognizes that the possession of alcohol or illegal drugs may be necessary in the line of duty.
 5. Shall not sell, distribute, dispense or transfer alcohol, illegal drugs or prescription drugs and medications to any other employee or to any person while on duty or acting in an official capacity. The employer recognizes that the possession of alcohol or illegal drugs may be necessary in the line of duty.
- B. All employees are governed by these requirements and should be aware that violations will result in disciplinary action up to and including termination. Nothing in this policy shall be considered as limiting the City's right to take administrative or disciplinary action, up to and including termination, for involvement with illegal drugs or alcohol not specifically addressed in this policy.

Section 1-3. Drug and Alcohol Testing.

- A. Because of the City's concern for its obligation to provide a safe work place and to provide its citizens with the most efficient and effective services, it will test applicants and employees (including managers and supervisors) under the following circumstances:
 1. Pre-Employment: All applicants to whom an offer of employment has been extended shall be tested for alcohol and illegal drugs. The offer of employment will be revoked for any applicant who tests positive for alcohol or illegal drugs.
 2. Promotion to a Higher Classification: The City will test any employee being promoted to a higher Classification. Any such employee who tests positive will become ineligible for the promotion and will be subject to disciplinary action, including termination.
 3. Reasonable Suspicion: If the City has reasonable suspicion that an employee has violated any provision of this policy pertaining to illegal drugs or alcohol, the employee shall be required to submit to testing. Reasonable suspicion is defined in the "Definitions" section of this policy.
 4. Post-Accidents: All employees who may have contributed to a work-related accident or are directly or indirectly involved in an accident shall be tested. This applies to any accident whether it involves a vehicle, equipment, or personal injury.

- B. Employees who violate the alcohol or drug regulations must submit to unannounced follow-up tests after they return to work. In the first 12 months after returning, an employee must take at least six tests. Follow-up testing may be extended for up to 60 months following return to duty.

Section 1-4. Testing Procedures.

- A. While the City reserves the right to establish the procedures under which employees will be tested for alcohol and illegal drugs, to the extent circumstances permit, the City will observe the following:
 - 1. Every effort will be made to respect the privacy and dignity of employees in the test sample collection process.
 - 2. Will use only a clinical laboratory or hospital facility that is licensed pursuant to the Illinois Clinical Laboratory Act that has been or is capable of being accredited by the National Institute of Drug Abuse (NIDA). The name and address of the facility will be available to employees upon request.
 - 3. Ensure that the facility has established "chain of custody" procedures for both the sample collection and testing that will ensure the integrity of the identity of each sample and test result.
 - 4. Positive drug test results are subject to a second confirmatory test and Medical Review Officer review.
 - 5. The Director of Administration will receive drug and alcohol test results.
 - 6. Drug and alcohol test results will be filed in the employee's medical file and will be treated as a confidential medical record. Supervisors or managers may be informed of drug testing results and/or employee's participation in a substance abuse rehabilitation program as such information relates to the employee's performance of work duties and/or reasonable accommodation issues.
 - 7. Provide each employee tested with a copy of all information and reports received in connection with the testing and the results.

Section 1-5. Discipline.

- A. Positive Test Results: Where the employee tests positive on both the initial and confirmatory tests for drugs or alcohol, the employee shall be subject to disciplinary action which can lead to discharge or be required to complete a drug/alcohol rehabilitative treatment program. An employee who wishes to have a second test done at the testing facility or at a different testing facility may do so at the employee's expense.
- B. Refusal to Provide a Blood, Breath, or Urine Specimen: An employee's refusal to provide a urine, breath and/or blood specimen for laboratory testing when requested by the City shall constitute cause for disciplinary action and can lead to discharge of the employee. If the employee is physically unable to provide a urine specimen, the City may request a blood specimen for laboratory testing.
- C. Tampering With or Substitution of a Specimen: Intentionally tampering with, causing another person to tamper with, substituting for, or causing another person to substitute for a urine and/or blood specimen, whether the employee's own specimen or another employee's specimen, shall constitute cause for disciplinary action which can lead to discharge of the employee who engages in such activity.
- D. Drug-Related Felony Conviction: The conviction of an employee for any felony involving illegal possession, sale, use or distribution of a drug shall constitute cause for disciplinary action which can lead to discharge, whether or not such felony occurred during normal work hours. Such convictions must be reported to the employee's supervisor within **five (5) working days** of such conviction.

Section 1-6. Employee Assistance Program.

- A. The Employee Assistance Program (EAP) of Gibson City is available to employees who desire to seek help for an alcohol, drug, or substance abuse problem. Contact with the EAP can be made directly or through referral.
- B. An employee may desire to come forward on a self-initiated basis to seek help for an alcohol or drug abuse problem and to resolve that problem voluntarily. Employees are encouraged to do so before they are found in violation of this policy. Employees voluntarily seeking assistance for a problem involving illegal drug use or alcohol abuse may avail themselves of his help once during the employee's tenure.
- C. The employee will not be subject to disciplinary action for voluntarily coming forward for help. However, employee will not escape discipline by requesting such assistance after being requested to take an alcohol and/or drug test or violating City policies and rules on conduct. Voluntary requests for help will be kept confidential.
- D. The Gibson City is committed to providing reasonable accommodation to those employees with diagnosed alcohol or drug dependencies, as required by applicable federal and/or state law, provided such dependencies do not constitute threats to property or safety and further provided that the employee has not committed an offense for which termination may result.

Section 1-7. Searches.

- A. In order to accomplish the goals of this policy, the City may search employees and inspect their personal property (i.e., locker, work area, vehicles, etc.), at the City's discretion.
- B. All searches and inspections will be performed with appropriate regard and concern for the personal privacy of the employee to the extent possible without jeopardizing the investigation. Failure to submit to or cooperate in such a search may result in disciplinary action, including termination.
- C. The City may, under certain circumstances, request the presence of a representative of the appropriate law enforcement agency when conducting a search or inspection.

Section 1-8. Definitions.

- A. Illegal Drug or Drugs: A drug is any non-prescribed controlled substance that the employee is not authorized to possess or consume by law.
- B. Alcohol: Includes any distilled spirits, wine, malt beverage or other intoxicating liquors.
- C. Drug/Alcohol Test: Any chemical, biological or physical instrumental analysis administered for the purpose of determining the presence or absence of alcohol or a drug or its metabolites.
- D. Positive Test Result:
 - 1. A blood or breath specimen provided by the employee measured an ethyl alcohol concentration of .02 or more;
 - 2. Or a urine specimen provided by the employee which detects any amount of a drug.
- E. Reasonable Suspicion: Reasonable suspicion shall be defined as an articulate belief based on specific facts and reasonable inferences that the employee is under the influence of drugs or alcohol, is using drugs or alcohol, or is in possession of or selling drugs or alcohol. Circumstances which may constitute a basis for determining reasonable suspicion may include, but are not limited to:
 - 1. A pattern of abnormal or erratic behavior;
 - 2. A noticeable change in work performance;
 - 3. Direct observation of drug or alcohol use;
 - 4. Presence of physical symptoms of drug or alcohol use (glassy or blood shot eyes, slurred speech, poor coordination or the odor of an alcoholic beverage on/about the person or breath of the employee).

ADDENDUM "C"

INTERGOVERNMENTAL POLICE SERVICE AND ASSISTANCE AGREEMENT

THIS AGREEMENT entered into by and between the City of Gibson City, a Municipal Government and the City of Paxton, a Municipal Government, both located in the State of Illinois,

WITNESSETH:

Whereas, the City of Gibson and the City of Paxton desire to enter into an Intergovernmental Agreement to provide police service and assistance to each other; and

Whereas, the 1970 Illinois Constitution (Article VII, Section 10) and the Intergovernmental Cooperation Act (5 ILCS 220/1, et seq.), provide authority for intergovernmental cooperation.

Now, Therefore, in consideration of the mutual covenants and agreements contained in this Agreement, the City of Gibson City and the City of Paxton agree as follows:

SECTION 1. It is recognized that in certain situations the use of police officers of the City of Gibson City to perform police duties for the City of Paxton may be desirable and necessary in order to preserve and protect the health, safety, and welfare of the public. It is further recognized that in certain situations the use of police officers of the City of Paxton to perform police duties within the territorial limits of the City of Gibson City may be desirable and necessary in order to preserve and protect the health, safety, and welfare of the public.

SECTION 2. Intergovernmental Police Service and Assistance may be provided between the City of Gibson City and the City of Paxton during those times of emergency and routine police work when mutual aid would best serve the interests of the Cities and their residents.

SECTION 3.

A. The City of Gibson City authorizes and directs its Police Chief or the officer commanding in the Police Chief's absence to render and request mutual police aid to and from the City of Paxton to the extent of available personnel and equipment not required for adequate protection of the City of Gibson City. The judgment of the Police Chief, or officer commanding in his or her absence, as to the amount of personnel and equipment available to render assistance, shall be final.

B. The City of Paxton authorizes and directs its Chief of Police or the officer commanding in the Chief's absence to render and request mutual police aid to and from the City of Gibson City to the extent of available personnel and equipment not required for adequate protection of the City of Paxton. The judgment of the Police Chief, or officer commanding in his or her absence, as to the amount of personnel and equipment available to render assistance, shall be final.

C. The Police Officers requested to render mutual aid assistance shall report to and receive instructions from the commanding police officer of the government to which assistance

is being rendered. Any police officer who renders mutual aid assistance shall be responsible for his/her individual actions and conduct under his/her employing governmental units regulations, guidelines and procedures, and state and federal laws, regardless of the jurisdiction in which he/she is performing the police duties.

SECTION 4. When providing mutual aid assistance, the police officer(s) of the City of Gibson City or employee(s) of the Paxton Police Department that render the assistance shall not be considered for any purpose to be employees of the unit of local government to which assistance is being rendered. All employment rights and wage compensation, for work performed in or for either party to this Agreement shall be paid to the employee by the unit of local government employing the person.

SECTION 5. Vehicles, firearms and all equipment furnished in or for mutual aid assistance shall be operated by personnel of the unit of local government furnishing the equipment. It is understood that under no circumstances will privately owned vehicles or equipment be utilized in mutual aid assistance unless commandeered or authorized by the commanding police officer of the unit of local government which requested the assistance.

SECTION 6.

A. It is understood and agreed that if while rendering assistance pursuant to this Agreement personal injury, death or property damage or loss occurs to the personnel or property of one of the units of local government that is rendering the mutual aid assistance, the unit of local government employing the person or owning the property and their contracted insurance carrier(s) shall be liable for all legally determined damages that shall pertain to the rendering unit of local government. Each party to this Agreement agrees to obtain sufficient insurance coverages to meet the responsibility under this Agreement. Insurance coverages shall include but are not limited to worker's compensation insurance; vehicular comprehensive and collision; bodily injury (minimum coverage \$5,000,000.00) and including property damage in said limit; liability insurance; false arrest and general liability insurance (minimum coverage \$5,000,000.00).

B. Neither the City of Gibson City nor the City of Paxton shall under any circumstances be held liable for any loss or by reason of its failure to effectively combat or handle any police problem in the territory of the other party.

C. All individuals retain all pension and disability rights of their employing unit while performing duties in accordance with this Agreement.

SECTION 7. Cooperative police service shall be rendered without charge to either party to this Agreement when the personnel rendering the service are performing the service during their regularly scheduled duty hours. In the event that any person who is rendering assistance pursuant to the terms of this Agreement is entitled to overtime pay from his/her employing unit as a result of rendering the assistance then, in that event, the unit of local government requesting the assistance shall pay to the unit of local government rendering the assistance all overtime expenses incurred by the unit of local government rendering the assistance, including overtime pay, the employing unit costs of FICA taxes and retirement contributions for the overtime pay, worker's compensation premiums.

SECTION 8. This Agreement shall not be construed as or deemed to be an agreement for the benefit of any third party or parties, and no third party or parties shall have any right of action under this Agreement for any cause whatsoever.

SECTION 9. Through its elected City Councils passing a Resolution terminating this Agreement, either party to this Agreement may withdraw at any time, upon **thirty (30) days'** written notice to the other party.

SECTION 10. This Agreement shall become effective for each party when that party by Ordinance of its governing body adopts and approves this Agreement and authorizes the proper official to execute the Agreement. This Agreement shall be executed in duplicate and the office of the Clerk of each party to this Agreement shall maintain an executed copy in its records.

SECTION 11. If any provision of this Agreement is invalid for any reason, such invalidation shall not render invalid other provisions of this Agreement which can be given effect without the invalid provision.

SECTION 12. This Agreement shall be construed in accordance with the law and Constitution of the State of Illinois.

(Ord. No. 08-04; 04-14-08)

ADDENDUM "D"

INTERGOVERNMENTAL POLICE SERVICE AND ASSISTANCE AGREEMENT

THIS AGREEMENT entered into by and between the City of Gibson City, a Municipal Government, and the COUNTY OF FORD, a County Government, both located in the State of Illinois,

WITNESSETH:

Whereas, the City of Gibson and the County of Ford desire to enter into an Intergovernmental Agreement to provide police service and assistance to each other; and

Whereas, the 1970 Illinois Constitution (Article VII, Section 10) and the Intergovernmental Cooperation Act (5 ILCS 220/1, et seq.), provide authority for intergovernmental cooperation.

Now, Therefore, in consideration of the mutual covenants and agreements contained in this Agreement, the City of Gibson City and the COUNTY OF FORD agree as follows:

SECTION 1. It is recognized that in certain situations the use of police officers of the City of Gibson City to perform police duties for the County of Ford may be desirable and necessary in order to preserve and protect the health, safety, and welfare of the public. It is further recognized that in certain situations the use of Sheriff's Deputies of the County of Ford to perform police duties within the territorial limits of the City of Gibson City may be desirable and necessary in order to preserve and protect the health, safety, and welfare of the public.

SECTION 2. Intergovernmental Police Service and Assistance may be provided between the City of Gibson City and the County of Ford during those times of emergency and routine police work when mutual aid would best serve the interests of the City, the County, and their residents.

SECTION 3.

A. The City of Gibson City authorizes and directs its Police Chief or the officer commanding in the Police Chief's absence to render and request mutual police aid to and from the County of Ford to the extent of available personnel and equipment not required for adequate protection of the City of Gibson City. The judgment of the Police Chief, or officer commanding in his or her absence, as to the amount of personnel and equipment available to render assistance, shall be final.

B. The County of Ford authorizes and directs its Sheriff or the officer commanding in the Sheriff's absence to render and request mutual police aid to and from the City of Gibson City to the extent of available personnel and equipment not required for adequate protection of the County of Ford. The judgment of the Sheriff, or officer commanding in his or her absence, as to the amount of personnel and equipment available to render assistance, shall be final.

C. The Police Officers or Sheriff's Deputies requested to render mutual aid assistance shall report to and receive instructions from the commanding police officer of the government to which assistance is being rendered. Any police officer or deputy sheriff who renders mutual aid assistance shall be responsible for his/her individual actions and conduct under his/her employing governmental units regulations, guidelines and procedures, and state and federal laws, regardless of the jurisdiction in which he/she is performing the police duties.

SECTION 4. When providing mutual aid assistance, the police officer(s) of the City of Gibson City or employee(s) of the Sheriff's Department of the County of Ford that render the assistance shall not be considered for any purpose to be employees of the unit of local government to which assistance is being rendered. All employment rights and wage compensation, for work performed in or for either party to this Agreement shall be paid to the employee by the unit of local government employing the person.

SECTION 5. Vehicles, firearms and all equipment furnished in or for mutual aid assistance shall be operated by personnel of the unit of local government furnishing the equipment. It is understood that under no circumstances will privately owned vehicles or equipment be utilized in mutual aid assistance unless commandeered or authorized by the commanding police officer of the unit of local government which requested the assistance.

SECTION 6.

A. It is understood and agreed that if while rendering assistance pursuant to this Agreement personal injury, death or property damage or loss occurs to the personnel or property of one of the units of local government that is rendering the mutual aid assistance, the unit of local government employing the person or owning the property and their contracted insurance carrier(s) shall be liable for all legally determined damages that shall pertain to the rendering under of local government. Each party to this Agreement agrees to obtain sufficient insurance coverages to meet the responsibility under this Agreement. Insurance coverages shall include but are not limited to worker's compensation insurance; vehicular comprehensive and collision; bodily injury (minimum coverage \$5,000,000.00) and including property damage in said limit; liability insurance; false arrest and general liability insurance (minimum coverage \$5,000,000.00)

B. Neither the City of Gibson City nor the County of Ford shall under any circumstances be held liable for any loss or by reason of its failure to effectively combat or handle any police problem in the territory of the other party.

C. All individuals retain all pension and disability rights of their employing unit while performing duties in accordance with this Agreement.

SECTION 7. Cooperative police service shall be rendered without charge to either party to this Agreement when the personnel rendering the service are performing the service during their regularly scheduled duty hours. In the event that any person who is rendering assistance pursuant to the terms of this Agreement is entitled to overtime pay from his/her employing unit as a result of rendering the assistance then, in that event, the unit of local government requesting the assistance shall pay to the unit of local government rendering the assistance all overtime expenses incurred by the unit of local government rendering the assistance, including overtime pay, the employing unit costs of FICA taxes and retirement contributions for the overtime pay, worker's compensation premiums.

SECTION 8. This Agreement shall not be construed as or deemed to be an agreement for the benefit of any third party or parties, and no third party or parties shall have any right of action under this Agreement for any cause whatsoever.

SECTION 9. Through its elected County Board or City Council passing a Resolution terminating this Agreement, either party to this Agreement may withdraw at any time, upon **thirty (30) days'** written notice to the other party.

SECTION 10. This Agreement shall become effective for each party when that party by Ordinance of its governing body adopts and approves this Agreement and authorizes the proper official to execute the Agreement. This Agreement shall be executed in duplicate and the office of the Clerk of each party to this Agreement shall maintain an executed copy in its records.

SECTION 11. If any provision of this Agreement is invalid for any reason, such invalidation shall not render invalid other provisions of this Agreement which can be given effect without the invalid provision.

SECTION 12. This Agreement shall be construed in accordance with the law and Constitution of the State of Illinois.

(Ord. No. 08-05; 04-14-08)

CHAPTER 31

RECREATION

ARTICLE I – SWIMMING POOL BOARD

31-1-1 CREATION. A Swimming Pool Board for the City, to be known and designated as “Gibson City Swimming Pool Board” is hereby established. The Board shall consist of **five (5) persons** to be appointed by the Mayor with the advice and consent of the City Council. The term of each member shall be **three (3) years**. If a vacancy occurs in the office of any board member, the Mayor shall appoint a successor to serve the unexpired term. The Mayor may, by and with the advice and consent of the City Council, remove any board member for misconduct or neglect of duty. **(See Section 1-2-41)**

31-1-2 POWERS AND DUTIES. The Board shall have the power to maintain, equip and operate the swimming pool and the buildings thereon and for that purpose may employ leaders, directors, supervisors, superintendents or such other officers or employees as it shall deem proper. The Board shall have to power to provide, maintain, equip, and operate swimming pools in any public park or land or building dedicated or set apart therefor. Such Board shall have the power to provide for the sanitation for the swimming pool and shall provide proper protection for the public in the use thereof. It may charge and collect reasonable fees for the use of the swimming pool to cover the cost of operation thereof. **(Ord. No. 437; 04-27-71)**

31-1-3 ACCEPTANCE OF PROPERTY. The Board shall have the power to accept any grant or devise of real estate or any gift or bequest of money or other personal property or any donation, the principal or income of which is to be applied, for either temporary or permanent use of swimming pool purposes, on the condition, however, that if the acceptance thereof for swimming pool purposes will subject the City to expense for improvements, maintenance or renewal, the acceptance shall be subject to the approval of the City Council.

31-1-4 DEPOSIT OF MONIES. All monies received for swimming pool purposes, unless otherwise provided for by the terms of the gift or bequest, and all monies received for such purposes from levies made by the City for swimming pool purposes shall be deposited to the account of the Swimming Pool Board.

31-1-5 LEVY OF SPECIAL TAX. There shall hereafter be levied and collected a tax of not less than **.025 percent** and not more than **.09 percent** of the full, fair cash value, as equalized or assessed by the Department of Revenue, all taxable property within the corporate limits of the City, which tax shall be designated as a playground and recreation tax for swimming pool purposes and shall be levied and collected in like manner as the general tax of the City is levied and collected.

31-1-6 PAYMENT OF EXPENSES. The expenses of the Swimming Pool Board in and about the establishment, maintenance and conduct of swimming pool centers shall be paid out of the taxes or out of the money received as, or realized from, gifts received for swimming pool purposes; and expenditures shall be made under the direction of the Swimming Pool Board upon warrants drawn upon the Treasury of the Swimming Pool Board.

(Ord. No. 98-0-08; 04-27-98)

ARTICLE II - PARKS

31-2-1 PARK COMMITTEE. The standing committee on Parks and Buildings shall supervise and administer the City park activities.

31-2-2 DUTIES. The Committee shall recommend to the City Council whatever is necessary to staff, maintain, and equip the park programs and grounds.

31-2-3 ACCEPTANCE OF PROPERTY. The Committee may recommend to the City Council to accept any grant or devise of real estate or any gift or bequest of money or other personal property or any donation, the principal or income of which is to be applied, for either temporary or permanent use of park purposes, on the condition, however, that if the acceptance thereof for park purposes will subject the City to expense for improvements, maintenance or renewal, the acceptance shall be subject to the approval for the City Council.

31-2-4 DEPOSIT OF MONEYS. All moneys received for park purposes, unless otherwise provided for by the terms of the gift or bequest, and all moneys received for such purposes from tax levies made by the City for park purposes shall be deposited to the park and park maintenance account.

31-2-5 LEVY OF SPECIAL TAX. There shall hereafter be levied and collected a tax of not more than **.075 percent** of the full, fair cash value, as equalized or assessed by the Department of Revenue, all taxable property within the City.

31-2-6 RESERVED.

31-2-7 DESTRUCTION OF PARK PROPERTY. Within the municipal parks, no person except park personnel on official business shall:

- (A) cut, break, injure, destroy, take, or remove any tree, shrub, timber, plant, or natural object;
- (B) kill, cause to be killed, or pursue with intent to kill any bird or animal except in areas where the Village has authorized hunting;
- (C) willfully mutilate, injure or destroy any building, bridge, table, bench, fireplace, guidepost, notice, tablet, fence, monument, or other park property or appurtenances.

31-2-8 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.

31-2-9 FIRES IN PARKS.

(A) No person shall light or use any unenclosed picnic fire within the municipal parks. Fires may be built only in fireplaces or on grills constructed for that purpose in designated areas.

(B) In camping areas, no person shall leave any campfire unattended by a competent person.

(C) Every person who has lighted or used any fire in a municipal park shall extinguish such fire before leaving the park.

31-2-10 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.

31-2-11 ERECTION OF STRUCTURES. No person shall build or place any tent, building, booth, stand, or other structure in or upon any municipal park or other recreational facility unless he has obtained a permit to do so from the Village.

31-2-12 SIGNS. No person shall place within any municipal park or affix to any object therein any sign or device designated to advertise any business, profession, exhibition, event or thing unless he has obtained a permit to do so from the Village.

31-2-13 ANIMALS.

(A) Dog owners assume full responsibility for any injuries, damages or loss associated with use of the dog park.

(B) Owners must clean up and properly dispose of feces left by their dog in any City Park.

(C) While plastic bags and garbage cans may be provided in the parks, if bag dispenser is empty or there is no dispenser it shall remain the responsibility of the owner to provide a bag and clean up after their dog after it defecates or makes any other mess in the park.

(D) Dogs must be leashed at all times except when located inside a designated "dog park" but shall always be leashed when entering and leaving the dog park.

(E) The gates of any dog park must be kept closed.

(F) Dogs on public property must have current dog tags and up to date vaccinations.

(G) Dogs showing any signs of aggressive behavior must be immediately leashed and removed from the dog park.

(H) Dogs in heat are not allowed in the dog park.

(I) The dog park may be closed by order of the Mayor, his/her designee, the City Superintendent and/or the Police Department.

(J) Individuals should not give any treats to animals which are not their own.

(K) No dangerous animal is allowed in the dog park or any municipal park.

(L) There shall be no riding or leading of any horse in any municipal park or recreational area except upon paths or other ways expressly provided and posted for that purpose.

(Ord. No. 18-12; 09-24-18)

31-2-14 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.

31-2-15 SALES; AMUSEMENTS FOR GAIN. Within the parks of this Municipality, no person shall, without having first obtained a permit from the Village:

- (A) sell or offer for sale any goods or services; or
- (B) conduct any amusement for gain or for which a charge is made.

31-2-16 GROUP ACTIVITIES. Whenever any group or organization desires to use municipal park facilities for a particular purpose such as picnics, parties, exhibitions or performances, a representative of the group shall first apply for and obtain a permit for such activity from the Mayor.

31-2-17 APPLICATION FOR PERMIT. Applications for all permits required by this Chapter shall be made in writing to the Mayor not less than **seven (7) days** before the proposed date of the activity for which the permit is sought. Each application shall include the following information:

- (A) A statement briefly describing the nature of the proposed activity;
- (B) name, address and telephone number of the person or organization wishing to conduct such activity;
- (C) the date when such activity is to be conducted;
- (D) the hour when such activity will start and terminate;
- (E) the park or portion thereof for which such permit is desired; and
- (F) an estimate of the anticipated attendance.

31-2-18 DECISION ON PERMIT APPLICATION. After due consideration of the information contained in the permit application, but not later than **seven (7) days** after the application has been filed, the Mayor shall determine whether the application is satisfactory. An application shall be deemed satisfactory is:

- (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 of 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.

31-2-19 ISSUANCE OR DENIAL OF PERMIT.

- (A) Notification by regular mail or by telephone shall be made promptly by the Mayor to every permit applicant of the decision on his application.
- (B) If such decision is favorable, the Mayor shall issue the permit. As a condition of the issuance of any permit, the Mayor may require that an indemnity bond be obtained if, in their opinion, such bond is necessary to protect this Municipality from liability or to protect municipal property from damage.
- (C) The Mayor shall inform each applicant who has been denied a permit regarding the reasons for the denial and the procedure for appeals.

31-2-20 PARK HOURS. All parks and recreation areas (except as allowed by permit) under the ownership or jurisdiction of the City shall be closed to all persons after dusk and before dawn each day. **(Ord. No. 13-10; 06-24-13)**

31-2-21 EXEMPTION. Persons who are camping in areas designated for camping and persons who are merely traversing through such park or recreation area from one point to another shall be exempt from the provisions of **Section 31-2-20. (Ord. No. 93-0-10; 07-12-93)**

ARTICLE III – JORDAN POND PARK RULES AND REGULATIONS

31-3-1 FISHING. Any person taking or attempting to take any fish, including minnows and crayfish, by any means whatever at the Jordan Pond Park, or otherwise in any waters or adjacent lands wholly or in part within the jurisdiction of the City of Gibson, shall first obtain and have in his/her possession a valid State of Illinois fishing license.

31-3-2 FISHING REGULATIONS. All State of Illinois regulations apply when fishing at the Jordan Pond Park. The taking of frogs, turtles and mussels is prohibited. Each angler is restricted to **two (2) poles** with fishing line. No seines or nets are allowed. There shall be no ice fishing.

Catch and release is encouraged. It shall be prohibited for any person to carry away or keep fish not in accordance with the following species and minimum size limits:

| Fish Species | Daily Limit | Minimum Size Requirement |
|--------------------------------|------------------------|--------------------------|
| Bluegill/Sunfish/Green Sunfish | 15 | None |
| Largemouth Bass | Catch and Release Only | |
| Channel Catfish | 3 | None |
| White/Black Crappie | 5 | None |

31-3-3 BOATING PROHIBITED. There shall be no boats of any kind permitted on the waters of Jordan Pond Park. Fishing, under the terms of this Article, shall be allowed from the shoreline.

31-3-4 SWIMMING IN JORDAN POND PARK. No person shall knowingly wade, swim, float or otherwise immerse all or any part of his or her body on or in the water of Jordan Pond Park.

31-3-5 GENERAL RULES. The following rules shall be followed in the Jordan Pond Park:

- (A) Children under **twelve (12) years** of age must be accompanied by an adult.
- (B) Any pets must be on a leash and owners shall clean up after their pets.
- (C) Alcoholic beverages may not be consumed in nor shall be permitted in the Jordan Pond Park.
- (D) Motorized vehicles shall be permitted only in the parking area.
- (E) Fires shall only be allowed in proper receptacles and must be constantly attended to by an adult.

- (F) The Park shall open only from dawn to dusk.
- (G) No swimming is allowed.
- (H) There shall be no entry on to any ice for any purpose.
- (I) There shall be no fish cleaning in the Park.

31-3-6 **PENALTY.** Any person who violates this Section shall upon conviction thereof, be subject to a fine as provided under the Revised Code of Ordinances.

(Ord. No. 16-05; 04-11-16)

ARTICLE IV – ARROWSMITH PARK CAMPING

31-4-1 REGULATIONS.

(A) Commencing **June 27, 2006** and continuing thereafter any person utilizing Arrowsmith Park for purposes of camping shall first secure a permit as provided for under this Article. It shall be illegal to camp at Arrowsmith Park without first securing a permit.

(B) Permits may be issued by the Police Department. Each person applying for a permit shall submit their name, address, vehicle plate identification number, and provide a valid and current passport or photo identification card issued by a United States of America state or federal government.

(C) There shall be a separate permit required for each tent and/or each motor home and/or each trailer.

(D) All permit applicants must be at least **eighteen (18) years** of age.

(E) The permit shall specify the date of arrival and the date of departure. No permit shall be issued for more than **seven (7) days** and no camper may utilize the park for more than **seven (7) days** in any given **thirty (30) day** period.

(F) As a condition of the permit, the permit holder shall comply with all rules posted in Arrowsmith Park. The Chief of Police shall be authorized to issue such rules as are reasonably necessary to provide for the safe use of Arrowsmith Park. Absolutely no alcohol shall be permitted in Arrowsmith Park. A violation of any rules posted at Arrowsmith Park or a violation of the prohibition of liquor shall constitute a basis for revocation of the permit and removal of the license holder's camping shelter, vehicle, and/or personality.

(G) The fee for a permit shall be **Ten Dollars (\$10.00)** per day per permit payable upon the application for said permit. Permits shall expire at **3:00 P.M.** on the last day. In the event that a permit is revoked based upon a violation of the rules regulation of Arrowsmith Park and/or a violation of the prohibition against alcohol, there shall be no refund of the permit fee.

(H) A violation of this Article shall result in a fine of **One Hundred Dollars (\$100.00)** with each day of violation constituting a separate offense.

(Ord. No. 06-21; 06-26-06)

ARTICLE V - FIREARMS AND SAFETY TRAINING BOARD

31-5-1 FIREARMS TRAINING AND SAFETY BOARD. A Board is hereby established called the "Firearms Training and Safety Board."

31-5-2 MEMBERS. The Firearms Training and Safety Board shall be comprised of **three (3)** voting members all of whom shall reside in the City and **two (2)** non-voting members who shall not have a residency requirement. All Board Members shall be appointed by the Mayor with the advice and consent of the City Council and shall each serve a **one (1) year** term commencing with appointment and concluding the last day in April, 2012 and the last day of April of each year thereafter.

(A) Board member's terms shall also end upon their resignation or upon removal by the City Council and the Mayor.

31-5-3 FUNCTION. The function and purpose of the Firearms Training and Safety Board shall be to advise, oversee and help manage the City shooting range subject to the direction of the Mayor, Chief of Police and City Council. The Board shall annually propose a budget in advance of approval of the City Appropriation Ordinance and submit it for approval by the City Council and Mayor. Upon its approval, the Board shall have the authority to make such expenditures and enter into such contracts as are contemplated under the approved budget. The Board and its members shall not have the authority to exceed the approved budget and enter into contracts not contemplated by the approved budget without approval of the City Council and Mayor.

31-5-4 BYLAWS. The Board shall proceed under the "Firearms Training and Safety Board Bylaws" attached hereto and by reference incorporated herein.

31-5-5 LAW. The Board Members shall comply with the Illinois Open Meetings Act and other applicable laws.

(Ord. No. 11-02; 02-28-11)

FIREARMS TRAINING AND SAFETY BOARD BYLAWS

- I. Purpose.** The Firearms Training and Safety Board, hereinafter "Board", exists to enhance the safety and quality of life in the City of Gibson, Illinois as directed and authorized by the City of Gibson Revised Code of Ordinances.
- II. Membership.** Members of the Board shall be appointed by the Mayor with the full consent and advice of the City Council. The Board shall consist of **three (3)** voting members and **two (2)** non-voting members.
- III. Officers.** The officers shall be a Chair, a Vice-Chair and a Secretary. The Chair shall be appointed by the Mayor with the approval and consent of the City Council. The Vice-Chair and the Secretary shall be elected each year by and from among the members of the Board. Vacancies in these offices shall be filled promptly by election.
 - A. The Chair is responsible for the agendas of the Board meetings, presides over the meetings and promotes an orderly flow of business. The Chair represents the Board in an official capacity.
 - B. The Vice-Chair shall serve as Chair in the absence of the Chair.
 - C. The Secretary shall be responsible for the minutes of the Board meetings, the distribution of minutes and agendas, and maintaining the mailing list.
- IV. Election of Officers and Terms of Office.** Officers shall be elected at the May meeting each year. They shall take office upon election and shall serve until their successors are elected and take office. Members shall serve until expiration of their respective terms, upon their resignation or when they are removed by affirmative vote of the City Council.
- V. Meetings.** There shall be a meeting of the Board at such time and place as determined by the Board. Additional meetings may be called by and at the discretion of the Board Chair. All meetings shall comply with the Illinois Open Meetings Act.
- VI. Quorum.** A quorum shall consist of at least **two (2)** voting Board Members.
- VII. Amendment.** Amendment of these Bylaws requires approval of the City Council.
- VIII. Parliamentary Procedure.** The latest edition of Robert's Rules of Order Revised shall govern the Board unless otherwise stated in these Bylaws.

CITY OF GIBSON CITY

PARK INFORMATION REQUEST

ORGANIZATION: _____

CHAIRMAN OF EVENT: _____

PRESIDENT OF ORGANIZATION: _____

DATE OF EVENT: _____

TYPE OF EVENT: _____

STATE CHARTER FOR NOT-FOR-PROFIT ISSUED: YES _____ NO _____

EXPLAIN NEEDS OF EVENT AND HOW THE PARK FACILITY WILL BE USED:

CERTIFICATE OF INSURANCE REQUIRED: YES _____ NO _____

LIQUOR LIABILITY REQUIRED: YES _____ NO _____

COPIES OF THESE CERTIFICATES MUST BE SUBMITTED TO THE MUNICIPAL CLERK PRIOR TO THE EVENT (IF REQUIRED). THE EVENT WILL BE STOPPED IF THEY ARE NOT FILED PRIOR TO THE EVENT.

SPECIAL CONDITIONS FOR THE PARK

1. SHELTER AND AREA MUST BE CLEARED BEFORE YOU LEAVE OR CLEANUP CHARGES WILL BE ASSESSED.
2. _____
3. _____
4. _____
5. _____

SIGNED: _____

ORGANIZATION CHAIRMAN

DATE: _____

APPROVED: _____

MAYOR

DATE: _____

CITY OF GIBSON CITY

PARK RESERVATION APPLICATION

NAME: _____
ADDRESS: _____
CITY: _____
TELEPHONE NO: _____
DATE REQUESTED: _____
TYPE OF FUNCTION: _____
HOURS: _____
ESTIMATED ATTENDANCE: _____

SPECIAL CONDITIONS

1. _____
2. _____
3. _____

FEE: \$_____

SIGNED: _____

APPROVED: _____

APPLICANT

PARK BOARD CHAIRMAN

DATE: _____

DATE: _____

REQUIREMENTS

1. THIS APPLICATION MUST BE APPROVED BY THE MAYOR.
2. A COPY OF THE APPLICATION WILL BE MAILED AFTER IT'S APPROVED.
3. APPLICANT SHALL DISPLAY THIS APPLICATION THE NIGHT BEFORE THE FUNCTION. SHELTER AND AREA SHALL BE CLEANED BEFORE YOU LEAVE OR CLEANUP CHARGES WILL BE ASSESSED.

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 and Alley Department**. It shall embrace the Street Committee, the Superintendent, and the employees. The City Engineer shall serve as ex-officio officer.

33-1-2 COMMITTEE ON STREETS AND ALLEYS. The Standing Committee on Streets and Alleys shall exercise a general supervision over the affairs of the Street and Alley 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 VAULTS UNDER SIDEWALKS. No person shall occupy or use for vaults, areas, or other purposes, the space beneath the sidewalk, included within the sidewalk lines of any street, unless a permit therefor shall have been obtained from the City Council; such permit to continue and to be issued only upon the condition that the party receiving the same, his heirs and assigns, shall, as a consideration for such privilege, always maintain and keep in repair a good, safe sidewalk over such space, and shall keep and maintain such vault and area, and the area ways leading thereto, clean and in good condition. Any neglect, failure or refusal on the part of said party receiving such permit, or his heirs, assigns, or the occupant of any such premises shall cause a forfeiture of such permit, and the rights and privileges granted by such permit shall, upon the order of the City Council, be determined and annulled. **(Old Code, Section 4.13)**

33-2-4 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 Street and Alley Committee, and upon verbal or written order from either of them, to give notice to the party owning the adjoining property to repair such sidewalk or cellar door without delay.

33-2-5 STAIRWAY - RAILING. Steps or stairways leading into any building shall not extend from the wall of such building onto any pavement or sidewalk, and in such case, the person making or causing to be made such passage shall erect a railing on the side of the stairs toward the street to prevent persons from falling into the street.

33-2-6 CLOSING STREET. Whenever public safety or the improvement or repair of any street, alley or public place requires it, the Mayor, Police Chief, and/or City Superintendent 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, Police Chief and/or City Superintendent. 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.

33-2-7 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)**

33-2-8 VEHICLES ON SIDEWALKS. No person shall operate any vehicle over any sidewalk, except in crossing the same to go into a yard or parking lot. Riders of bicycles, in-line skates and skateboards are hereby prohibited from riding upon any sidewalk on Sangamon Avenue between 7th Street and 11th Street, on 9th Street between Church Street and the Illinois Central Railroad right-of-way and on 8th Street between Church Street and the Illinois Central right-of-way. No skateboard shall be ridden upon any roadway other than at a crosswalk, except where no paved sidewalks are provided. Bicycles, in-line skates and skateboards are further prohibited from riding in the park pavilion. Nothing in this Section shall apply to wheelchairs or powered car seats used by handicapped persons. **(Ord. No. 09-12; 06-08-09)**

33-2-9 LIMITATION ON PLACING ARTICLES ON SIDEWALKS. It shall be unlawful to deposit on any public sidewalk, any material which may be harmful to the pavement thereof, or any waste material or any glass or other articles which might cause injury to persons, animals or property.

No clothing, goods, wares, merchandise, signs, boxes, or other articles shall be placed in front of any store, shop, office, or other place in the City so as to occupy more than **three (3) feet** of the space next to the building or premises on the sidewalk, and such articles or things as may be placed on the sidewalk shall not be more than **three (3) feet** high above the sidewalk. Persons, groups or other entities who from time to time desire or require exceptions from the prohibitions of this paragraph may apply for a permit from the City for such exception, which permit, if granted shall be issued by the Mayor. The purpose of this exception is to allow community-wide activities such as sidewalk sale days, flea markets on downtown sidewalks, community street dances, etc.

No bicycles, carts, wagons, tricycles, or any other riding apparatus shall be left sitting or laying on any public sidewalk so as to impede the safe flow of pedestrian traffic, any such

apparatus may be removed and impounded by the City police. Apparatus properly stored in racks are deemed not in violation of this Section. **(Ord. No. 94-0-01; 01-10-94)**

Merchandise or other articles may be deposited on sidewalks preparatory to delivery, provided that the usable width is not thereby reduced to less than **four (4) feet**; and provided that no such article shall remain on such walk for more than **twelve (12) hours**.

33-2-10 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)**

33-2-11 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 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.

33-2-12 BUILDING MATERIALS IN STREET. The 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)**

33-2-13 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)**

33-2-14 ENCROACHMENTS. It shall be unlawful to erect or maintain any building or structure which encroaches upon any public street or property.

33-2-15 POSTING BILLS. It shall be unlawful for any person to paste, paint, print or nail any handbill, sign, poster, advertisement or notice of any kind on any curbstone, flagstone, or any other portion or part of any sidewalk, or upon any tree, lamppost, utility pole, hydrant, or upon any private wall, door or gate without the consent, in writing, of the owner of such curbstone, flagstone, sidewalk, tree, lamppost, utility pole, hydrant, private wall, door or gate.

33-2-16 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.

33-2-17 INJURY TO NEW PAVEMENTS. It shall be unlawful to walk upon or drive any vehicle or animal upon or destroy any newly-laid sidewalk pavement while the same is guarded by a warning sign or barricade, or to knowingly injure any soft, newly-laid pavement.

33-2-18 BARBED-WIRE FENCES. It shall be unlawful to maintain or construct any fence composed in whole or in part of barbed wire, or with any similar material designed to cause injury to persons, or any wire charged with electrical current, anywhere within **three (3) feet** of any public street, sidewalk, alley, park or other public way or place unless such barbs or charged wire are at least **six (6) feet** above the level of such public place.

33-2-19 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.

33-2-20 REMOVING OR SELLING EARTH FROM STREET. No person shall, for any private purpose, dig, remove or carry away any earth from any street or alley, without the permission of the City Council.

33-2-21 SNOW REMOVAL. The owner or occupant of any premises within the City shall, at all times, keep the sidewalk along such premises open, safe, and passable for pedestrians, and keep the same free from snow and other obstruction. Snow shall not be pushed into the streets from the sidewalk or driveway.

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 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 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 Superintendent may, at the owner's expense, trim or remove any tree or shrub so that the obstruction or danger to traffic or passage shall be done away with.

33-3-7 WIRES. It shall be unlawful to attach any wires or rope to any tree or shrub in any public street, parkway or other public place without the permission of the City Council.

Any person or company given the right to maintain the poles and wires in the streets, alleys, or other public places in the Municipality shall, in the absence of provision in the franchise concerning the subject, keep such wires and poles free from and away from any trees or shrubs in such places so far as may be possible and shall keep all such trees and shrubs properly trimmed, subject to the supervision of the 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.

ARTICLE IV - EXCAVATIONS

33-4-1 PERMIT REQUIRED. It shall be unlawful for any person, firm or corporation to tunnel under or to make any excavation in any street, alley or other public place in the City without having obtained a permit as is herein required or without complying with the provisions of this Article or in violation of or variance from the terms of any such permit.

33-4-2 APPLICATIONS. Applications for such permits shall be made to the Clerk and shall describe the location of the intended excavation or tunnel, the size thereof, the purpose therefor, and the person, firm or corporation doing the actual excavating work; and the name of the person, firm or corporation for whom or for which the work is being done, and it shall also contain an agreement that the applicant will comply with all ordinances and laws relating to the work to be done.

33-4-3 FEES. The fee for such permit(s) shall be as follows; however, the City Council may waive the fees in this Section:

- | | | |
|-----|---|-----------------------|
| (A) | Excavation in asphalt or Portland cement concrete pavement or surface | \$.25 per square foot |
| (B) | Excavation in brick pavement or surface | \$.25 per square foot |
| (C) | Excavation in oil treated street surface | \$.25 per square foot |
| (D) | Excavation in untreated or unimproved street or surface | \$.25 per square foot |

33-4-4 BOND. No such permit shall be issued unless and until the applicant therefor has filed with the Clerk a bond in the sum of **Fifty Thousand Dollars (\$50,000.00)**, conditioned to indemnify the City for any loss, liability or damage that may result or accrue from or because of the making, existence or manner of guarding or constructing any such tunnel or excavation. Such bond shall have as surety a corporation licensed to do business in the state as a surety company. The City Council may waive the bond provided for herein.

33-4-5 DEPOSIT. No such permit shall be issued unless and until the applicant therefor has deposited with the Clerk a cash deposit in the sum of **Two Hundred Fifty Dollars (\$250.00)** if no pavement is involved, and **One Thousand Dollars (\$1,000.00)** if the excavation is a paved area, to insure the proper restoration of the ground and laying of the pavement, if any. From this deposit shall be deducted the expense of the City of relaying the surface of the ground or pavement and of making the refill if this is done by the City or at its expense and the balance shall be returned to the applicant without interest after the tunnel or excavation is completely refilled and the surface or pavement is restored. The City Council may waive the deposit in this Section.

33-4-6 MANNER OF EXCAVATING. It shall be unlawful to make any such excavation or tunnel in any way contrary to or at variance with the terms of the permit therefor. Proper bracing shall be maintained to prevent the collapse of adjoining ground; and in excavations, the excavation shall not have anywhere below the surface any portion which extends beyond the opening at the surface.

No injury shall be done to any pipes, cables or conduits in the making of such excavations or tunnels; and notice shall be given to the persons maintaining any such pipes, cables or conduits or to the City department or officer charged with the care thereof, which are or may be endangered or affected by the making of any such excavation or tunnel before such pipes, cables or conduits shall be disturbed. No unnecessary damage or injury shall be done to any tree, shrub or the roots thereof.

33-4-7 SIDEWALKS. If any sidewalk is blocked by any such work, a temporary sidewalk shall be constructed or provided which shall be safe for travel and convenient for users. The temporary sidewalk is subject to inspection by the Superintendent and shall not be open for use until approved by him.

33-4-8 RESTORING SURFACE. Any person, firm or corporation making any excavation or tunnel in or under any public street, alley or other public place in the City shall restore the surface to its original condition if there is no pavement there. Refills shall be properly tamped down, and any bracing in such tunnel or excavation shall be left in the ground. Any opening in a paved or improved portion of a street shall be repaired and the surface re-laid by the applicant in compliance with the regulations of the City and under the supervision of the Superintendent.

33-4-9 SUPERVISION. The Streets and Alley Committee shall, from time to time, inspect or cause to be inspected, all excavations and tunnels being made in or under any public street, alley or other place in the City to see to the enforcement of the provisions of this Code. Notice shall be given to him at least **ten (10) hours** before the work of refilling any such tunnel or excavation commences.

33-4-10 TUNNELING. It shall be unlawful to make any excavation in any portion of a street or sidewalk in the City which is paved with a concrete or asphalt paving. Where necessary, and where a proper permit has been secured, tunnels may be driven or excavated under any such pavement, provided that upon completion of the work involved, the tunnel shall be backfilled with compacted sand.

33-4-11 PROTECTIVE MEASURES AND ROUTING OF TRAFFIC. It shall be the duty of every person cutting or making an excavation in or upon any public place to place and maintain barriers and warning devices necessary for the safety of the general public.

(A) Barriers, warning signs, and lights shall conform to the requirements of all applicable provisions of this Code. Warning lights shall be electrical markers or flashers used to indicate a hazard to traffic from sunset of each day to sunrise of the next day.

(B) Electrical markers or flashers shall emit light at sufficient intensity and frequency to be visible at a reasonable distance for safety. Reflectors or reflecting material may be used to supplement, but not to replace light sources.

(C) The permittee shall take appropriate measures to assure that during the performance of the excavation work, traffic conditions as nearly normal as possible shall be maintained at all times so as to minimize inconvenience to the occupants of the adjoining property and to the general public. When traffic conditions permit, the Superintendent may, by written approval, permit the closing of streets and alleys to all traffic for a period of time prescribed by him if, in his opinion, it is necessary. Such written approval may require that the permittee give notification to various public agencies and to the general public. In such cases, such written approval shall not be valid until such notice is given.

(D) Warning signs shall be placed far enough in advance of the construction operation to alert traffic within a public street and cones or other approved devices shall be placed to channel traffic in accordance with the instructions of the Superintendent.

(E) No person shall remove or interfere with any barrier, warning sign or light placed in any street for the protection of the public.

33-4-12 CLEARANCE FOR VITAL STRUCTURES. The excavation work shall be performed and conducted so as not to interfere with access to fire hydrants, fire stations, fire escapes, water gates, underground vaults, valve housing structures, and all other vital equipment as designated by the Superintendent.

33-4-13 PROTECTION OF TRAFFIC. The permittee shall maintain safe crossings for **two (2) lanes** of vehicle traffic at all street intersections where possible and safe crossing for pedestrians at intervals of not more than **three hundred (300) feet**. If any excavation is made across any public street, alley or sidewalk adequate crossing shall be maintained for vehicles and for pedestrians. If the street is not wide enough to hold the excavated material without using part of the adjacent sidewalk, a passageway at least **one-half (1/2)** of the sidewalk width shall be maintained along such sidewalk line.

33-4-14 RELOCATION AND PROTECTION OF UTILITIES. The permittee shall not interfere with any existing facility without the written consent of the Superintendent and the owner of the facility. If it becomes necessary to relocate an existing facility, this shall be done by its owner. The facility owned by the City shall be moved to accommodate the permittee unless the cost of such work is borne by the permittee. The cost of moving privately-owned facilities shall be similarly borne by the permittee unless other arrangements are made with the person owning the facility. The permittee shall support and protect, by timbers or otherwise, all pipes, conduits, poles, wires or other apparatus which may be in any way affected by the excavation work, and do everything necessary to support, sustain and protect them under, over, along or across said work. The permittee shall secure approval of method of support and protection from the owner of the facility.

In case of any said pipes, conduits, poles, wires or apparatus should be damaged, and for this purpose, pipe coating or other encasement or devices are to be considered as part of a substructure, the permittee shall promptly notify the owner thereof. All damaged facilities shall be repaired by the agency or person owning them and the expense of such repairs shall be charged to the permittee. It is the intent of this Section that the permittee shall assume all liability for damage to facilities and any resulting damage or injury to anyone because of such

facility damage and such assumption of liability is a contractual obligation of the permittee. The only exception will be such instances where damage is exclusively due to the negligence of the owning utility. The City shall not be made a party to any action because of this Section. The permittee shall inform itself as to the existence and location of all underground facilities and protect the same against damage.

33-4-15 ABANDONMENT OF SUBSTRUCTURES. Whenever the use of a substructure is abandoned, except the abandonment of service lines designed to serve single properties, the person owning, using, controlling, or having an interest therein shall, within **thirty (30) days** after such abandonment, file with the Superintendent a statement in writing giving in detail the location of the substructure so abandoned. If such abandoned substructure is in the way or subsequently becomes in the way of an installation of the City or any other public body, which installation is pursuant to a governmental function, the owner shall remove such abandoned substructure or pay the cost of its removal during the course of excavation for construction of the facility by the City or any other public body.

33-4-16 PROTECTION OF ADJOINING PROPERTY. The permittee shall, at all times, and at his or its own expense, preserve and protect from injury, any adjoining property by providing proper foundations and taking other measures suitable for the purpose. Where, in the protection of such property it is necessary to enter upon private property for the purpose of taking appropriate protective measures, the permittee shall obtain consent from the owner of such private property for such purpose and if he cannot obtain such consent, the Superintendent may authorize him to enter the private premises solely for the purpose of making the property safe.

At the permittee's own expense, all buildings, walls, fences, or other property likely to be damaged during the progress of the excavation work shall be shored up and protected, and the permittee shall be responsible for all damage to public or private property or highways resulting from failure to properly protect and carry out the work. Whenever it may be necessary for the permittee to trench through any lawn area, said area shall be reseeded or the sod shall be carefully cut and rolled and replaced after ditches have been backfilled as required in this Article. All construction and maintenance work shall be done in a manner calculated to leave the lawn area clean of earth and debris and in a condition as nearly as possible to that which existed before such work began. The permittee shall not remove, even temporarily any trees or shrubs which exist in parking street areas without first obtaining the consent of the appropriate City department or official having supervision of such property.

33-4-17 PLACEMENT OF EXCAVATED MATERIAL. All material excavated from trenches and piled adjacent to the trench or in any street shall be piled and maintained in such a manner as to eliminate danger to those working in the trench, pedestrians or users of the streets, and so that as little inconvenience as possible is caused to those using streets and adjoining property. Where the confines of the area being excavated are too narrow to permit the piling of excavated material beside the trench, such as might be the case in a narrow alley, the Superintendent shall have the authority to require that the permittee haul the excavated material to a storage site and then rehaul it to the trench site at the time of backfilling. It shall be the permittee's responsibility to secure the necessary permission and make all necessary arrangements for all required storage and disposal sites.

All material excavated shall be laid compactly along the side of the trench and kept trimmed so as to cause as little inconvenience as reasonably possible to vehicular and pedestrian traffic, or as specified by the Superintendent, whenever necessary, in order to expedite the flow of traffic or to abate the dirt or dust nuisance, toe boards or bins may be required by the Superintendent to prevent the spreading of dirt into traffic lanes.

33-4-18 CLEAN-UP. As the excavation work progresses, all streets shall be thoroughly cleaned of all rubbish, excess earth, rock and other debris resulting from such work. All clean-up operations at the location of such excavation shall be accomplished at the expense of the permittee and shall be completed to the satisfaction of the Superintendent. From time to time as may be ordered by the Superintendent and in any event, immediately after completion of the work, the permittee shall, at his or its own expense, clean up and remove all refuse and unused materials of any kind resulting from the work and upon failure to do so within **twenty-four (24) hours** after having been notified to do so by the Superintendent, said work may be done by the Superintendent and the cost thereof charged to the permittee and the permittee shall also be liable for the cost thereof under the surety bond provided hereunder.

33-4-19 PROTECTION OF WATERCOURSES. The permittee shall maintain all gutters free and unobstructed for the full depth of the adjacent curb and for at least **one (1) foot** in width from the face of such curb at the gutter line. Whenever a gutter crosses an intersecting street, an adequate waterway shall be provided and at all times maintained. The permittee shall make provisions to take care of all surplus water, muck, silt, slickings, or other run-off pumped from excavations or resulting from sluicing or other operations and shall be responsible for any damage resulting from its failure to so provide.

33-4-20 BREAKING THROUGH PAVEMENT.

- (A) Heavy duty pavement breakers may be prohibited by the Superintendent when the use endangers existing substructures or other property.
- (B) Saw cutting of Portland cement concrete may be required when the nature of the work or the condition of the street warrants. When required, the depth of the cut shall not be less than **one (1) inch** in depth; however, depths greater than **one (1) inch** may be required by the Superintendent when circumstances warrant. Saw cutting may be required by the Superintendent outside the limits of the excavation over cave-outs, overbreaks and small floating sections.
- (C) Approved cutting of bituminous pavement surface ahead of excavations may be required by the Superintendent to confine pavement damage to the limits of the trench.
- (D) Sections of sidewalks shall be removed to the nearest score line or joint.
- (E) Unstable pavement shall be removed over cave-outs and overbreaks and the subgrade shall be treated as the main trench.
- (F) Pavement edges shall be trimmed to a vertical face and neatly aligned with the center line of the trench.
- (G) Cutouts outside of the trench lines must be normal or parallel to the trench line.
- (H) Boring or other methods to prevent cutting of new pavement may be required by the Superintendent.

(I) The permittee shall not be required to repair pavement damage existing prior to excavation unless his cut results in small floating sections that may be unstable, in which case, the permittee shall remove and pave the area.

33-4-21 DEPTH OF STRUCTURES. No person shall, without written permission of the Superintendent, install any substructure except manholes, vaults, valve casings, culverts, and catch basins at a vertical distance less than:

(A) **Streets. Twenty-four (24) inches** below the established flow line of the nearest gutter. If said flow line is not established, then the depth shall be at a minimum of **twenty-four (24) inches** below the surface of the nearest outermost edge of the traveled portion of the street.

(B) **Parkway.**

(1) The minimum depth of any substructure shall be **sixteen (16) inches** below established gutter grade when said substructure parallels the parkway.

(2) The minimum depth of any substructure shall be **twelve (12) inches** below the top of the established sidewalk or curb when such substructure is at right angles to the parkway.

(C) **Other Public Places.** The minimum depth of any substructure in any other public place shall be **twelve (12) inches** below the surface.

Nothing in this Section shall impose a duty upon the permittee to maintain said specifications as required herein upon subsequent changes of grade in the surface unless the grade in said substructure interferes with the maintenance of or travel on a public street.

33-4-22 BACKFILLING. Fine material, free from lumps and stone, selected from the soil shall be thoroughly compacted around and under the substructure to the upper level of such substructure. Above the upper level of the substructure, backfill material shall be placed to the subgrade of the pavement in lifts consistent with the type of soil involved and the degree of consolidation specified by the City Council. Broken pavement, large stones, roots and other debris shall not be used in the backfill.

The number and size of each lift shall be dependent upon the type of soil involved. Such backfill shall be done in a manner that will permit the restoration of the surface to a density condition not less than that existing prior to excavation unless otherwise specified. The Superintendent may require soil tests to be furnished by a recognized soil testing laboratory or registered professional engineer specializing in soil mechanics when, in his opinion, backfill for any excavation is not being adequately compacted. In order for the resurfacing to be permitted, such tests must show that the backfill material meets the minimum requirements as prescribed by the City Council. All expense of such tests shall be borne by the permittee.

33-4-23 TRENCHES IN PIPE LAYING. The maximum length of open trench permissible at any time shall be in accordance with existing codes and regulations; however at night no more than **fifty (50) feet** may be open with proper barriers.

33-4-24 PROMPT COMPLETION OF WORK. After an excavation is commenced, the permittee shall prosecute with diligence and expedition all excavation work covered by the excavation permit and shall promptly complete such work and restore the street

to its original condition, or as near as may be so as not to obstruct the public place or travel thereon more than is reasonably necessary.

33-4-25 URGENT WORK. When traffic conditions, the safety or convenience of the traveling public or the public interest require that the excavation work be performed as emergency work, the Superintendent shall have full power to order, at the time the permit is granted, that a crew of men and adequate facilities be employed by the permittee **twenty-four (24) hours** a day to the end that such excavation work may be completed as soon as possible.

33-4-26 EMERGENCY ACTION. Nothing in this Article shall be construed to prevent the making of such excavations as may be necessary for the preservation of life or property or for the location of trouble in conduit or pipe, or for making repairs, provided that the person making such excavation shall apply to the Superintendent for such a permit on the first working day after such work is commenced.

33-4-27 NOISE, DUST AND DEBRIS. Each permittee shall conduct and carry out excavation work in such a manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. The permittee shall take appropriate measures to reduce to the fullest extent practicable in the performance of the excavation work, noise, dust and unsightly debris and between the hours of **10:00 P.M.** and **7:00 A.M.**, shall not use except in case of emergency as otherwise provided herein, any tool, appliance or equipment producing noise of sufficient volume to disturb the sleep or repose of occupants of the neighboring property.

33-4-28 PRESERVATION OF MONUMENTS. Any monument set for the purpose of locating or preserving the lines of any street or property subdivision or a precise survey reference point or a permanent survey bench mark within the City shall not be removed or disturbed or caused to be removed or disturbed without first obtaining permission in writing from the City Council to do so. Permission to remove or disturb such monuments, reference points or bench marks shall only be granted upon condition that the person applying for such permission shall pay all expenses incident to the proper replacement of the monument by the City.

33-4-29 INSPECTIONS. The Superintendent shall make such inspections as are reasonably necessary in the enforcement of this Article. The Superintendent shall have the authority to promulgate and cause to be enforced such rules and regulations as may be reasonably necessary to enforce and carry out the intent of this Article.

33-4-30 LOCATION RECORDS. Every public utility, after the enactment of this Article, shall maintain records showing the location of all of its underground facilities except relatively minor facilities which connect a particular premise or building to a facility serving more than one premise or building and except oil or gas-gathering or field lines. Every public utility shall maintain equipment which can locate such facilities in the field.

33-4-31 LIABILITY OF PERSONS TO CITY FOR DAMAGE. If any person violates any provision of this Code and any person or property in consequence thereof is injured or damaged, the person so guilty of such violation shall be liable to the City in relation thereto, and no prosecution or other proceeding by the City of such person for any penalty imposed for a violation shall constitute a bar to such action by the City for such damages.

(See 65 ILCS Secs. 5/11-80-1 through 5/11-80-23)

ARTICLE V - STREET IMPROVEMENTS

33-5-1 SIDEWALKS.

(A) **Grade.** No sidewalk shall be built above or below the established grade of the City and in all cases where no grade is established, any person building a sidewalk shall built the same according to the instructions of the Superintendent and the City Council.

(B) **Permit.** It shall be unlawful for any person, company, partnership, or individual to build, lay or construct any sidewalk along any property in the City, or along any of the streets, alleys, or public highways thereon, without first obtaining permission from the Street Superintendent to do so.

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 construction shall not include any engineering fees; these shall be paid by the City.

(C) **Approval by City Council.** The approval of the request for construction of curbs and gutters by the City Council shall be dependent upon the approval of funds, priority of projects and continuity of construction for the best benefit of the City as determined by the City Council.

(D) **Subdivisions.** This is not applicable to new subdivisions. **(See 65 ILCS Sec. 5/11-80-11)**

33-5-3 STORM SEWERS.

(A) **Description of Storm Water Sewers.** Storm water sewers shall be any pipe or sewer used for the carrying of surface drains, ground waters, roof leaders or storm waters, rain waters, or other waters other than sanitary sewage.

(B) **Supervision.** The Superintendent shall supervise all connections made to the public storm sewer system or excavations for the purposes of installing or repairing the same.

(C) **Permits.** Before any connection is made to the public storm water sewers, a permit shall be applied for and approved by the Superintendent or his designated representative.

(D) **Requirements: Use of Storm Water Sewers.** Where a storm water sewer is accessible in a street, alley or easement to a building or premises abutting thereon, the surface drains, ground waters, roof leaders, or storm waters shall be discharged into the storm water sewer unless otherwise authorized by the City. Under no conditions shall sanitary sewage or wastes or any substance other than surface waters, ground waters, roof waters or storm waters be permitted to flow into or be connected to the storm water sewer; and no sanitary sewer shall be connected to the storm water sewer system.

(See 65 ILCS Sec. 5/11-80-7)

ARTICLE VI - CULVERTS

33-6-1 OBSTRUCTION OF DRAIN OR STORM SEWER. It shall be unlawful to obstruct any drain or storm sewer in any public street or property.

33-6-2 PERMIT FOR CULVERT. It shall be unlawful to install any culvert or replace any culvert without first obtaining a permit from the Street and Alley Department.

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 by the City Clerk for that purpose. The application and the permit issued pursuant thereto shall be on the same form which shall be substantially as follows.

33-6-4 TERMINATION OF PERMIT. All such permits shall terminate upon the expiration of **one (1) year** following the date of issue.

33-6-5 TYPE OF CULVERT. Culverts shall be installed where driveways or walkways cross open ditches. The material used for the construction of the culverts shall be reinforced concrete, corrugated steel culvert pipe with a minimum wall thickness of **sixteen (16) gauge**, corrugated aluminum alloy culvert pipe with a minimum wall thickness of **sixteen (16) gauge**, asbestos cement storm drain pipe (**Class IV**), or of such other material as determined by the Street and Alley Department, depending on 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.

33-6-8 REPLACEMENT COST. The expense of replacing any culvert shall be borne by the person making application for the permit to install the same.

(See 65 ILCS Sec. 5/11-80-7)

ARTICLE VII - DRIVEWAYS

33-7-1 PERMITS REQUIRED. No person shall construct a driveway for vehicles or animals across any sidewalk in the City without having first obtained a permit therefor.

(A) Applications for such permits shall be made to the City Clerk and shall be accompanied by the fee required. In addition a diagram of the driveway shall be submitted.

(B) No permit for construction of a driveway for commercial use, or for the habitual use of other than the owner or occupant of the premises served shall be issued except upon the order of the City Clerk.

(C) The permit fee shall be **Five Dollars (\$5.00)**.

33-7-2 GRADE SURFACE. No driveway shall be so constructed or graded as to leave a step, sharp depression or other obstruction in the sidewalk. The grade shall be as nearly as possible the same as that of the adjoining sidewalk. It shall be unlawful to have the surface finish of any driveway where the same crosses the sidewalk constructed of such materials as to render it slippery and hazardous to pedestrians, or to have the grade of such portion vary from the grade of the sidewalk or be other than level.

33-7-3 SPECIFICATIONS. Driveways across sidewalks shall be constructed in compliance with the specifications required by the Superintendent.

33-7-4 BREAKING CURB - BOND REQUIRED. Before a permit can be issued to break a curb in the City for the installation of a driveway or any other purpose, a bond or cash in the amount of **One Hundred Dollars (\$100.00)** is required to be posted with the City Clerk.

33-7-5 REPAIR. It shall be the duty of the person maintaining the driveway to keep the same in good repair where it cross the sidewalk and free from obstruction and openings.

(See 65 ILCS Sec. 5/11-80-2)

ARTICLE VIII

CONSTRUCTION OF UTILITY FACILITIES IN THE RIGHTS-OF-WAY

33-8-1 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.

33-8-2 DEFINITIONS. As used in this Article and unless the context clearly requires otherwise, the words and terms listed shall have the meanings ascribed to them in this Section. Any term not defined in this Section shall have the meaning ascribed to it in 92 Ill. Adm. Code. § 520.30, unless the context clearly requires otherwise.

"AASHTO": American Association of State Highway and Transportation Officials.

"ANSI": American National Standards Institute.

"Applicant": A person applying for a permit under this Article.

"ASTM": American Society for Testing Materials.

"Backfill": The methods or materials for replacing excavated material in a trench or pit.

"Bore" or "Boring": To excavate an underground cylindrical cavity for the insertion of a pipe or electrical conductor.

"Cable Operator": That term as defined in 47 U.S.C. 522(5).

"Cable Service": That term as defined in 47 U.S.C. 522(6).

"Cable System": That term as defined in 47 U.S.C. 522(7).

"Carrier Pipe": The pipe enclosing the liquid, gas or slurry to be transported.

"Casing": A structural protective enclosure for transmittal devices such as: carrier pipes, electrical conductors, and fiber optic devices.

"City": The City of Gibson City.

"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, devises, 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 of 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, devises, objects, and materials (including, but not limited to, track and rails, wires, ducts, fiber optic cable, antennas, vaults, boxes, equipment enclosures, cabinets, pedestals, poles, conduits, grates, covers, pipes, cables, and appurtenances thereto) located on, over, above, along, upon, under, across, or within rights-of-way under this Article. For purposes of this Article, the term "facility" shall not include any facility owned or operated by the City.

"Freestanding Facility": A facility that is not a crossing facility or a parallel facility, such as an antenna, transformer, pump, or meter station.

"Frontage Road": Roadway, usually parallel, providing access to land adjacent to the highway where it is precluded by control of access on highway.

"Hazardous Materials": Any substance or material which, due to its quantity, form, concentration, location, or other characteristics, is determined by the City Engineer or Superintendent of Public Works to pose an unreasonable and imminent risk to the life, health or safety of persons or property or to the ecological balance of the environment, including, but not limited to explosives, radioactive materials, petroleum or petroleum products or gases, poisons, etiology (biological) agents, flammables, corrosives or any substance determined to be hazardous or toxic under any federal or state law, statute or regulation.

"Highway Code": The Illinois Highway Code, 605 ILCS 5/1-101 et seq., as amended from time to time.

"Highway": A specific type of right-of-way used for vehicular traffic including rural or urban roads, alleys or streets. "Highway" includes all highway land and improvements, including roadways, ditches and embankments, bridges, drainage structures, sign, guardrails, protective structures and appurtenances necessary or convenient for vehicle traffic.

"Holder": A person or entity that has received authorization to offer or provide cable or video service from the ICC pursuant to the Illinois Cable and Video Competition Law, 220 ILCS 5/21-401.

"IDOT": Illinois Department of Transportation.

"ICC": Illinois Commerce Commission.

"Jacking": Pushing a pipe horizontally under a roadway by mechanical means with or without boring.

"Jetting": Pushing a pipe through the earth using water under pressure to create a cavity ahead of the pipe.

"Joint Use": The use of pole lines, trenches or other facilities by two or more utilities.

"J.U.L.I.E.": The Joint Utility Locating Information for Excavators utility notification program.

"Major Intersection": The intersection of two or more major arterial highways.

"Occupancy": The presence of facilities on, over or under right-of-way.

"Parallel Facility": A facility that is generally parallel or longitudinal to the centerline of a right-of-way.

"Parkway": Any portion of the right-of-way not improved by street or sidewalk.

"Pavement Cut": The removal of an area of pavement for access to facility or for the construction of a facility.

"Permittee": That entity to which a permit has been issued pursuant to **Sections 33-8-4 and 33-8-5** 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 33-8-10**.

"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.

"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.

33-8-3 ANNUAL REGISTRATION REQUIRED. Every utility that occupies right-of-way within the City shall register on **January 1** of each year with the Superintendent of Public Works, providing the utility's name, address and regular business telephone and telecopy numbers, the name of one or more contact persons who can act on behalf of the utility in connection with emergencies involving the utility's facilities in the right-of-way and a **twenty-four (24) hour** telephone number for each such person, and evidence of insurance as required in **Section 33-8-8** of this Article, in the form of a certificate of insurance.

33-8-4

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 of Public Works and obtaining a permit from the City therefor, except as otherwise provided in this Article.

No permit shall be required for installation and maintenance of service connections to customers' premises where there will be no disruption of the right-of-way.

(B) **Permit Application.** All applications for permits pursuant to this Article shall be filed on a form provided by the City and shall be filed in such number of duplicate copies as the City may designate. The applicant may designate those portions of its application materials that it reasonably believes contain proprietary or confidential information as "proprietary" or "confidential" by clearly marking each page of such materials accordingly.

(C) **Minimum General Application Requirements.** The application shall be made by the utility or its duly authorized representative and shall contain, at a minimum, the following:

- (1) The utility's name and address and telephone and telecopy numbers;
- (2) The applicant's name and address, if different than the utility, its telephone, telecopy number, e-mail address, and its interest in the work;
- (3) The names, addresses and telephone and telecopy numbers and e-mail addresses of all professional consultants, if any, advising the applicant with respect to the application.
- (4) A general description of the proposed work and the purposes and intent of the facility and the uses to which the facility will be put. The scope and detail of such description shall be appropriate to the nature and character of the work to be performed, with special emphasis on those matters likely to be affected or impacted by the work proposed;
- (5) Evidence that the utility has placed on file with the City:
 - (a) A written traffic control plan demonstrating the protective measures and devices that will be employed consistent with the Illinois Manual on Uniform Traffic Control Devices, to prevent injury or damage to persons or property and to minimize disruptions to efficient pedestrian and vehicular traffic; and
 - (b) An emergency contingency plan which shall specify the nature of potential emergencies, including, without limitation, construction and hazardous materials emergencies, and the intended response by the applicant. The intended response shall include notification to the City and shall promote protection of the safety and convenience of the public. Compliance with ICC

regulations for emergency contingency plans constitutes compliance with this Section unless the City finds that additional information or assurances are needed;

- (6) Drawings, plans and specifications showing the work proposed, including the certification of an engineer that such drawings, plans, and specifications comply with applicable codes, rules, and regulations;
- (7) Evidence of insurance as required in **Section 33-8-8** of this Article;
- (8) Evidence of posting of the security fund as required in **Section 33-8-10** of this Article;
- (9) Any request for a variance from one or more provisions of this Article (**See Section 33-8-21**); 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.

33-8-5 ACTION ON PERMIT APPLICATIONS.

(A) **City Review of Permit Applications.** Completed permit applications, containing all required documentation, shall be examined by the Superintendent of Public Works within a reasonable time after filing. If the application does not conform to the requirements of all applicable ordinances, codes, laws, rules, and regulations, the Superintendent of Public Works shall reject such application in writing, stating the reasons therefor. If the Superintendent of Public Works is satisfied that the proposed work conforms to the requirements of this Article and all applicable ordinances, codes, laws, rules, and regulations, the Superintendent of Public Works shall issue a permit therefor as soon as practicable. In all instances, it shall be the duty of the applicant to demonstrate, to the satisfaction of the Superintendent of Public Works, 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 of Public Works shall specify the portion of the right-of-way upon which the facility may be placed, used or constructed.
- (2) In the event that the Superintendent of Public Works fails to provide such specification of location to the telecommunications retailer within either (a) **ten (10) days** after service of notice to the City by the telecommunications retailer in the case of work not involving excavation for new construction or (b) **twenty-five (25) days** after service of notice by the telecommunications retailer in the case of work involving excavation for new construction, the telecommunications retailer may commence work without obtaining a permit under this Article.
- (3) Upon the provision of such specification by the City, where a permit is required for work pursuant to **Section 33-8-4** 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.

33-8-6 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.

33-8-7 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 33-8-21** 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.

33-8-8 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.

33-8-9 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.

33-8-10 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 of Public Works, and may also include reasonable, directly related costs that the City estimates are likely to be incurred if the permittee fails to perform such restoration. Where the construction of facilities proposed under the permit will be performed in phases in multiple locations in the City, with each phase consisting of construction of facilities in one location or related group of locations, and where construction in another phase will not be undertaken prior to substantial completion of restoration in the previous phase or phases, the Superintendent of Public Works may, in the exercise of sound discretion, allow the permittee to post a single amount of security which shall be applicable to each phase of the construction under the permit. The amount of the Security Fund for phased construction shall be equal to the greatest amount that would have been required under the provisions of this paragraph (C) for any single phase.

(D) **Withdrawals.** The City, upon **fourteen (14) days'** advance written notice clearly stating the reason for, and its intention to exercise withdrawal rights under this paragraph, may withdraw an amount from the Security Fund, provided that the permittee has not reimbursed the City for such amount within the **fourteen (14) day** notice period. Withdrawals may be made if the permittee:

- (1) Fails to make any payment required to be made by the permittee hereunder;
- (2) Fails to pay any liens relating to the facilities that are due and unpaid;
- (3) Fails to reimburse the City for any damages, claims, costs or expenses which the City has been compelled to pay or incur by reason of any action or non-performance by the permittee; or
- (4) Fails to comply with any provision of this Article that the City determines can be remedied by an expenditure of an amount in the Security Fund.

(E) **Replenishment.** Within **fourteen (14) days** after receipt of written notice from the City that any amount has been withdrawn from the Security Fund, the permittee shall restore the Security Fund to the amount specified in paragraph (C) of this Section.

(F) **Interest.** The permittee may request that any and all interest accrued on the amount in the Security Fund be returned to the permittee by the City, upon written request for said withdrawal to the City, provided that any such withdrawal does not reduce the Security Fund below the minimum balance required in paragraph (C) of this Section.

(G) **Closing and Return of Security Fund.** Upon completion of the work authorized under the permit, the permittee shall be entitled to the return of the Security Fund, or such portion thereof as remains on deposit, within a reasonable time after account is taken for all offsets necessary to compensate the City for failure by the permittee to comply with any provisions of this Article or other applicable law. In the event of any revocation of the permit, the Security Fund, and any and all accrued interest therein, shall become the property of the City to the extent necessary to cover any reasonable costs, loss or damage incurred by the City as a result of said revocation, provided that any amounts in excess of said costs, loss or damage shall be refunded to the permittee.

(H) **Rights Not Limited.** The rights reserved to the City with respect to the Security Fund are in addition to all other rights of the City, whether reserved by this Article or otherwise authorized by law, and no action, proceeding or exercise of right with respect to said Security Fund shall affect any other right the City may have. Notwithstanding the foregoing, the City shall not be entitled to a double monetary recovery with respect to any of its rights which may be infringed or otherwise violated.

33-8-11 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 33-8-11.**

(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.

33-8-12 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.

33-8-13 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 of Public Works shall determine, in the exercise of sound engineering judgment, which principles apply and such decision shall be final. If requested, the Superintendent of Public Works shall state which standard or principle will apply to the construction, maintenance, or operation of a facility in the future.

33-8-14 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 33-8-20** 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.

33-8-15 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 of Public Works determines that the proposed location will require the relocation or displacement of any of the City's utility facilities or will otherwise interfere with the operation or maintenance of any of the City's utility facilities.
- (2) **Minimum Interference and Impact.** The proposed location shall cause only the minimum possible interference with the use of the right-of-way and shall cause only the minimum possible impact upon, and interference with the rights and reasonable convenience of property owners who adjoin said right-of-way.
- (3) **No Interference with Travel.** No utility facility shall be placed in any location that interferes with the usual travel on such right-of-way.
- (4) **No Limitations on Visibility.** No utility facility shall be placed in any location so as to limit visibility of or by users of the right-of-way.
- (5) **Size of Utility Facilities.** The proposed installation shall use the smallest suitable vaults, boxes, equipment enclosures, power pedestals, and/or cabinets then in use by the facility owner, regardless of location, for the particular application.

(B) Parallel Facilities Located Within Highways.

- (1) **Overhead Parallel Facilities.** An overhead parallel facility may be located within the right-of-way lines of a highway only if:
 - (a) Lines are located as near as practicable to the right-of-way line and as nearly parallel to the right-of-way line as reasonable pole alignment will permit;
 - (b) Where pavement is curbed, poles are as remote as practicable from the curb with a minimum distance of **two (2) feet (0.6m)** behind the face of the curb, where available;
 - (c) Where pavement is uncurbed, poles are as remote from pavement edge as practicable with minimum distance of **four (4) feet (1.2m)** outside the outer shoulder line of the roadway and are not within the clear zone;
 - (d) No pole is located in the ditch line of a highway; and

- (e) Any ground-mounted appurtenance is located within **one (1) foot (0.3m)** of the right-of-way line or as near as possible to the right-of-way line.
- (2) **Underground Parallel Facilities.** An underground parallel facility may be located within the right-of-way lines of a highway only if:
 - (a) The facility is located as near the right-of-way line as practicable and not more than **eight (8) feet (2.4m)** from and parallel to the right-of-way line;
 - (b) A new facility may be located under the paved portion of a highway only if other locations are impracticable or inconsistent with sound engineering judgment (e.g., a new cable may be installed in existing conduit without disrupting the pavement); and
 - (c) In the case of an underground power or communications line, the facility shall be located as near the right-of-way line as practicable and not more than **five (5) feet (1.5m)** from the right-of-way line and any above-grounded appurtenance shall be located within **one (1) foot (0.3m)** of the right-of-way line or as near as practicable.

(C)

Facilities Crossing Highways.

- (1) **No Future Disruption.** The construction and design of crossing facilities installed between the ditch lines or curb lines of City highways may require the incorporation of materials and protections (such as encasement or additional cover) to avoid settlement or future repairs to the roadbed resulting from the installation of such crossing facilities.
- (2) **Cattle Passes, Culverts, or Drainage Facilities.** Crossing facilities shall not be located in cattle passes, culverts, or drainage facilities.
- (3) **90 Degree Crossing Required.** Crossing facilities shall cross at or as near to a **ninety (90) degree** angle to the centerline as practicable.
- (4) **Overhead Power or Communication Facility.** An overhead power or communication facility may cross a highway only if:
 - (a) It has a minimum vertical line clearance as required by ICC's rules entitled, "Construction of Electric Power and Communication Lines" (83 Ill. Adm. Code 305);
 - (b) Poles are located within **one (1) foot (0.3m)** of the right-of-way line of the highway and outside of the clear zone; and
 - (c) Overhead crossings at major intersections are avoided.
- (5) **Underground Power or Communication Facility.** An underground power or communication facility may cross a highway only if:
 - (a) The design materials and construction methods will provide maximum maintenance-free service life; and
 - (b) Capacity for the utility's foreseeable future expansion needs is provided in the initial installation.

- (6) **Markers.** The City may require the utility to provide a marker at each right-of-way line where an underground facility other than a power or communication facility crosses a highway. Each marker shall identify the type of facility, the utility, and an emergency phone number. Markers may also be eliminated as provided in current Federal regulations. (49 C.F.R. §192.707 (1989)).

(D) **Facilities to be Located Within Particular Rights-of-Way.** The City may require that facilities be located within particular rights-of-way that are not highways, rather than within particular highways.

(E) **Freestanding Facilities.**

- (1) The City may restrict the location and size of any freestanding facility located within a right-of-way.
- (2) The City may require any freestanding facility located within a right-of-way to be screened from view.

(F) **Facilities Installed Above Ground.** Above ground facilities may be installed only if:

- (1) No other existing facilities in the area are located underground;
- (2) New underground installation is not technically feasible; and
- (3) The proposed installation will be made at a location, and will employ suitable design and materials, to provide the greatest protection of aesthetic qualities of the area being traversed without adversely affecting safety. Suitable designs include, but are not limited to, self-supporting armless, single-pole construction with vertical configuration of conductors and cable. Existing utility poles and light standards shall be used wherever practicable; the installation of additional utility poles is strongly discouraged.

(G) **Facility Attachments to Bridges or Roadway Structures.**

- (1) Facilities may be installed as attachments to bridges or roadway structures only where the utility has demonstrated that all other means of accommodating the facility are not practicable. Other means shall include, but are not limited to, underground, underwater, independent poles, cable supports and tower supports, all of which are completely separated from the bridge or roadway structure. Facilities transmitting commodities that are volatile, flammable, corrosive, or energized, especially those under significant pressure or potential, present high degrees of risk and such installations are not permitted.
- (2) A utility shall include in its request to accommodate a facility installation on a bridge or roadway structure supporting data demonstrating the impracticability of alternate routing. Approval or disapproval of an application for facility attachment to a bridge or roadway structure will be based upon the following considerations:
 - (a) The type, volume, pressure or voltage of the commodity to be transmitted and an evaluation of the resulting risk to persons and property in the event of damage to or failure of the facility;
 - (b) The type, length, value, and relative importance of the highway structure in the transportation system;

- (c) The alternative routings available to the utility and their comparative practicability;
- (d) The proposed method of attachment;
- (e) The ability of the structure to bear the increased load of the proposed facility;
- (f) The degree of interference with bridge maintenance and painting;
- (g) The effect on the visual quality of the structure; and
- (h) The public benefit expected from the utility service as compared to the risk involved.

(H)

Appearance Standards.

- (1) The City may prohibit the installation of facilities in particular locations in order to preserve visual quality.
- (2) A facility may be constructed only if its construction does not require extensive removal or alteration of trees or terrain features visible to the right-of-way user or to adjacent residents and property owners, and if it does not impair the aesthetic quality of the lands being traversed.

33-8-16

CONSTRUCTION METHODS AND MATERIALS.

(A)

Standards and Requirements for Particular Types of

Construction Methods.

(1)

Boring or Jacking.

- (a) **Pits and Shoring.** Boring and jacking under rights-of-way shall be accomplished from pits located at a minimum distance specified by the Superintendent of Public Works from the edge of the pavement. Pits for boring or jacking shall be excavated no more than **forty-eight (48) hours** in advance of boring or jacking operations and backfilled within **forty-eight (48) hours** after boring or jacking operations are completed. While pits are open, they shall be clearly marked and protected by barricades. Shoring shall be designed, erected, supported, braced, and maintained so that it will safely support all vertical and lateral loads that may be imposed upon it during the boring or jacking operation.
- (b) **Wet Boring or Jetting.** Wet boring or jetting shall not be permitted under the roadway.
- (c) **Borings With Diameters Greater than Six (6) Inches.** Borings over **six (6) inches (0.15m)** in diameter shall be accomplished with an auger and following pipe, and the diameter of the auger shall not exceed the outside diameter of the following pipe by more than **one (1) inch (25mm)**.
- (d) **Borings with Diameters Six (6) Inches or Less.** Borings of **six (6) inches** or less in diameter may be accomplished by either jacking, guided with auger, or auger and following pipe method.

- (e) **Tree Preservation.** Any facility located within the drip line of any tree designed by the City to be preserved shall be bored under or around the root system.
- (2) **Trenching.** Trenching for facility installation, repair, or maintenance on rights-of-way shall be done in accord with the applicable portions of Section 603 IDOT's "Standard Specifications for Road and Bridge Construction".
 - (a) **Length.** The length of open trench shall be kept to the practicable minimum consistent with requirements for pipe-line testing. Only one-half of any intersection may have an open trench at any time unless special permission is obtained from the Superintendent of Public Works.
 - (b) **Open Trench and Excavated Material.** Open trench and wind rowed excavated material shall be protected as required by Chapter 6 of the Illinois Manual on Uniform Traffic Control Devices. Where practicable, the excavated material shall be deposited between the roadway and the trench as added protection. Excavated material shall not be allowed to remain on the paved portion of the roadway. Where right-of-way width does not allow for wind rowing excavated material off the paved portion of the roadway, excavated material shall be hauled to an off-road location.
 - (c) **Drip Line of Trees.** The utility shall not trench within the drip line of any tree designated by the City to be preserved.
- (3) **Backfilling.**
 - (a) Any pit, trench, or excavation created during the installation of facilities shall be backfilled for its full width, depth, and length using methods and materials in accordance with IDOT's "Standard Specifications for Road and Bridge Construction". When excavated material is hauled away or is unsuitable for backfill, suitable granular backfill shall be used.
 - (b) For a period of **three (3) years** from the date construction of a facility is completed, the utility shall be responsible to remove and restore any backfilled area that has settled due to construction of the facility. If so ordered by the Superintendent of Public Works, the utility, at its expense, shall remove any pavement and backfill material to the top of the installed facility, place and properly compact new backfill material, and restore new pavement, sidewalk, curbs, and driveways to the proper grades, as determined by the Superintendent of Public Works.
- (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 of Public Works 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 of Public Works.

- (b) Restoration of pavement, in kind, shall be accomplished as soon as practicable, and temporary repair with bituminous mixture shall be provided immediately. Any subsequent failure of either the temporary repair or the restoration shall be rebuilt upon notification by the City.
- (c) All saw cuts shall be full depth.
- (d) For all rights-of-way which have been reconstructed with a concrete surface/base in the last **seven (7) years**, or resurfaced in the last **three (3) years**, permits shall not be issued unless such work is determined to be an emergency repair or other work considered necessary and unforeseen before the time of the reconstruction or unless a pavement cut is necessary for a J.U.L.I.E. locate.

(5) **Encasement.**

- (a) Casing pipe shall be designed to withstand the load of the highway and any other superimposed loads. The casing shall be continuous either by one-piece fabrication or by welding or jointed installation approved by the City.
- (b) The venting, if any, of any encasement shall extend within **one (1) foot (0.3m)** of the right-of-way line. No above-ground vent pipes shall be located in the area established as clear zone for that particular section of the highway.
- (c) In the case of water main or service crossing, encasement shall be furnished between bore pits unless continuous pipe or City approved jointed pipe is used under the roadway. Casing may be omitted only if pipe is installed prior to highway construction and carrier pipe is continuous or mechanical joints are of a type approved by the City. Bell and spigot type pipe shall be encased regardless of installation method.
- (d) In the case of gas pipelines of **60 psig** or less, encasement may be eliminated.
- (e) In the case of gas pipelines or petroleum products pipelines with installations of more than **60 psig**, encasement may be eliminated only if:
 - (i) extra heavy pipe is used that precludes future maintenance or repair and
 - (ii) cathodic protection of the pipe is provided;
- (f) If encasement is eliminated for a gas or petroleum products pipeline, the facility shall be located so as to provide that construction does not disrupt the right-of-way.

(6) **Minimum Cover of Underground Facilities.** Cover shall be provided and maintained at least in the amount specified in the following table for minimum cover for the type of facility:

| Type of Facility | Minimum Cover |
|---|---|
| Electric Lines | 30 inches (0.8m) |
| Communication, Cable or Video Service Lines | 18 to 24 inches (0.6m, as Determined by City) |
| Gas or Petroleum Products | 30 inches (0.8m) |
| Water Line | Sufficient Cover to Provide Freeze Protection |
| Sanitary Sewer, Storm Sewer, Or Drainage Line | Sufficient Cover to Provide Freeze Protection |

(B)

Standards and Requirements for Particular Types of Facilities.

(1) **Electric Power or Communication Lines.**

- (a) **Code Compliance.** Electric power or communications facilities within City rights-of-way shall be constructed, operated, and maintained in conformity with the provisions of 83 Ill. Adm. Code 305 (formerly General Order 160 of the Illinois Commerce Commission) entitled "Rules for Construction of Electric Power and Communications Lines", and the National Electrical Safety Code.
- (b) **Overhead Facilities.** Overhead power or communication facilities shall use single pole construction and, where practicable, joint use of poles shall be used. Utilities shall make every reasonable effort to design the installation so guys and braces will not be needed. Variances may be allowed if there is no feasible alternative and if guy wires are equipped with guy guards for maximum visibility.
- (c) **Underground Facilities.**
 - (i) Cable may be installed by trenching or plowing, provided that special consideration is given to boring in order to minimize damage when crossing improved entrances and side roads.
 - (ii) If a crossing is installed by boring or jacking, encasement shall be provided between jacking or bore pits. Encasement may be eliminated only if:
 - a. the crossing is installed by the use of "moles", "whip augers", or other approved method which compress the earth to make the opening for cable installation or
 - b. the installation is by the open trench method which is only permitted prior to roadway construction.
 - (iii) Cable shall be grounded in accordance with the National Electrical Safety Code.
 - (iv) **Burial of Drops.** All temporary service drops placed between **November 1** of the prior year and **March 15** of the current year, also known as

snowdrops, shall be buried by **May 31** of the current year, weather permitting, unless otherwise permitted by the City. Weather permitting, utilities shall bury all temporary drops, excluding snowdrops, within **ten (10) business days** after placement.

- (2) **Underground Facilities Other Than Electric Power or Communication Lines.** Underground facilities other than electric power or communication lines may be installed by:
 - (a) The use of "moles", "whip augers", or other approved methods which compress the earth to move the opening for the pipe;
 - (b) jacking or boring with vented encasement provided between the ditch lines or toes of slopes of the highway;
 - (c) open trench with vented encasement between ultimate ditch lines or toes of slopes, but only if prior to roadway construction; or
 - (d) tunneling with vented encasement, but only if installation is not possible by other means.
- (3) **Gas Transmission, Distribution and Service.** Gas pipelines within rights-of-way shall be constructed, maintained, and operated in a City approved manner and in conformance with the Federal Code of the Office of Pipeline Safety Operations, Department of Transportation, Part 192 – Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards (49 CFR §192), IDOT's "Standard Specifications for Road and Bridge Construction", and all other applicable laws, rules, and regulations.
- (4) **Petroleum Products Pipelines.** Petroleum products pipelines within rights-of-way shall conform to the applicable sections of ANSI Standard Code for Pressure Piping. (Liquid Petroleum Transportation Piping Systems ANSI-B 31.4).
- (5) **Waterlines, Sanitary Sewer Lines, Storm Water Sewer Lines or Drainage Lines.** Water lines, sanitary sewer lines, storm sewer lines, and drainage lines within rights-of-way shall meet or exceed the recommendations of the current "Standard Specifications for Water and Sewer Main Construction in Illinois".
- (6) **Ground Mounted Appurtenances.** Ground mounted appurtenances to overhead or underground facilities, when permitted within a right-of-way, shall be provided with a vegetation-free area extending **one (1) foot (305mm)** in width beyond the appurtenance in all directions. The vegetation-free area may be provided by an extension of the mounting pad, or by heavy duty plastic or similar material approved by the Superintendent of Public Works, shrubbery surrounding the appurtenance may be used in place of vegetation-free area. The housing for ground-mounted appurtenances shall be painted a neutral color to blend with the surroundings.

(C)

Materials.

- (1) **General Standards.** The materials used in constructing facilities within rights-of-way shall be those meeting the accepted standards of the appropriate industry, the applicable portions of IDOT's "Standard Specifications for Road and Bridge Construction", the requirements of the Illinois Commerce Commission, or the standards established by other official regulatory agencies for the appropriate industry.
- (2) **Material Storage on Right-of-Way.** No material shall be stored on the right-of-way without the prior written approval of the Superintendent of Public Works. When such storage is permitted, all pipe, conduit, wire, poles, cross arms, or other materials shall be distributed along the right-of-way prior to and during installation in a manner to minimize hazards to the public or an obstacle to right-of-way maintenance or damage to the right-of-way and other property. If material is to be stored on right-of-way, prior approval must be obtained from the City.
- (3) **Hazardous Materials.** The plans submitted by the utility to the City shall identify any hazardous materials that may be involved in the construction of the new facilities or removal of any existing facilities.

(D) **Operational Restrictions.**

- (1) Construction operations on rights-of-way may, at the discretion of the City, be required to be discontinued when such operations would create hazards to traffic or the public health, safety, and welfare. Such operations may also be required to be discontinued or restricted when conditions are such that construction would result in extensive damage to the right-of-way or other property.
- (2) These restrictions may be waived by the Superintendent of Public Works when emergency work is required to restore vital utility services.
- (3) Unless otherwise permitted by the City, the hours of construction are from **6:00 A.M. to 6:00 P.M.**

(E) **Location of Existing Facilities.** Any utility proposing to construct facilities in the City shall contact J.U.L.I.E. and ascertain the presence and location of existing above-ground and underground facilities within the rights-of-way to be occupied by its proposed facilities. The City will make its permit record available to a utility for the purpose of identifying possible facilities. When notified of an excavation or when requested by the City or by J.U.L.I.E., a utility shall locate and physically mark its underground facilities within **forty-eight (48) hours**, excluding weekends and holidays, in accordance with the Illinois Underground Facilities Damage Prevention Act (220 ILCS 50/1 *et seq.*)

33-8-17 **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.

(B) **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.

(C) **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 of Public Works that such spraying is the only practicable method of vegetation control.

33-8-18 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 of Public Works determines that such removal will be in the best interest of the public health, safety and welfare. In the event that the City does not direct the utility that abandoned the facility to remove it, by giving notice of abandonment to the City, the abandoning utility shall be deemed to consent to the alteration or removal of all or any portion of the facility by another utility or person.

33-8-19 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 of Public Works. Such cleanup and repair may be required to consist of backfilling, regrading, reseeding, resodding, or any other requirement to restore the right-of-way to a condition substantially equivalent to that which existed prior to the commencement of the project. The time period provided in this Section may be extended by the Superintendent of Public Works for good cause shown.

33-8-20 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 of Public Works or his or her duly authorized

agent of the emergency, informing him or her as to what steps have been taken for protection of the traveling public and what will be required to make the necessary repairs. If the nature of the emergency is such as to interfere with the free movement of traffic, the City police shall be notified immediately.

- (3) In an emergency, the utility shall use all means at hand to complete repairs as rapidly as practicable and with the least inconvenience to the traveling public.

(C) **Emergency Repairs.** The utility must file in writing with the City a description of the repairs undertaken in the right-of-way within **forty-eight (48) hours** after an emergency repair.

33-8-21 VARIANCES.

(A) **Request for Variance.** A utility requesting a variance from one or more of the provisions of this Article must do so in writing to the Superintendent of Public Works as a part of the permit application. The request shall identify each provision of this Article from which a variance is requested and the reasons why a variance should be granted.

(B) **Authority to Grant Variances.** The Superintendent of Public Works shall decide whether a variance is authorized for each provision of this Article identified in the variance request on an individual basis.

(C) **Conditions for Granting of Variance.** The Superintendent of Public Works may authorize a variance only if the utility requesting the variance has demonstrated that:

- (1) One or more conditions not under the control of the utility (such as terrain features or an irregular right-of-way line) create a special hardship that would make enforcement of the provision unreasonable, given the public purposes to be achieved by the provision; and
- (2) All other designs, methods, materials, locations or facilities that would conform with the provision from which a variance is requested are impracticable in relation to the requested approach.

(D) **Additional Conditions for Granting of a Variance.** As a condition for authorizing a variance, the Superintendent of Public Works may require the utility requesting the variance to meet reasonable standards and conditions that may or may not be expressly contained within this Article but which carry out the purposes of this Article.

(E) **Right to Appeal.** Any utility aggrieved by any order, requirement, decision or determination, including denial of a variance, made by the Superintendent of Public Works under the provisions of this Article shall have the right to appeal to the City Council, or such other board or commission as it may designate. The application for appeal shall be submitted in writing to the City Clerk within **thirty (30) days** after the date of such order, requirement, decision or determination. The City Council shall commence its consideration of the appeal at the Council's next regularly scheduled meeting occurring at least **seven (7) days** after the filing of the appeal. The City Council shall timely decide the appeal.

33-8-22 PENALTIES. Any person who violates, disobeys, omits, neglects or refuses to comply with any of the provisions of this Article shall be subject to fine in accordance with the penalty provisions of this Code. There may be times when the City will incur delay or other costs, including third party claims, because the utility will not or cannot perform its duties

under its permit and this Article. Unless the utility shows that another allocation of the cost of undertaking the requested action is appropriate, the utility shall bear the City's costs of damages and its costs of installing, maintaining, modifying, relocating, or removing the facility that is the subject of the permit. No other administrative agency or commission may review or overrule a permit related cost apportionment of the City. Sanctions may be imposed upon a utility that does not pay the costs apportioned to it.

33-8-23 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.

33-8-24 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.

(Ord. No. 09-06; 02-23-09)

CITY OF GIBSON CITY

EXCAVATION PERMIT

NAME _____

FIRM NAME _____

ADDRESS _____

CITY/VILLAGE _____ STATE _____ PHONE _____

LOCATION OF PROPOSED EXCAVATION _____

NATURE OF EXCAVATION _____

BONDING COMPANY:

NAME _____

ADDRESS _____

CITY/VILLAGE _____ STATE _____ PHONE _____

AMOUNT OF BOND \$ _____

PREVIOUS EXPERIENCE (LIST CITIES AND/OR VILLAGES)

| | <u>CITY/VILLAGE</u> | <u>CITY/VILLAGE OFFICIAL</u> |
|----|---------------------|------------------------------|
| 1. | _____ | _____ |
| 2. | _____ | _____ |
| 3. | _____ | _____ |
| 4. | _____ | _____ |

I have read the municipal law with regard to excavations and my firm or company intends to fully comply with the Street Regulations Code provisions.

(Applicant's Signature)

CITY OF GIBSON CITY

APPLICATION FOR CULVERT/DRIVEWAY PERMIT

I, _____, do hereby request permission and authority to construct a culvert/driveway on the right-of-way of the City in accordance with the information provided on this application and the accompanying sketch. (Applicant must prepare a sketch showing location, length and pertinent details.)

ADDRESS: _____

Pipe material will be: _____

Wall thickness or gauge will be: _____

Type of joint will be: _____

DATED: _____, 20____ SIGNED: _____
(APPLICANT)

CULVERT/DRIVEWAY PERMIT

APPLICATION

Approved ()

Disapproved ()

If disapproved, state reasons:

DATED: _____, 20____ SIGNED: _____

CERTIFICATION

The undersigned has inspected the construction and installation set forth above and finds that the same (is) (is not) in accordance with the permit.

DATED: _____, 20____ SIGNED: _____

CHAPTER 34

SUBDIVISION CODE

ARTICLE I - GENERAL PROVISIONS

34-1-1 **TITLE.** These regulations shall be known as and may be referred to as the Subdivision Code.

34-1-2 **PURPOSE.** In accordance with State law (**Ill. Comp. Stats., Chap. 65, Secs. 5/11-12-5, 5/11-12-8 -- 5/11-12-12; Chap. 765, Sec. 205/1 et seq.**) this Code regulates the subdivision and development of land in order to implement the Comprehensive Plan and Official Map duly adopted by the City. Thus this Code assists in achieving the following specific objectives:

- (A) to preserve, protect, and promote the public health, safety, and welfare;
- (B) to provide a pleasant living environment by furthering the orderly and efficient layout and use of land and by facilitating aesthetic urban design;
- (C) to establish accurate legal records, to avoid development in wetland areas, and to avoid legal and other problems by requiring that subdivided land be properly monumented and recorded;
- (D) to conserve and increase the value of land, improvements, and buildings throughout the City;
- (E) to preserve the natural beauty and topography of the City to the maximum feasible extent, including preservation of such features as stands of trees, streams, significant archaeological sites, and historical landmarks;
- (F) to provide adequate light, air, and privacy for all residents of new developments by preventing undue concentration of population;
- (G) to protect against injury or damage caused by fire, pollution, flooding, storm water runoff, or erosion and sedimentation;
- (H) to provide safe and convenient access to new developments and to avoid traffic congestion and unnecessary public expenditures by requiring the proper location, design, and construction of streets and sidewalks;
- (I) to provide an environment whereby the cost of installing and maintaining adequate water mains, sanitary sewers, storm water sewers, and other utilities and services can be kept at a minimum; and
- (J) to ensure that adequate parks, schools, and similar facilities can be made available to serve the residents.

34-1-3 **JURISDICTION.** The provisions of this Code shall apply to all Planned Developments whether Residential, Commercial, or otherwise in nature, and to any other developments whether a Plat is required or not under the law, statutes, ordinances or regulations of the governmental body or agency having jurisdiction or control, and regardless of whether the same is labeled a subdivision or not, it being the intent of this Code to apply to all types of development, both within the City and to areas lying within **one and one-half (1.5) miles** of the corporate limits of the City.

34-1-4 **INSTANCES WHEN PLATS WILL NOT BE REQUIRED.** The provision of these regulations do not apply and no plat is required in any of the following instances:

(A) the division or subdivision of land into parcels or tracts of **five (5) acres** or more in size which does not involve any new streets or easements of access or add special utility easements;

(B) the division of lots or blocks of less than **one (1) acre** in any recorded subdivision which does not involve any new streets or easements of access or add special utility easements;

(C) the sale or exchange of parcels of land between owners of adjoining and contiguous land;

(D) the conveyance of parcels of land or interests therein for use as a right-of-way for railroads or other public utility facilities and other pipelines which does not involve any new streets or easements of access or add special utility easements;

(E) the conveyance of land for highway or other public purposes or grants or conveyance relating to the dedication of land for public use or instruments relating to the vacation of land impressed with a public use;

(F) conveyance made to correct description in prior conveyances;

(G) the sale or exchange of parcels or tracts of land following the division into no more than **two (2) parts** of a particular parcel or tract of land recorded on or before **July 17, 1959** and not involving any new streets or easements of access or add special utility easements;

(H) the conveyance of land owned by a railroad or other public utility which does not involve any new streets or easements of access or add special utility easements;

(I) the sale of a single lot of less than **five (5) acres** from a larger tract when a survey is made by a registered surveyor; provided, however, that this exemption shall not apply to the sale of any subsequent lots from the same larger tract of land, as determined by the dimensions and configuration of the larger tract existing as of **October 1, 1973**.

34-1-5 **INTERPRETATION.** Every provision of this Code shall be construed liberally in favor of the City, and every regulation set forth herein shall be considered the minimum requirement for the promotion of the public health, safety, and welfare.

(A) **More Restrictive Requirements Apply.** Whenever the requirements of this Code differ from those of any statute, lawfully adopted ordinance or regulation, easement, covenant, or deed restriction, the more stringent requirement shall prevail. Thus, in accordance with State law whenever this Code imposes higher standards than the County Subdivision Code, said higher standards shall supersede the County regulations in the unincorporated territory located within the City's subdivision jurisdiction. **(See 65 ILCS Sec. 5/11-12-11)**

34-1-6 **DISCLAIMER OF LIABILITY.**

(A) Except as may be provided otherwise by statute or ordinance, no officer, council member, agent, or employee of the City shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this Code. **(See "Local Governmental and Governmental Employees Tort Immunity Act," Ill. Comp. Stats., Chap. 745, Secs. 10/1-101.)**

(B) Any suit brought against any officer, council member, agent, or employee of the City, as a result of any act required or permitted in the discharge of his duties under this Code, shall be defended by the City Attorney until the final determination of the legal proceedings.

34-1-7 REVIEW AND EXPIRATION. This Code shall be reviewed by the Plan Commission every **ten (10) years** for necessary amendments.

ARTICLE II - DEFINITIONS

34-2-1 INTERPRETATION OF TERMS. In construing the intended meaning of terminology used in this Code, the following rules shall be observed:

(A) Unless the context clearly indicates otherwise, words and phrases shall have the meanings respectively ascribed to them in Section 34-2-2; terms not defined in Section 34-2-2 shall have the meanings respectively ascribed to them in the City's Zoning Code; if any term is not defined either in Section 34-2-2 or in the Zoning Code, said term shall have its standard English dictionary meaning.

(B) Words denoting the masculine gender shall be deemed to include the feminine and neuter genders.

(C) Words used in the present tense shall include the future tense.

(D) Words used in the singular number shall include the plural number, and vice versa.

(E) The word "shall" is mandatory; the word "may" is discretionary.

(F) Captions (i.e., titles of sections, subsections, etc.) are intended merely to facilitate general reference and in no way limit the substantive application of the provisions set forth thereunder.

(G) References to sections shall be deemed to include all subsections within that section; but a reference to a particular subsection designates only that subsection.

(H) A general term that follows or is followed by enumerations of specific terms shall not be limited to the enumerated class unless expressly limited.

34-2-2 SELECTED DEFINITIONS.

Administrator: The official appointed by the Mayor and the City Council to administer the Subdivision and Development Code.

Alley: A public right-of-way which affords a secondary means of vehicular access to the side or rear of premises that front on a nearby street, and which may be used for utility purposes.

Amendment: A change in the provisions of this code, properly effected in accordance with State law and the procedures set forth herein.

Area, Building: The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings exclusive of unenclosed patios, terraces, and steps.

Area, Gross: The entire area within the lot lines of the property proposed for subdivision/development, including any areas to be dedicated/reserved for street and alley rights-of-way and for public uses.

Area, Net: The entire area within the boundary lines of the territory proposed for subdivision, less the area to be dedicated for street and alley rights-of-way and public use.

Arterial Street: A street designed or utilized primarily for high vehicular speeds or for heavy volumes of traffic on a continuous route with intersections at grade, and on which traffic control devices are used to expedite the safe movement of through traffic.

Barrier (Natural or Artificial): Any street, highway, river, pond, canal, railroad, levee, embankment, or screening by a fence or hedge.

Block: An area of land entirely bounded by streets, highways, barriers, or rights-of-ways (except alleys, pedestrian ways, or exterior boundaries of a subdivision unless exterior boundary is a street, highway, or R.O.W.) or bounded by a combination of streets, public parks, cemeteries, railroad rights-of-way, waterways, or corporate boundary lines.

Building: Any structure, whether temporary, semi-permanent, or permanent, designed or intended for the support, enclosure, shelter or protection of persons or property.

Building Line: See Setback Line.

Catch Basin: A receptacle, located where a street gutter opens into a storm sewer, designed to retain matter that would not easily pass through the storm sewer.

Centerline:

- (A) the centerline of any right-of-way having a uniform width;
- (B) the original centerline, where a right-of-way has been widened irregularly;
- (C) the new centerline, whenever a road has been relocated.

Centerline Offset: The distance between the centerline of two roughly parallel streets, measured along the third street with which both said "parallel" streets intersect.

Cluster Development: A subdivision planned and constructed so as to group housing units into relatively dense patterns while providing a unified network of open space and wooded areas, and meeting the requirements of the Subdivision Code and the Zoning Code.

Collector Street: A street which carries or is proposed to carry intermediate volumes of traffic from local streets to arterial streets and which may or may not be continuous.

Common Land: That land set aside for open space or recreational use for the owners of the lots of a subdivision, which land is conveyed by the developer in fee simple absolute title by warranty to trustees whose trust indenture shall provide that said common land be used for the sole benefit, use and enjoyment of the lot owners present and future. No lot owner shall have the right to convey his interest in the common land except as an incident of the ownership of a regularly platted lot.

Comprehensive Plan: The plan or any portion thereof adopted by the City Council to guide and coordinate the physical and economic development of the City. The City's Comprehensive Plan may include, but is not limited to, plans and programs regarding the location, character, and extent of highways, bridges, public buildings or uses, utilities, schools, residential, commercial, or industrial land uses, parks, drainage facilities, etc.

Cross-slope: The degree of inclination measured across a right-of-way rather than in the direction traffic moves on said right-of-way.

Cul-de-Sac: A short minor local street having only one outlet for vehicular traffic and having the other end permanently terminated by a turn-around for vehicles; the term may also be used to refer solely to said turn-around.

Curb and Gutter, Integral: The rim forming the edge of a street plus the channel for leading off surface water, constructed of concrete as a single facility.

Dedicate: To transfer the ownership of a right-of-way, parcel of land, or improvement to the City or other appropriate government entity without compensation.

Density, Gross: The total number of dwelling units divided by the total project area, expressed as gross dwelling units per acre.

Density, Net: The total number of dwelling units divided by the net acreage. See definition of Area, Net.

Design: The arrangement of uses on the land and the arrangement of easements, lots and rights-of-way, including specifications of materials, alignment, grade and width of these elements.

Develop: To erect any structure or to install any improvements on a tract of land, or to undertake any activity (such as grading) in preparation therefor.

Dimensions: Refers to both lot depth and lot width.

District, Zoning: A portion of the territory of the City wherein certain uniform requirements or various combinations thereof apply to structures, lots, and uses under the terms of the City's Zoning Code.

Drainageway: A watercourse, gully, dry stream, creek, or ditch which carries storm water runoff or which is fed by street or building gutters or by storm water sewers, or which serves the purpose of draining water from the lands adjacent to such watercourse, gully, dry stream, creek, or ditch.

Easement: A grant by the property owner to the public, a corporation, or a person of the use of land for limited and specifically named purpose.

Escrow Deposit: A deposit in cash or other approved securities to assure the completion of improvements within a subdivision.

Filing Date: The date that the applicant has filed the last item of required data or information with the City Clerk and has paid the necessary fees for review by the Plan Commission.

Flood Hazard Area: All land subject to periodic inundation from overflow of natural waterways.

Frontage: The lineal extent of the front (street-side) of a lot.

Frontage Road: A minor street fronting on an arterial street or highway (usually a limited access highway), used for access to abutting lots.

Grade: The degree of inclination of the site or right-of-way, expressed as a percentage. Synonym for "slope."

Hillside Area: An area with an average slope of **twenty percent (20%)** or more.

Improvement: Refers to site grading, street work and utilities (including water, sewer, electric, gas, storm water, telephone and cable television) to be installed or agreed to be installed by the subdivider on land to be used for public or private streets, and easements or other purposes as are necessary for the general use of lot owners in the subdivision. Including the furnishing of all materials, equipment, work and services such as engineering, staking and supervision, necessary to construct all the improvements required in Article V of the Code or any other improvements that may be provided by the subdivider. All of such materials, equipment and services shall be provided at the subdivider's cost and expense, although he may enter into a contract with individuals and firms to complete such improvements, and the improvements shall be subject to the final approval of the Plan Commission and the City Council.

Improvement Plans: The engineering plans showing types of materials and construction details for earth moving and for the structures and facilities to be installed both in, or in conjunction with, a subdivision. Plans must include drainage, streets, alleys and utility locations to be installed in or in conjunction with a subdivision - also, include overall drainage plan and its effect on contiguous land and source of effluent or discharge.

Inlet: A receptacle, located where surface and/or groundwater can run to by gravity to be received by the storm sewer.

Intersection: The point at which two or more public rights-of-way (generally streets) meet.

Land Use Plan: The comprehensive long-range plan for the desirable use of land, the purpose of such plan being, among other things, to serve as a guide to the zoning and progressive subdividing and use of undeveloped land.

Local Street: A street serving limited amounts of residential traffic, and for access to abutting property, and on which the speed limit is low and the traffic volume minimal.

Lot: A tract of land intended as a unit for the purpose (whether immediate or future) of development or transfer of ownership. A "lot" may or may not coincide with a "lot of record."

Lot Area: The area of a horizontal plane bounded by the front, side, and rear lines of a lot, exclusive of any land designated for street right-of-way.

Lot, Butt: A lot at the end of a block and located between **two (2) corner lots**.

Lot, Corner: A lot having at least **two (2) adjacent sides** that abut for their full length upon streets. Both such side lines shall be deemed front lot lines.

Lot Depth: The mean horizontal distance between the front end and the rear lot lines measured in the general direction of the side lot lines.

Lot, Interior: A lot whose side lines do not abut any street.

Lot Line, Front: The line separating the lot from the street. On a corner lot, the front lot line shall be the frontage having the least dimension.

Lot Line, Rear: The rear lot line is the lot line most nearly parallel to and most remote from the front lot line.

Lot Line, Side: Any lot line other than front or rear lot line. A corner side lot line separating a lot from a street is called a street side lot line. A side lot line separating a lot from another lot or lots is called an interior side lot line.

Lot of Record: An area of land designated as a lot on a plat of subdivision recorded with the County Recorder of Deeds in accordance with State law.

Lot, Through: A lot having a part of approximately parallel lot lines that abut **two (2)** approximately parallel streets. Both such lot lines shall be deemed front lot lines.

Lot Width: The mean horizontal width of the lot measured at right angle to the general direction of the side lot lines.

Maintenance Bond: A surety bond, posted by the developer and approved by the City, guaranteeing the satisfactory condition of installed improvements for the one-year period following their dedication.

Master Development Plan: A combination of maps, drawings, site plans, charts and supportive narrative material that portrays total development to be achieved in the overall project area; which provides sufficient detailed information to both illustrate and describe the intended character and configuration of development to be accomplished.

Metes and Bounds: A description of real property which is not described by reference to a lot or block shown on a map, but is described by starting at a known point and description of the lines forming the boundaries of the property or delineates a fractional portion of a section, lot or area by describing lines or portions thereof.

Official Map: A graphic statement of the existing and proposed capital improvements planned by the City which require the acquisition of land--such as streets, drainage systems, parks, etc.

Owner: A person having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under these regulations.

Parking Lane: An auxiliary lane of a street and primarily used for vehicular parking.

Pedestrian Way: A right-of-way dedicated to public use which cuts across a block to facilitate safe pedestrian access to adjacent streets and properties.

Performance Bond: A surety bond posted by the developer and approved by the City, guaranteeing the installation of required improvements within, or in conjunction with, a subdivision.

Person: Any agent, individual, firm, association, partnership, corporation, syndicate or trust.

Plan Commission: The Plan Commission of the City.

Planned Unit Development (PUD): A planned unit development is a comprehensively planned development containing residential, commercial, industrial, or other land uses on an area of land under continuing unified control. A planned unit development may contain a single type of land use or combination of land uses provided that such development is reviewed, evaluated and approved by the City and satisfies the requirements contained herein.

Plans: All of the drawings including plats, cross-sections, profiles, working details and specifications, which the subdivider prepares or has prepared to show the character, extent and details of improvements required in this Code and which plans shall conform to any requirements of the Plan Commission as to scale and details for submittal to the approval officials of the City for consideration, approval or disapproval.

Plat, Final: The final engineering and architectural maps, drawings, and supporting material indicating the subdivider's plan of the subdivision which, if approved, may be filed with the County Recorder of Deeds.

Plat, Preliminary: Preliminary engineering and architectural maps, drawings, and supportive material indicating the proposed layout of a subdivision.

Project Area: That territory intended to be subdivided or developed, and portrayed and defined in the preliminary and final plats.

Reserve: To set aside a parcel of land in anticipation of its acquisition by the City or other appropriate government entity for public purposes.

Reserve Strip: A narrow strip of land between a public street and adjacent lots which is designated on a recorded subdivision plat or property deed as land over which vehicular travel is not permitted.

Re-subdivision: See Subdivision.

Retention Area: An area of land designed to capture water runoff from a developed parcel and release it at a specified rate of flow as determined by engineering studies **(See Section 5-16.4)**.

Reverse Curve: A curve in a street heading in approximately the opposite direction from the curve immediately preceding it so as to form an S-shape.

Right-of-Way, Public: A strip of land which the owner/subdivider has dedicated to the City or other appropriate government entity for streets, alleys, and other public improvements; sometimes abbreviated as r.o.w.

Roadbed: The graded portion of a street upon which the base course, surface course, shoulders and median are constructed.

Roadway: The entire improved portion of the street, including shoulders, parking lanes, travel way, curbs and gutter.

Setback Line: A line that is usually parallel to the front, side or rear lot line establishing the minimum space to be provided as the front, side or rear yard.

Sidewalk: A pedestrian way constructed in compliance with the standards of this Code, generally abutting or near the curb line of the street.

Slope: The degree of inclination of site or right-of-way expressed as a percentage. Synonym for "grade."

Soil and Water Conservation District: The County Soil and Water Conservation District.

Street: A public or private way for motor vehicle travel. The term "street" includes a highway, thoroughfare, parkway, through way, road, pike, avenue, boulevard, lane, place, drive, court and similar designations, but excludes an alley or a way for pedestrian or bicycle use only.

Street, Area Service Highway: Area service highways interconnect collectors and land access streets with the principal system and vice versa, brings all developed areas within a reasonable distance of principal streets, connects and provides direct access to major traffic generators, provides secondary service to smaller communities, may provide access to abutting property, and have a medium volume design capacity and travel speeds.

Street, Cul-de-Sac: A short, land-access street, having only **one (1) end** open for vehicular traffic, and the other permanently terminated by a turn-around for vehicles.

Street, Dead-End: Land access streets similar to cul-de-sacs, except that they provide no turn-around circle at their closed end, and are not permitted in any proposed subdivision.

Street, Land Access: Land access streets provide access to abutting properties, have a relatively short travel distance, and have a low volume design capacity and travel speeds.

Street, Looped: Land access streets having **two (2) open ends**, each end generally connecting with the same street, no other streets intersecting between its ends, and property fronts on both sides of the street.

Street, Marginal Access or Service Road: A land access street parallel and adjacent to area service highways providing access to abutting properties.

Structure: Anything constructed or erected which requires permanent or temporary location on or in the ground, or is attached to something having a fixed location on or in the ground. All buildings are structures but not all structures are buildings (e.g., a fence).

Stub or Butt Street: A street that is temporarily terminated, but that is planned for future continuation.

Subdivider: Any person, firm, partnership, association, corporation, estate or other group or combination acting as a unit, dividing or proposing to divide land in a manner that constitutes a subdivision as defined in this Article.

Subdivision: (1) The division of land into two or more lots or parcels for the purpose of either immediate or future sale, rental or building development or use(s) other than agricultural use or

production. (2) Establishment or dedication of a public street or alley through a tract of land regardless of size. The term "subdivision" shall also include all re-subdivisions of land or lots.

Subdivision, Minor: A division of land into **two (2)**, but not more than **four (4) lots**, all of which front upon an existing street, **not involving new streets** or other rights-of-way, easements, improvements, or other provisions for public areas and facilities.

Topography: The relief features or surface configuration of an area of land.

Travelway: That portion of a street used for the movement of vehicles, exclusive of shoulders and auxiliary lanes.

Vacate: To terminate the legal existence of right-of-way or subdivision, and to so note on the final plat recorded with the County Recorder of Deeds.

Variance, Subdivision: A relaxation in the strict application of the design and improvement standards set forth in this Code.

Yard, Front: A yard extending across the full width of the lot, the depth of which is set forth in the Zoning Code.

Yard, Rear: A yard extending across the full width of the lot between the nearest rear main building and the rear lot lines. The depth of the required rear yard shall be measured horizontally from the nearest part of the main building toward the nearest point of the rear lot lines.

Yard, Side: A yard between a main building and the side lot line, extending from the front yard or front lot lines, where no front yard is required, to the rear yard. The width of the required side yard shall be measured horizontally from the nearest point of the side lot line toward the nearest part of the main building.

Zoning Code: The Zoning Code of the City.

ARTICLE III - PLATS AND PLANS

DIVISION I - PRELIMINARY PLATS

34-3-1 GENERAL PROCEDURE. Before preparing a proposed plat for an area, the owner, developer, or their representatives should have a pre-application meeting with the Plan Commission and/or the City Planner to determine applicable ordinance regulations and standards which must be complied with. After the pre-application meeting(s), the subdivider should then prepare the preliminary plat. As defined in the Subdivision Code, the preliminary plat must contain a substantial amount of data, and will thus be incomplete and cannot be considered as filed until all required data are submitted. The preliminary plat is received with filing fees by the City Clerk's office, who, in turn, will forward the same to the Plan Commission for their review. Following its review (as well as comments from other appropriate agencies when required), the Plan Commission forwards its recommendation(s) to the City Council, who then either approve, disapprove, or approve with modifications the preliminary plat.

34-3-2 FILING PROCEDURE. Except as specifically provided otherwise below, every person who proposes to subdivide any land located within the subdivision jurisdiction of this municipality shall file **six (6) copies** of the preliminary plat of said subdivision with the City Clerk.

He shall also file **one (1) copy** of the preliminary plat and supporting data with the appropriate Soil and Water Conservation District. Said district shall have not more than **thirty (30) days** to submit any comments it might wish to make to the Administrator. **(See 70 ILCS Sec. 405/22.02A)**

Whenever a large tract is to be developed in stages and only a portion of that tract is to be submitted for final plat approval, nonetheless, a Master Development Plan of the entire tract shall be submitted.

All preliminary plats shall be reviewed and acted upon in accordance with **Illinois Compiled Statutes, Chapter 65, Section 5/11-12-8** and the provisions of the subsections below.

EXCEPTION: The provision of this section shall not apply to:

- (A) minor subdivisions as defined at Section 34-2-2; or
- (B) land that is specifically exempted from the Illinois Plats Act as now or hereafter amended. **(See 765 ILCS Sec. 205/1(B)).**

34-3-3 INFORMATION REQUIRED. Every preliminary plat shall be prepared by an Illinois Registered Land Surveyor at any scale from **one inch equals twenty feet (1" = 20')** through **one inch equals one hundred feet (1" = 100')** provided the resultant drawing does not exceed **thirty-six (36) inches square**.

(A) small key map showing the relation of the proposed subdivision to section or U.S. Survey lines and to platted subdivisions and dedicated roads within **three hundred (300) feet** of the proposed subdivision;

(B) names and addresses of the owner, subdivider (if not the owner), and registered professional engineer;

(C) proposed name of the subdivision;

(D) zoning district classification of the tract to be subdivided, and of the adjacent land;

(E) north arrow, graphic scale, and date of map;

(F) the gross and net acreage area of the proposed subdivision, the acreage of streets, and of any areas reserved for the common use of the property owners within the subdivision and/or for public use;

(G) all lot lines adjacent to and abutting the subdivision;

(H) tract boundary lines showing dimensions, bearings, angles, and references to known land lines;

(I) topography of the tract to be subdivided as indicated by **two- (2) foot** contour data for land having slopes of **zero-four percent (0-4%)**, **five- (5) foot** contour data for land having slopes between **four-twelve percent (4-12%)**, and **ten- (10) foot** contour data for land having slopes of **twelve percent (12%)** or more;

(J) any proposed alteration, adjustment or change in the elevation or topography of any area;

(K) locations of such features as bodies of water, ponding areas, natural drainageways, railroads, cemeteries, bridges, parks, schools, etc.;

(L) streets and rights-of-way on and adjoining the site of the proposed subdivision; showing the names and including street right-of-way and paving widths; approximate

gradients; types and widths of pavement, curbs, sidewalks, crosswalks, planting strips and other pertinent data, including classification of all existing or proposed streets as to function as collector, major, minor or county road;

(M) a copy of the results of any tests made to ascertain subsurface rock and soil conditions and the water table;

(N) locations, widths, and purposes of all existing and proposed easements;

(O) a copy of the description of all proposed deed restrictions and covenants;

(P) location and size of existing and proposed sanitary and storm sewers;

(Q) locations, types, and approximate sizes of all other existing and proposed utilities;

(R) building setback or front yard lines and dimensions;

(S) locations, dimensions, and areas of all parcels to be reserved or dedicated for schools, parks/playgrounds, and other public purposes; and

(T) locations, dimensions, and areas of all proposed or existing lots within the subdivision;

(U) information as defined in Section 34-3-4(A).

34-3-4 PLAN COMMISSION ACTION. The Plan Commission shall either approve or disapprove the application for preliminary plat approval within **sixty (60) days** from the date of said application or the filing of the last item of required supporting data, whichever date is later, unless the Plan Commission and the subdivider mutually agree to extend this time limit. If the Plan Commission disapproves the preliminary plat, they shall furnish to the applicant within the **sixty (60) day period** a written statement specifying the aspects in which the proposed plat fails to conform to this Code and/or the Official Map. If the Plan Commission approved the preliminary plat, they shall inform the City Council that action can be taken at the next regularly scheduled City Council meeting.

(A) **Notice of Meeting.** The Plan Commission shall give notice of its consideration of any preliminary plat and allow the opportunity to be heard to the following person(s) or groups during its preliminary review time span:

(1) Any person requesting notification of the meeting.

(2) Any property owner whose property is contiguous to the property, including property across the streets, railroads, creeks, and similar barriers; said information shall be provided by the applicant to the City Clerk's office when filing the plat.

(3) Any governmental or taxing body which requests notification of the meeting.

34-3-5 REVIEW BY CITY COUNCIL; TIME CONSTRAINTS. The City Council shall review the preliminary plat, along with the Plan Commission recommendations and approve, disapprove or approve subject to certain conditions and/or modifications said preliminary plat within **thirty (30) days** after its next regularly scheduled meeting following receipt of the written Plan Commission recommendations, unless variances from Zoning Code requirements are needed, in which case, the City Council's **thirty (30) days** commence the day after the Board of Appeals hearing is held, as required by the Zoning Code.

If the City Council rejects the preliminary plat, their resolution shall specify the aspects in which the plat fails to comply with this Code and/or the Official Map. The City Clerk shall attach a certified copy of the Council's resolution of approval or disapproval to the preliminary plat. One

copy of the resolution and plat shall be retained by the Clerk, one copy shall be filed with the Administrator, and one copy shall be sent to the subdivider by return receipt mail.

34-3-6 RIGHTS AND PRIVILEGES OF SUBDIVIDER. Preliminary plat approval shall confer the following rights and privileges upon the subdivider:

(A) That the preliminary plat will remain in effect for a **one (1) year** period from the day the City Council approves the same. The applicant may, during this period, submit all or part or parts of said preliminary plat for final approval. In the event that the subdivision is being developed in stages, the applicant may, by written mutual agreement with the City Council, have final approval of the last part of the plat delayed for a period not to exceed **five (5) years** from the date of the preliminary plat approval. Any part of a subdivision which is being developed in stages shall contain a tract of land at least **one (1) block** in area or **five (5) gross acres**.

(B) That the general terms and conditions under which the preliminary plat approval was granted will not be changed for final approval.

(C) The applicant may also proceed with any detailed improvement plans required for all facilities or utilities intended to be provided. Actual construction of such facilities and improvements may commence prior to final plat approval if the detailed improvement plans have been recommended by the City Engineer and approved by the City Council, provided that such facilities and improvements will be inspected throughout their construction, and final plat approval will be contingent in part upon acceptable compliance to City improvement and facilities standards. If the applicant does not submit the improvement plans prior to the submission of the final plat, then he shall submit the improvement plans to the City Clerk's office at the time that the final plat is submitted.

34-3-7 RESERVED.

DIVISION II - IMPROVEMENT PLANS

34-3-8 SUBMISSION OF PLANS. After the City Council has approved the preliminary plat, but prior to submission of the final plat, the developer shall furnish **six (6) copies** of the plans and specifications for all improvements to be installed within or in conjunction with the proposed development to the City Clerk, pay all associated filing fees before review by the City Engineer. These plans and specifications shall be signed and sealed by the registered professional engineer responsible for their preparation. Until the City Engineer certifies in writing that the proposed improvements conform to generally accepted engineering practices and to the standards in this Code:

(A) the Administrator shall not issue any building permit to allow construction of said improvements; and

(B) the City Council shall not act upon the application for final plat approval.

34-3-9 INFORMATION REQUIRED. Improvements plans shall consist of black or blue line prints not larger than **thirty-six (36) inches square**. These plans and the related specifications shall provide all of the following information:

(A) topography of the tract, both before and after development at the same scale as the approved preliminary plat;

- (B) existing and proposed elevations along the centerline of all streets;
- (C) radii of all curves and lengths of tangents on all streets;
- (D) locations and typical cross-section of street pavements including curbs/gutters, catch basins, and inlets;
- (E) locations and typical cross-section of sidewalks and driveway aprons;
- (F) locations, sizes, and invert elevations of all existing and proposed sanitary sewers, storm sewers, and fire hydrants, showing connections to any existing or proposed utility systems;
- (G) locations and sizes of all water, gas, electric, and other utilities;
- (H) locations of street lighting standards and street signs;
- (I) one or more bench marks, when requested by Engineer, in or near the subdivision, to which the subdivision is referenced; the identity and elevation shall be based on sea level datum;
- (J) all proposed measures to control erosion and sedimentation;
- (K) high water elevations of all lakes/streams adjoining or within the tract;
- (L) such other information as the City Engineer may reasonably require to perform his duties under this section; and
- (M) existing and proposed survey monuments on street plans or on the proposed final plat as required by this Code.

34-3-10 INSPECTIONS REQUIRED. The subdivider/developer shall notify the Administrator and the Building Commissioner of both the start and completion of construction.

(A) The Building Commissioner shall inspect said improvements while they are under construction. If he or his designated deputy determines that they are being built in violation of this Code, he shall request that the Administrator promptly issue a stop order.

(B) The Building Commissioner and City Engineer shall inspect improvements upon their completion. This municipality shall not accept any completed improvement until the Building Commissioner and Engineer have stated in writing that it complies with this Code.

34-3-11 FILING "AS-BUILT" RECORDS.

(A) The subdivider/developer shall file with the Administrator a set of reproducible cloth- or polyester-base film positive showing the as-built details and any deviations from the approved plans upon the completion of improvements, or when **fifty percent (50%)** of the building permits have been issued in a given plat.

(B) The subdivider/developer shall pay the costs to add water, sewer, street, and stormwater improvements to the overall City map(s); street, sewer, water, stormwater;

(C) If the Administrator finds the as-built to be unacceptable, building permits shall be discontinued until such time as the information is acceptable.

34-3-12 RESERVED.

**DIVISION III - ASSURANCE FOR COMPLETION OF
REQUIRED IMPROVEMENTS**

34-3-13 APPROVAL OF FINAL PLAT - IMPROVEMENTS. The City Council shall not approve any final plat of subdivision (and, hence, said final plat shall not be entitled to recording) until:

(A) all improvements required in the improvements plan have been completed by the subdivider/developer at his expense, inspected by the Building Commissioner and Engineer, and dedicated to this municipality or other appropriate entity; or

(B) in accordance with the subsections below, the subdivider/developer has provided this municipality with legal assurance to guarantee the satisfactory completion and dedication of all required improvements.

34-3-14 FORMS OF ASSURANCE. At the option of the City Council, the required legal assurance may be either a performance bond or an escrow deposit. Every performance bond shall be reviewed by the City Attorney, and posted with the City Clerk. Any funds to be held in escrow shall be deposited with the City Clerk.

34-3-15 AMOUNT OF BOND OR DEPOSIT. The amount of the performance bond or escrow deposit shall be equal to the City Engineer's opinion of probable costs of constructing the uncompleted portion of the required improvements plus all required inspection fees. Any escrow deposit may be in the form of:

(A) cash;

(B) an irrevocable letter of credit or commitment from a lending institution guaranteeing to this municipality the availability of the escrow funds from time to time upon demand; or

(C) certificates of deposit, treasury bills, or other readily negotiable instruments approved by the City Clerk, and made payable to this municipality.

34-3-16 ELIGIBLE SURETIES. No person shall be eligible to act as surety unless he has been approved by the City Clerk. The Clerk shall conduct or cause to be conducted spot audits of all sureties. Any surety who fails to perform shall be ineligible for **two (2) years** thereafter to act as surety for any subdivision improvement within this municipality's jurisdiction.

34-3-17 TERM OF ASSURANCE, EXTENSION. The initial term of any performance bond or escrow agreement shall not exceed **two (2) years**. If all the required improvements have not been completed by the end of the two-year period, the Plan Commission, with the advice and consent of the City Council, may either extend said bond/escrow agreement for **one (1) year** only, or may proceed as per **Section 34-3-19**.

34-3-18 RELEASE OF BOND/ESCROW DEPOSIT.

(A) The City Clerk may release up to **ninety percent (90%)** of the amount of the performance bond/escrow deposit upon receipt of written authorization from the Building Commissioner. The amount which the Building Commissioner authorizes to be released shall be equal to the value of improvements actually completed in accordance with approved plans.

(B) The balance of the amount of the performance bond/escrow deposit shall not be released by the City Clerk until:

- (1) the Building Commissioner has certified to the Administrator in writing that all required improvements have been satisfactorily completed; and
- (2) said improvements have been accepted by and dedicated to this City or other appropriate entity.

34-3-19 FAILURE TO COMPLETE IMPROVEMENTS. If all the required improvements have not been completed by the end of the two-year period (or three-year period, in the case of an extension), the Administrator, with the assistance of the City Attorney, may:

(A) require the surety to perform on the bond, and to pay to this municipality an equal amount to the cost of completing the required improvements or the amount of the bond not theretofore released, whichever is less; or

(B) order the City Clerk to retain all escrow funds needed to complete the required improvements, and to return the balance (if any) of such funds to the subdivider/developer; or

(C) require the subdivider/developer to submit a new performance bond/escrow deposit in an amount sufficient to cover any increase in the cost of constructing the required improvements.

34-3-20 - 34-3-21 RESERVED.

DIVISION IV - FINAL PLATS

34-3-22 CITY COUNCIL APPROVAL. The City Council shall not approve any final plat unless they determine that it is in compliance with all pertinent requirements of this Code including those set forth in the subsections below.

34-3-23 FILING, TIME LIMITS. The subdivider of every subdivision -- whether major or minor but excluding land specifically exempted from the Illinois Plats Act as now or hereafter amended (**Ill. Comp. Stats., Chap. 765, Sec. 205/1(b)**) -- who desires final plat approval shall file **six (6) copies** of the final plat and supporting data with the City Clerk and pay all associated filing fees not later than **one (1) year** after preliminary plat approval has been granted. However, with the consent of the City Council, the subdivider may delay application for final approval of part(s) of the tract shown on the preliminary plat for successive one-year periods. No subdivision plat or re-plat shall be filed for record or recorded in the office of the County Recorder of Deeds, unless and until the approval of the City is endorsed thereon. No lot shall be sold for such subdivision plat or re-plat until it has been approved by the City Council and filed for record in the office of the County Recorder of Deeds as required by the State Statutes.

For official filings, the subdivider shall file the approved final plat with the County Recorder of Deeds within **sixty (60) days** after the City Council has approved the same and the Mayor has affixed his signature thereto. **One (1) copy** of the final plat shall be given to the City Clerk's office by the subdivider bearing the official stamp of the County Recorder attesting its recording within **twenty (20) days** of such action.

34-3-24 INFORMATION REQUIRED. Every final plat shall be prepared by a land surveyor on new linen tracing cloth- or polyester-base film with waterproof black ink at a scale not greater than **one hundred (100) feet equals one (1) inch**, provided that the resultant drawing shall not exceed **thirty-six (36) inches square**. The final plat and supporting data shall portray/provide all of the following information:

- (A) north arrow, graphic scale, and date;
- (B) name of subdivider, subdivision, identification of the portion of the Public Lands Survey in which the subdivision is located;
- (C) accurate metes and bounds or other adequate legal description of the tract, and the included area of the subdivision to the nearest **one-hundredth (1/100) of an acre**;
- (D) accurate boundary lines, with dimensions and bearings or angles which provide a survey of the tract, closing with an error of closure of not more than **one (1) foot in ten thousand (10,000) feet**;
- (E) all dimensions shall be shown in feet and decimals of a foot;
- (F) reference to recorded plats of adjoining platted land within **three hundred (300) feet**, by record name, plat book, and page number;
- (G) accurate locations of all existing streets intersecting the boundaries of the subdivision;
- (H) right-of-way lines of all streets, other rights-of-way, easements, and lot lines with accurate dimensions, angles, or bearings and curve data, including radii, arcs or chords, points of tangency, and central angles;
- (I) name and right-of-way width of every proposed street;
- (J) purpose of any existing or proposed easement(s);
- (K) number of each lot, lot dimensions, and (in a separate list) lot areas;
- (L) purpose(s) for which sites, other than private lots, are reserved;
- (M) building or setback lines with accurate dimensions;
- (N) restrictions of all types which will run with the land, and become covenants in the deeds of lots;
- (O) certification of dedication of all public areas;
- (P) accurate distances and directions to the nearest established official monument; reference corners shall be accurately described on the final plat;
- (Q) reference to known and permanent monuments and bench marks from which future surveys may be made together with elevations of any bench marks; and the Surveyor must, at the time of making his survey, establish permanent monuments (set in such a manner that they will not be moved by frost) which mark the external boundaries of the tract to be divided or subdivided and must designate upon the plat the locations where they may be found;
- (R) location, type, material and size of all monuments and lot markers.

34-3-25 CERTIFICATES REQUIRED. As required by State law (**Ill. Comp. Stats., Chap. 765, Sec. 205/2; Chap. 65, Sec. 5/11-12-8**), the following certificates shall be executed on the final plat:

(A)

OWNER'S CERTIFICATE

We, _____, the Owners of _____ (description) _____, have caused the said tract to be surveyed and subdivided in the manner shown, and said subdivision is to be hereinafter known as _____. All rights-of-way and easements shown hereon are

hereby dedicated to the use of the public forever including the release and waiver of the right of homestead under the Homestead Exemption laws of the State of Illinois.

Dated this ____ day of _____, ____.

(Seal)

(Seal)

(B)

NOTARY PUBLIC'S CERTIFICATE

State of Illinois)
) SS
County of Ford)

I, _____, a Notary Public in and for the County aforesaid, do hereby certify that (owners) _____ are personally known to me to be the same persons whose names are subscribed to the foregoing instrument, and that they appeared before me this day in person and acknowledged that they signed and sealed the same as their free and voluntary act for the uses and purposes therein set forth, including the release of waiver of the right of homestead.

Given under my hand and Notarial Seal this _____ day of _____, ____.

Notary Public

(C)

SURVEYOR'S CERTIFICATE

I, _____, an Illinois Registered Land Surveyor, do hereby certify that this plat is a correct representation of a survey made under my direct supervision at the request of for the purpose of subdividing the tract into lots as shown.

Land Surveyor

Illinois Registration Number

Date

(D)

COUNTY CLERK'S CERTIFICATE

I, _____, County Clerk of Ford County, Illinois, do hereby certify that I find no unpaid or forfeited taxes against any of the real estate included within this plat.

County Clerk

Date

(E)

CERTIFICATE OF CITY COUNCIL

I, _____, Mayor of the City, do hereby certify that the plat shown herein was duly presented to the City Council and approved at a meeting of same held on _____, ____.

Mayor

City Clerk

(F)

FLOOD HAZARD CERTIFICATE

We, the undersigned, do hereby certify that no part of this plat to be recorded, is situated within **five hundred (500) feet** of any surface drain or watercourse serving a tributary area of **six hundred forty (640) acres** or more, or, if this plat is within **five hundred (500) feet** of any surface drain or watercourse, we hereby certify that this plat has been reviewed by the Illinois Department of Transportation Division of Water Resources and their report is on file with the County Recorder of Deeds.

By: _____
Owner(s)

By: _____
Illinois Land Surveyor

Registration Number

Date

34-3-26 ADMINISTRATIVE REVIEW, ADVISORY REPORT. Within **thirty (30) days** from the date of application for Final Plat approval, the Building Commissioner and the Administrator shall review said Final Plat (and supporting data), and shall each advise the City Council in writing whether it substantially conforms to the approved preliminary plat and improvement plans. A copy of their Advisory Report shall be forwarded to the Plan Commission. The Plan Commission may prepare an addendum to said report (should they so desire), and forward same to the City Council.

34-3-27 ACTION BY CITY COUNCIL. The City Council shall either approve or disapprove the application for Final Plat approval by resolution within **sixty (60) days** from the date of said application or the filing of the last item of required supporting data, whichever date is

later, unless the Council and the subdivider mutually agree to extend this time limit. The City Council shall not approve any Final Plat unless:

- (A) the final plat substantially conforms to the approved preliminary plat; and
- (B) the final plat manifests substantial compliance with the design and improvements standards of this Code, Zoning Code, and the Official Map; and
- (C) to the Council's knowledge and belief, the final plat complies with all pertinent requirements of State law; and
- (D) either of the following has been met:
 - (1) all required improvements have been completed, inspected, accepted, and dedicated; or
 - (2) the subdivider/developer has posted a performance bond or deposited funds in escrow to guarantee the satisfactory completion and dedication of all required improvements.

If the City Council disapproves the Final Plat, their resolution shall specify the aspects in which the Plat fails to meet the above conditions for approval.

The City Clerk shall attach a certified copy of the Council's resolution of approval or disapproval to the Final Plat. One copy of the resolution and plat shall be retained by the Clerk, one copy shall be filed with the Administrator, and one copy shall be given to the subdivider.

34-3-28 CHANGES IN APPROVED FINAL PLATS. Once a Final Plat is approved by the City Council, it shall not thereafter be modified; provided, however, that minor changes may be made upon written application to the Administrator. Major changes require the filing of a new Final Plat and complete re-review.

34-3-29 - 34-3-34 RESERVED.

DIVISION V - MAINTENANCE OF IMPROVEMENTS

34-3-35 SUBDIVIDER'S RESPONSIBILITIES. The subdivider/developer shall maintain all the improvements in the subdivision until they have been accepted by and dedicated to the City or other appropriate entity.

34-3-36 MAINTENANCE BOND. Prior to dedication, the subdivider/developer shall post a maintenance bond with the City Clerk in the form approved by the City Attorney. Said bond shall be in the amount determined by the Building Commissioner to be sufficient to guarantee the satisfactory condition of the required improvements for a period of **two (2) years** from the date of their acceptance and dedication. If at any time during the two-year period the improvements are found to be defective, they shall be repaired/replaced at the subdivider/developer's expense. If the subdivider/developer fails or refuses to pay such costs within **ninety (90) days** after demand is made upon him by the Building Commissioner, the City shall use the maintenance bond to make the necessary repairs/replacement. If the cost of repairs/replacement exceeds the bond amount, the subdivider/developer shall be liable for the excess. At the end of the two-year period, the maintenance bond shall be released.

DIVISION VI - VACATION OF PLATS

34-3-37 VACATION OF PLATS. In accordance with State law (**Ill. Comp. Stats., Chap. 765, Secs. 205/6, 205/7, and 205/8**), any plat or part thereof may be vacated by the owner of the tract, at any time before the sale of any lot therein, by a written vacation instrument to which a copy of the plat is attached. If there are public service facilities in any street, other public way, or easement shown on said plat, the instrument shall reserve to the City or other public entity or public utility owning such facilities the property, rights-of-way, and easements necessary for continuing public service by means of those facilities and for maintaining or reconstructing the same. The vacation instrument shall be approved by the Council in the same manner as plats of subdivision and shall also be approved by the County Superintendent of Highways, the Highway Commissioner of the appropriate township, the District Engineer of the State Department of Transportation, and the public utilities. In the case of the platted tracts wherein any lots have been sold, the written vacation instrument must also be signed by all the owners of lots in said tracts.

ARTICLE IV - ADMINISTRATIVE PROCEDURES

34-4-1 ENFORCEMENT OFFICER, DUTIES. The Enforcement Officer, referred to herein as the Administrator, is hereby authorized and directed to administer and enforce the provisions of this Code. This broad responsibility encompasses, but is not limited to, the following specific duties.

- (A) to review and forward preliminary plats to the Plan **Commission (See Art. III; Div. I);**
- (B) to transmit improvements plans to the City Engineer for his review (**See Art. III; Div. II);**
- (C) to review and forward final plats to the City Council (**See Sec. 34-3-23**);
- (D) to issue stop orders as necessary when the Building Commissioner or City Engineer determines that approved improvements are being constructed in violation of this Code (**See Sec. 34-3-10**);
- (E) to pursue actions authorized at **Section 34-3-19** when a developer fails to complete required improvements;
- (F) to evaluate and pass upon proposed changes in approved final plats (**See Sec. 34-3-28**);
- (G) to review and forward applications for subdivision variances to the Plan Commission (**See Sec. 34-4-2**);
- (H) to maintain up-to-date records of matters pertaining to this Code including, but not limited to, preliminary plats, as-built records of completed improvements (**See Sec. 34-3-11**), final plats, variances, and amendments; and
- (I) to provide information to subdividers/developers and to the general public on matters related to this Code.

34-4-2 SUBDIVISION VARIANCES. Any subdivider/developer desiring a variance from the requirements of this Code shall file a written application therefor with the

Administrator at the same time that he files his preliminary plat. The application shall fully explain the grounds for the variance request, and specify the section(s) of this Code which, if strictly applied, would cause great practical difficulties or hardship. The Administrator shall prepare an advisory report on every variance application and submit it, together with the completed application, to the Plan Commission.

34-4-3 REVIEW BY PLAN COMMISSION. The Plan Commission shall review the variance application and the Administrator's comments, perform on-site review when appropriate, and submit their advisory report to the City Council together with their recommendation on preliminary plat approval (**See Sec. 34-3-2**). The Plan Commission's advisory report shall be responsive to all the variances standards set forth in **Section 34-4-4**.

34-4-4 ACTION BY CITY COUNCIL, VARIANCE STANDARDS. At the same meeting at which they take action on the application for preliminary plat approval (**See Sec. 34-3-3**), the City Council shall decide by resolution whether to grant or deny the requested subdivision variance. A copy of their decision, clearly stating their reasons therefor and the exact terms of any variance granted, shall be attached to both the preliminary and final plats. The City Council shall not grant any subdivision variance unless, based upon the information presented to them, they determine that:

(A) the proposed variance is consistent with the general purposes of this Code (**See Sec. 34-1-1**); and

(B) strict application of the subdivision requirements (**See Article V**) would result in great practical difficulties or hardship to the applicant, not a mere inconvenience; and

(C) the proposed variance is the minimum deviation from the subdivision requirements that will alleviate the difficulties/hardship; and

(D) the plight of the applicant is due to peculiar circumstances not of his own making; and

(E) the peculiar circumstances creating the variance request are not applicable to other tracts and, therefore, that a variance would be a more appropriate remedy than a code amendment; and

(F) the variance, if granted, will not materially frustrate implementation of the municipal comprehensive plan including the Official Map.

34-4-5 AMENDMENTS. Amendments to this Code may be proposed by the Administrator, any member of the City Council, any Plan Commission member, or any party in interest. Every amendment proposal shall be filed on a prescribed form in the Administrator's office. The Administrator shall promptly transmit each proposal, together with any comments or recommendations he may wish to make, to the Plan Commission for a public hearing.

(A) **Public Hearing, Notice.** The Plan Commission shall hold a public hearing on every amendment proposal within a reasonable time after said proposal is submitted to them. At the hearing any interested party may appear and testify, either in person or by duly authorized agent or attorney. Notice indicating the time, date, and place of the hearing, and the nature of the proposed amendment shall be given not more than **thirty (30)** nor less than **fifteen (15) days** before the hearing by publication in a newspaper of general circulation within this municipality.

(B) **Advisory Report, Action By City Council.** Within a reasonable time after the public hearing, the Plan Commission shall submit an advisory report to the City Council. The City Council shall act on the proposed amendment at their next regularly scheduled meeting

following submission of this report. Without another public hearing, the City Council may either pass or reject the proposed amendment or may refer it back to the Plan Commission for further consideration.

34-4-6 SCHEDULE OF FEES.

(A) The review for the preliminary plat shall be **Fifty Dollars (\$50.00)**, plus **Five Dollars (\$5.00)** per lot.

(B) The final plat fee shall be **Fifty Dollars (\$50.00)** if no variation from the preliminary plat, otherwise **Fifty Dollars (\$50.00)**, plus **Five Dollars (\$5.00)** per lot whenever Plan Commission review is required.

(C) Improvement Plan review and inspection fee shall be **one percent (1%)** of the total opinion of probable cost for all improvements as determined by the City Engineer or by the total of all certified contracts for all work related to improvements.

34-4-7 FEES: TIME OF PAYMENT. All fees listed in **Section 34-4-6** shall be paid by the subdivider/developer or the applicant to the City Clerk's office at the time of submission of documents.

ARTICLE V - DESIGN AND IMPROVEMENT STANDARDS

DIVISION I - GENERALLY

34-5-1 APPLICABILITY OF ARTICLE. No land within the subdivision and development jurisdiction of this municipality shall be subdivided or developed except in compliance with the regulations of this Article and the applicable provisions of State law. **(See Ill. Comp. Stats., Chap. 65, Sec. 5/11-12-8; Chap. 765, Secs. 205/1 et seq.)** No lot in any subdivision shall be conveyed until:

(A) the final plat of said subdivision has been approved by the City Council and recorded in the office of the County Recorder of Deeds; and

(B) the portion of said subdivision in which the lot is located has been improved in accordance with the requirements of this Article or until a performance bond or other security has been posted to assure the completion of such improvements.

The Building Commissioner shall not issue a building permit for any lot conveyed in violation of this section.

34-5-2 SUITABILITY FOR DEVELOPMENT GENERALLY. Land that is unsuitable for development due to flooding, poor drainage, rough topography, adverse soil conditions, or other features which will be harmful to the health, safety, and general welfare of the inhabitants of the development and/or its surrounding areas shall not be subdivided or developed unless the subdivider/developer formulates adequate plans/methods to solve the problems caused by the adverse land conditions.

34-5-3 RESERVED.

DIVISION II - LOT REQUIREMENTS

34-5-4 CONFORMITY WITH ZONING. All lots in a subdivision shall conform to the minimum lot area and dimensions requirements of the zoning district in which said subdivision is located; land that is under water or reserved for street improvements shall not be counted to satisfy these minimum requirements. Every corner and through lot shall be large enough to permit compliance with the district's front setback requirements on every side of the lot that faces a street. All lot remnants shall be added to adjacent lots to avoid the creation of unbuildable parcels. All lots shall contain adequate space for required off-street parking and loading.

34-5-5 ACCESS AND RELATIONSHIP TO STREET. Land shall be subdivided in such a way that each lot abuts a street meeting the requirements of **Section 34-5-7**. All side lot lines shall be at right angles to straight street right-of-way lines or radial to curved street right-of-way lines except where a deviation from this rule will provide a better street and lot design.

34-5-6 REFERENCE MONUMENTS. Stone or reinforced concrete reference monuments, set in the ground in such a manner that they will not be moved by frost, shall be placed in the field in accordance with the Plats Act, as now or hereafter amended. **(Ill. Comp. Stats., Chap. 765, Sec. 205/1.)** All block corners shall be **thirty-six (36) inch** permanent concrete post monuments and **four (4) inches** in diameter. All lot corners shall be marked by **one-half (0.5) inch** iron pins not less than **thirty (30) inches** long. These pins shall be driven into the ground deep enough that they do not protrude above the ground surface more than **one-half (0.5) inch**.

DIVISION III - STREET DESIGN STANDARDS

34-5-7 PLAN INTEGRATION. All streets shall be properly integrated with the existing and proposed street system indicated in the municipal comprehensive plan, and shall meet the specifications set forth in **Table 5-A**.

34-5-8 RIGHT-OF-WAY AND PAVEMENT WIDTHS. Every right-of-way established for subdivision purposes is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels. All rights-of-way shall be dedicated to the public by the developer.

The minimum pavement widths shall be as noted in **Table 5-A**.

34-5-9 TOPOGRAPHICAL CONSIDERATIONS. Grades of street shall conform as closely as possible to the natural topography, but shall not exceed the maximum grade nor be less than the minimum grade indicated in the Table of Street Design Specifications. All streets shall be arranged so that as many as possible of the building sites are at or above street grade.

34-5-10 THROUGH TRAFFIC DISCOURAGED. Marginal access and local streets shall be laid out so as to discourage use by through traffic. The rigid rectangular gridiron street pattern shall be avoided, and the use of curvilinear streets, cul-de-sacs, or U-shaped streets shall be encouraged to effect a more desirable street layout.

34-5-11 LIMITED ACCESS TO ARTERIALS. Where a development abuts or contains an existing or proposed arterial street, the Plan Commission may recommend to the City Council that access to said arterial street be limited by one of the following means:

(A) by subdividing lots so they back onto the arterial street and front onto a parallel local street (double frontage lots), coupled with the installation of screening in a reserve (access-restricting) strip along the rear lot lines of such lots;

(B) a series of cul-de-sacs, U-shaped streets, or short loops entered from and generally at right angles to the arterial street, with the rear lot lines of the lots at the termini of such streets backing onto the arterial street; or

(C) a frontage road separated from the arterial street by a planting strip, but having access thereto at suitable points.

34-5-12 DEAD-END STREETS.

(A) **Temporary Stub Streets.** Streets shall be so arranged to provide for the continuation of principal streets between adjacent properties when such continuation is necessary for convenient movement of traffic, effective fire and police protection, and efficient provision of utilities, and where such continuation comports with the City's Official Map. If the adjacent property is undeveloped and the street must dead-end temporarily, the right-of-way shall be extended to the property line, and no strip that would prevent connections with future streets shall be reserved. A temporary turnabout shall be provided at the terminus of any temporary dead-end street.

(B) **Permanent Dead-End Streets.** For greater convenience to traffic and more effective police and fire protection, permanent dead-end streets shall be limited to **five hundred (500) feet** in length.

The terminus of a permanent dead-end street shall not be closer than **fifty (50) feet** to the boundary of an adjacent tract. A cul-de-sac turnaround, having a minimum right-of-way radius of **fifty (50) feet** and a minimum pavement radius of **forty-two (42) feet**, shall be provided at the end of every permanent dead-end street.

34-5-13 INTERSECTIONS.

(A) **Only Two Streets.** Not more than **two (2) streets** shall intersect at any one point.

(B) **Right Angles.** Streets shall be laid out so as to intersect as nearly as possible at right angles; in no case shall **two (2) streets** intersect at an angle of less than **seventy-five (75) degrees**. An oblique street shall be curved approaching an intersection and shall be approximately at right angles with said intersection for at least **one hundred (100) feet** therefrom.

(C) **Proper Alignment.** Proposed new intersections along one side of an existing street shall, whenever practicable, coincide with any existing intersections on the opposite side of such street. Street jogs with centerline offsets of less than **one hundred twenty-five (125') feet** shall not be permitted, except where the intersected street has divided lanes without

median breaks at either intersection. Intersections involving collector or arterial streets shall be at least **eight hundred (800) feet** apart.

(D) **Curb Radii.** To permit safe vehicular movements at corners, the minimum curb radius at the intersection of two streets shall be **twenty (20) feet**, and the minimum radius at the back of the curb shall be **thirty-two (32) feet**.

(E) **Flat Grade.** Intersections shall be designed with a flat grade wherever practical. In hilly terrain, an area having not greater than a **three percent (3%)** slope for a distance of **fifty (50) feet** from the nearest right-of-way line of the intersecting street shall be provided at the approach to an intersection.

(F) **Maximum Cross-Slope.** The cross-slopes on all streets, including intersections, shall not exceed **three percent (3%)**.

(G) **Adequate Sight-Lines.** Where any street intersection will involve earth banks or existing vegetation on the triangular area shown in **Figure 1**, the developer shall cut such ground and/or vegetation (including trees) in connection with the grading of the public right-of-way to the extent necessary to provide an adequate sight distance.

34-5-14 REVERSE CURVES. A tangent at least **one hundred (100) feet** long shall be introduced between reverse curves on local collector and collector streets (**see Figure 2**).

34-5-15 IMPROVEMENTS TO EXISTING STREETS. Whenever any development abuts an existing street that is narrower than the standards indicated in the Table of Street Design Specifications, the subdivider shall dedicate sufficient right-of-way on the side abutting the development to permit compliance with those standards. The developer shall improve said street to the standards imposed at **Section 34-5-21** et seq., and pay one-half the cost of said improvements.

34-5-16 WHEN EXCESS RIGHT-OF-WAY REQUIRED. Right-of-way width in excess of the standards set forth in the Table of Street Design Specifications shall be required where:

(A) due to topography, additional width is necessary to provide adequate earth slopes; or

(B) due to the location of railroad tracks, additional width is needed to construct overpasses, underpasses, and approaches thereto.

34-5-17 - 34-5-19 RESERVED.

DIVISION IV - STREET IMPROVEMENT STANDARDS

34-5-20 STREET REQUIREMENTS. All streets and alleys shall be improved solely at the expense of the developer in accordance with the requirements set forth herein. Typical roadway and pavement sections are shown in **Appendix A**. Requirements for pavement materials, equipment, and methods of construction for bituminous concrete (flexible) pavements and Portland cement concrete (rigid) pavements are contained in **Table 5-B**. Existing streets that adjoin the development on one side only will be improved to meet the current street standards,

and this cost will be shared equally between the City and the developer. Existing streets that join the development on both sides shall be improved at the developer's expense. The extent of the improvement of existing streets will be determined by the City and the developer during improvement plan approval process. All streets shall meet IDOT Roads and Bridges Standard Specifications.

34-5-21 PAVEMENT STRUCTURE. All streets and alleys shall be paved across the entire surface width specified in **Section 34-5-8**. The structural composition of the pavement shall conform to the minimum requirements set forth in **Table 5-B**. Design requirements for both rigid and flexible pavements are set forth hereinafter.

(A) **Flexible Pavements.** Flexible pavements are to be constructed as multi-layered structures combining hot mix bituminous concrete/bituminous base/crushed stone base/subbase. Each layer of material is to be constructed in lifts not to exceed the maximum lift thickness (compacted) specified in **Table 5-B**. The minimum width of any single pass for any lift/layer of bituminous mixture shall be **ten (10) feet**. There are alternate designs for either deep-strength asphalt or bituminous concrete on a crushed stone base/subbase.

(B) **Rigid Pavements.** Rigid pavements are specified as either reinforced or non-reinforced Portland cement concrete to be constructed either on the earth subgrade or on a crushed stone subbase or underlayment. Alternate designs are shown for two of the seven street classifications. The underlayment is to be **one-fourth (1/4) inch** thick fabric such as "Bidim" or "Petromat," or equal.

- (1) Contraction joints are to be provided at the spacings shown in **Table 5-B** for each of the various alternates. These transverse joints are to be sawed joints that are **one-eighth inch (1/8")** to **one-fourth inch (1/4")** wide with a depth equal to **one-fourth (1/4)** of the pavement thickness. Sawed construction joints are to be sawed within **twenty-four (24) hours** of placement on the concrete. All contraction joints are to be dowelled with the exception of the alleys and land access residential streets. Dowel sizes and spacing shall comply with the following requirements:

| Min. Pavement Thickness | Min. Dowel Diameter | Min. Dowel Length | Min. Dowel Spacing |
|-------------------------------|---------------------------|-------------------------|--------------------------|
| 6" | 5/8" | 12" | 12" |
| 7" | 3/4" | 15" | 15" |
| 8" | 1" | 15" | 12" |

The dowel units are to be smooth, plain round bars placed at mid-height of the pavement with an expansion cap on one end. The bars, or assemblies, shall be placed so that the bars are parallel to the centerline and to the pavement surface and shall be treated to prevent bonding of the concrete.

- (2) Longitudinal joints shall be constructed no closer than **eight (8) feet** and no farther apart than **fifteen (15) feet**. The longitudinal joints may be either "construction" joints or "sawed" joints. In either case, there shall be transverse #4 reformed tie bars, **thirty (30) inches** long, spaced at **thirty (30) inch** centers along all

longitudinal joints. This includes the joint between the pavement and curb/gutter if the curb/gutter is not constructed integral with the pavement. As an option to tie bars, either a half-round or trapezoidal preformed keyway meeting the following dimensions may be used on longitudinal joints excluding the gutter joint:

| <u>Pavement Thickness</u> | <u>Half-Round Diameter</u> | <u>Trapezoidal</u> | | |
|-------------------------------|--------------------------------|---------------------|--------------|-----------------------|
| | | <u>Edge Ht.</u> | <u>Depth</u> | <u>Inside Ht.</u> |
| 6" | 2" | 2" | 1" | 1" |
| 7" | 2" | 2" | 1" | 1" |
| 8" | 2" | 2" | 1" | 1" |

Sawed longitudinal joints shall be sawed within **ten (10) days** of concrete placement and prior to any traffic or vehicles traveling on the surface.

- (3) Transverse Construction Joints shall be constructed at the end of each day's run or at locations where a "cold" joint will occur due to a delay or interruption in placement operations. All transverse construction joints shall be "tied" with #4 reformed bars, **thirty-six (36) inches** long, spaced at **twelve (12) inch** centers. Construction joints must be at least **five (5) feet** from a contraction joint.
- (4) Pavement Reinforcement shall be used in all rigid pavements designated as S.R.P.C.C. in Table 5-B. Reinforcement shall be welded wire fabric (**6" X 12"**) with W 4 wire transversely and W 5.5 wire longitudinally weighing approximately **54 lbs. per 100 sq. ft.** The fabric shall be lapped **twelve (12) inches** on transverse laps and **six (6) inches** on longitudinal laps. Reinforcement shall be placed on the subgrade and supported by proper chairs and spacers, prior to paving, at the heights specified below:

| <u>Pavement Thickness</u> | <u>Depth Below Pavement Surface</u> |
|-------------------------------|---|
| 6" | 2" min. 3" max. |
| 7" | 2 " min. 3" max. |
| 8" | 3" min. 4" max. |

Should the Building Commissioner and/or City Engineer or the developer's engineer determine that the minimal standards are not adequate for a given condition (i.e., traffic volume, size of loads, subgrade support, drainage, etc.), the required pavement design shall be determined by the subdivider's engineer on the basis of current pavement design procedures subject to the approval of the Building Commissioner and/or City Engineer.

34-5-22 CURB AND GUTTER. All streets, except alleys and collector commercial, local commercial, arterial or industrial, shall be constructed with Portland cement concrete vertical curb and gutter and/or V-type gutter in accordance with the dimensions and specifications shown, therefor, in the Appendices. Only vertical curb and gutter shall be constructed in Industrial Streets. The materials and construction methods for curb and/or gutter shall conform with IDOT Roads and Bridges Standard Specifications.

Curb and/or gutter may be constructed either integrally or separately in conjunction with Portland cement concrete pavement. If constructed separately, the gutter flag shall be "tied" to P.C.C. pavement with **thirty (30) inch** long #4 reinforcing bars spaced at **thirty (30) inch** centers.

34-5-23 MAINTENANCE RESPONSIBILITY. Subsequent to completion of street construction by the subdivider, the City Engineer shall make a final inspection of all streets to ascertain the acceptability of structural condition, earth slopes, drainage structures, etc. If said inspection indicates no deficient items, the City shall take formal action to accept the completed streets for maintenance based upon the Engineer's recommendation.

Should any item need correction or repair, the subdivider will be notified in writing of each deficiency. No street(s) will be accepted in a subdivision until all streets comply with the City's requirements to the satisfaction of the City Engineer. In addition, the developer will be required to provide a guarantee in the form of a Surety Bond in the amount of **Ten Thousand Dollars (\$10,000)** for a period of **two (2) years**.

34-5-24 RESERVED.

DIVISION V - BLOCKS

34-5-25 BLOCK WIDTH. Blocks shall be sufficiently wide to accommodate **two (2) tiers** of lots having the minimum depth required by the zoning district regulations; provided, that this requirement may be waived in blocks adjacent to local collector or collector streets, railroads, or watercourses.

34-5-26 BLOCK LENGTH. No block shall be longer than **one thousand four hundred (1,400) feet** nor shorter than **five hundred (500) feet**. Wherever practicable, blocks along collector streets shall not be less than **one thousand (1,000) feet** in length.

34-5-27 CROSSWALKS. Crosswalks, not less than **ten (10) feet** wide, may be required through the center of blocks more than **one thousand (1,000) feet** long where necessary to provide circulation or access to schools, playgrounds, shopping centers, transportation, or other community facilities.

34-5-28 RESERVED.

DIVISION VI - SIDEWALKS

34-5-29 REQUIRED. Sidewalks shall be required:

- (A) on the recommendation of the Plan Commission that, sidewalks are needed to ensure public safety;
- (B) along collector streets, near schools, and in shopping areas and similar public places.

These requirements shall not be waived unless the Plan Commission advises the City Council that, in the area in question, sidewalks are not needed to ensure public safety, and/or that topographical conditions make the installation of sidewalks impractical.

All sidewalks constructed within the municipality shall meet IDOT Roads and Bridges Standard Specifications.

34-5-30 SIDEWALK CONSTRUCTION STANDARDS.

(A) **Relationship to Curb.** The street-side edge of every sidewalk shall either abut the curb or be located at least **six (6) feet** from the curb to allow sufficient space for tree planting.

(B) **Width.** Residential sidewalks shall be at least **four (4) feet** wide. Non-residential sidewalks shall be at least **five (5) feet** wide.

(C) **Thickness of Concrete.** All sidewalks shall be constructed of concrete at least **four (4) inches** thick, except that across driveways the thickness shall be increased to **six (6) inches** and/or number **six (6)** reinforcing mesh shall be used.

(D) **Grade.** No sidewalk shall be constructed at a grade steeper than **six percent (6%)**.

(E) **Ramps at Intersections.** When sidewalks are required curbs shall be cut and sidewalks shall be ramped at all intersections so as to enhance the mobility of handicapped individuals.

34-5-31 RESERVED.

DIVISION VII - STREETLIGHTS

34-5-32 INTERSECTION LIGHTING. Streetlights shall be provided at each intersection of streets (or alleys) within a subdivision and at each cul-de-sac, but in no event shall there be less than one streetlight per **four hundred (400) feet** (or portion thereof) of street frontage between intersections, or between a street intersection and the terminus of a dead-end street. Additionally, in multi-family dwelling subdivisions, lighting shall be provided within parking areas at a minimum rate of one light per **twenty-five (25) parking spaces** or any fraction thereof.

34-5-33 STREETLIGHT SYSTEM STANDARDS. The design and installation of the streetlight system in every subdivision shall be reviewed by the Building Commissioner and the appropriate electric utility company.

The lighting intensity of each streetlight shall be equivalent, at a minimum, to a **175 watt lamp** or **6800 mercury luminary lamp**. Each streetlight standard (post) shall be at least **sixteen (16) feet** high.

34-5-34 RESERVED.

DIVISION VIII - STREET NAME SIGNS

34-5-35 SPECIFICATIONS. Street name signs of the size, height, and type approved by Building Commissioner shall be supplied and placed by the developer at all intersections within or abutting any subdivision. Street names shall be sufficiently different in sound and spelling from other street names in this municipality so as to avoid confusion. The City Clerk shall maintain a list of existing street names for reference. A street which is planned as a continuation of an existing street shall bear the same name.

34-5-36 RESERVED.

DIVISION IX - UTILITIES

34-5-37 UTILITY LOCATION AND EASEMENTS REQUIRED. At locations within the subdivision where utilities and drainage facilities are not to be constructed within public rights-of-way, the subdivider shall make provision for easements for such installations. Preliminary plats shall be submitted to the electric, gas, and telephone companies for their input regarding utility easements.

34-5-38 UTILITY EASEMENTS. Utility easements, not less than **twenty (20) feet** wide for sanitary sewers and water mains and not less than **fifteen (15) feet** wide for gas, electric, telephone, and cable television, shall be provided where necessary. Normally, in the case of abutting lots, an equal amount should be taken from each lot. Property owners may (at their own risk) plant shrubbery or hedges or install fences on the easement areas. Utilities (private and public), however, in order to have access for repair shall have the election to destroy said improvements and restore the area only by grading and seeding, or to have alternate access through the owner's property.

34-5-39 DRAINAGE EASEMENTS. Adequate easements for storm water drainage shall be established along any natural drainage channel and in such other locations as may be necessary to provide satisfactory disposal of storm water from streets, alleys, and all other portions of the subdivision. The location and minimum widths of such easements shall be approved by the City Engineer.

34-5-40 MAINTENANCE EASEMENTS. Maintenance easements of not less than **five (5) feet** in width shall be provided along all rear and side lot lines.

34-5-41 RESERVED.

DIVISION X - WATER FACILITIES

34-5-42 POTABLE WATER REQUIRED. An adequate supply of potable water shall be provided to every platted lot in accordance with Illinois Department of Public Health regulations. If the public water system is reasonably accessible, each lot shall be properly connected thereto at the property line. All water distribution lines shall be at least **six (6) inches** in diameter.

34-5-43 FIRE HYDRANTS. Fire hydrants of the type approved by the Water and Sewer Superintendent shall be installed in every subdivision as part of the water distribution system. The distance from any lot to a hydrant, measured along the centerline of the public right-of-way, shall not be greater than **four hundred (400) feet**.

34-5-44 RESERVED.

DIVISION XI - SANITARY SEWERS

34-5-45 COMPLIANCE WITH REGULATIONS. All proposed sanitary sewer facilities shall comply with the regulations of the Illinois Department of Public Health and the Illinois Environmental Protection Agency, and shall be approved by the City Council. All water and sewer lines shall be constructed as per Standard Specifications for Water and Sewers Mains, State of Illinois, 4th Edition, or as amended.

34-5-46 WHEN PUBLIC SYSTEM PLANNED. In areas where the public sanitary sewerage system is not reasonably accessible but where plans for the installation of said system have been approved by the Illinois Environmental Protection Agency, sanitary sewers shall be provided in accordance with such plans and temporarily capped. To serve the subdivision until the time when connection to the public system becomes practicable, an approved private central sewage disposal system shall be installed, or individual sewage disposal systems may be used.

34-5-47 ALTERNATE METHODS OF DISPOSAL. In the event it is not possible, or feasible, for the subdivider to extend the public sewer system into the proposed subdivision, for whatever reason, the subdivider has the right to petition the City to install an alternative method of sewage disposal. Any such petition shall be considered on an individual basis with each case standing on its own merit. No subdivision shall be approved without the City's approval of the method of sewage disposal:

(A) **Private Central Sewage Systems.** Upon specific approval of the City Council, the subdivider may install a private central sewage system. The City shall reserve the right to review and approve/reject the detailed plans for such a system. Approval of the plans by the City shall in no way be construed as acceptance of the design or operation or maintenance responsibility for said installation. Such installation shall be designed and constructed in accordance with the rules and regulations of the Illinois Environmental Protection Agency, and the Illinois Department of Public Health. The subdivider shall assume perpetual operational and maintenance responsibilities for such installation unless arrangements to the contrary are provided for in a formal written agreement between home owners and the subdivider. Failure of the subdivider to discharge his operational/maintenance responsibilities may result in a fine of **Five Hundred Dollars (\$500)** per day for each day a deficiency exists and shall apply to the subdivider, his heirs, successors, or assigns.

(B) **Individual Disposal Systems.** Upon written approval of the City Council, the subdivider may install individual sewage disposal systems providing the lot size is in excess of **twenty thousand (20,000) s.f.** If such installations are permitted, they shall be designed and installed in accordance with the applicable provisions of the requirements and regulations of the "**Private Sewage Disposal Licensing Act and Code**" of the Illinois Department of Public Health.

34-5-48 RESERVED.

DIVISION XII - DRAINAGE AND STORM SEWERS

34-5-49 STORM WATER FACILITIES REQUIRED. Storm water detention facilities shall be required for all new developments. The applicant must show, by their detailed calculations, that the requirements of this Code are met. The developer, upon City direction, may pay a fee instead of on-site storm water detention. The fee shall be based upon the pro-rated share of the City's cost or expected costs to provide the regional detention facility. Costs shall be pro-rated based upon the amount of run-off contributing to the regional detention facility.

34-5-50 DESIGN FORMULA. Rainfall intensity shall be from the latest technical letters of the Illinois State Water Survey. For areas of less than **twenty (20) acres** of total contributing drainage area, the calculation of run-off volumes and allowable release rates shall be calculated using the rational method as outlined in the latest Illinois Department of Transportation Drainage Manual. For contributing drainage areas greater than **twenty (20) acres**, the Soil Conservation Hydrograph Method shall be used. No other methodology will be acceptable without prior written permission of the City Engineer.

34-5-51 DESIGN STORM.

(A) **Rational Method.** Storage volume calculated using the Rational Method shall be the difference between the average run-offs of the 100-year rainfall frequency in the post development condition and the 3-year rainfall frequency in the predevelopment condition, assuming such differences occur for **one (1) hour**.

(B) **Soil Conservation Hydrograph Method.** When using the Soil Conservation Hydrograph Method the storage volume will be the difference between an inflow

hydrograph generated using a 100-year rainfall frequency with a run-off coefficient in post development conditions, less the allowable release rate.

34-5-52 RELEASE RATE. The allowable release rate will be the run-off generated from a rainfall intensity associated with the average recurrence interval of **three (3) years** for the storm period calculated by the time of concentration, as outlined by the latest technical letters of the Illinois State Water Survey or Soil Conservation Service. C factor or CN number used to determine the allowable release rate shall reflect the pre-developed condition of the water shed.

34-5-53 BASIN REQUIREMENTS.
(A) **Dry Bottom Basins.** All dry bottom basins shall be designed with the minimum bottom slope of **two percent (2%)**. A minimum slope of **one percent (1%)** may be used if an underdrain tile system is installed in the basin. Underdrain tile systems shall be constructed of rigid perforated PVC pipe, SDR 35 or stronger, encased in an envelope of fabric weighing not less than **three and one-half (3 ½) ounces** per square yard, meeting the requirements for geotechnical fabric for French drains as specified in the **Illinois Department of Transportation Standard Specifications for Road and Bridge Construction**, latest edition.

(B) **Wet Bottom Basins.** A wet bottom basin shall be constructed with a top berm adequate in size for expected maintenance equipment. The proposed shore line shall be adequately protected against erosion by construction of a wave shelf and other means as determined necessary by the City Engineer.

(C) **All Basins.** All storm water detention basins shall be constructed with emergency spillways which shall be sized for no less than **seventy-five percent (75%)** of the maximum peak inflow to the basin. Emergency spillways shall be protected from erosion with approved paving or slope stabilization. All detention basins shall be constructed with a minimum of **one (1) foot** freeboard over the maximum anticipated water level in the emergency spillway. Submission of design calculations justifying storm water detention basin design shall include the proposed owner and responsible party for maintenance of the detention basin.

34-5-54 FLOOD ROUTE. A flood route shall be provided in all developments to convey the 100-year flood through the proposed development to the storm water detention basin. A flood route may be a storm sewer, street or open channel. Finish ground at all building sites adjacent to flood routes shall be a minimum of **one (1) foot** above the 100-year water level in the flood route.

34-5-55 SURFACE AND GROUND WATER. Storm water drainage shall be constructed for every platted lot to provide satisfactory disposal of surface and/or groundwater as determined necessary by the City Engineer.

34-5-56 RESERVED.

(Ord. No. 98-13; 08-24-98)

DIVISION XIII - GENERAL GUIDELINES

34-5-57 APPLICABILITY. This Code shall apply to all development within the limits of the City. Residential developments having a total area of less than **five (5) acres**, and commercial or industrial developments having a total area of less than **two (2) acres**, may be given a waiver by the City in accordance with **Section 34-4-4** of this Code, subject to the following conditions.

(A) The City retains the right to require detention storage in all cases in which the proposed development will generate excess runoff that adversely affects the carrying capacity of the receiving watercourse.

(B) Developments less than **two (2) acres** with less than **thirty percent (30%)** of the area paved and developments generating less than one cubic foot per second (CFS)/acre increased runoff shall not be required to provide detention storage, unless conditions (A) is applicable.

(C) This Code shall apply for all newly platted areas and new developments proposed after the date of passage of this Code. All development that have an approved preliminary plan by the Plan Commission at the time of the approval of this Code will not have to conform to this Code.

34-5-58 AFFIDAVIT OF DISCLOSURE OF PROPERTY INTEREST. The effective acreage for a site is not limited to a fractional part of the total. If a project is developed in phases or small plats, the total acreage of the project site must be considered. At the time the owner of any development submits a preliminary plat or preliminary plan, he shall also identify to the City all contiguous property or property in the watershed that he has interest in.

34-5-59 METHOD OF EVALUATION. The storage capacity and discharge rate shall be based upon the calculated volume and peak flow of the storm water runoff, respectively. The calculations for sites having an area of **one hundred (100) acres** or less shall be made using either the Illinois Manual for Soil Erosion and Sedimentation Control Method or the Rational Method. If the site is larger than **one hundred (100) acres** then the Engineer shall use the Illinois Manual for Soil Erosion and Sedimentation Control Method or if another method is desired to be used, the Engineer shall submit a proposed method of evaluation for the calculations for review and approval. The permitted discharge rate of storm water runoff shall be determined by calculating the rate of runoff for the site's pre- and post-development conditions. The Engineer shall determine the most critical storm looking at three different time periods: 1) the time of concentration, 2) a one hour storm and 3) a 24-hour storm.

34-5-60 DETENTION OF DIFFERENTIAL RUNOFF. All new developments shall provide a storm water system that insures that the rate of flow of storm water runoff discharged from the site after development does not exceed the rate of flow of storm water runoff discharged from the site before development of a 25-year storm, unless given a waiver by the City in accordance with **Section 34-4-4** of this Code. Data shall be submitted for the 15-, 25-, and 100-year frequency storm.

34-5-61 FLows FROM UPSTREAM AREAS. Flows from upstream areas outside the site should be based upon the assumption that those areas are fully developed under forecast land use patterns. The required storage volume will be based upon the site only, with flows from

upstream areas being by-passed or discharged via overflow spillways or other devices for the 100-year storm.

34-5-62 FACILITIES IN FLOODPLAINS. If detention storage is provided within a floodplain, only the net increase in storage volume above that which naturally existed on the floodplain shall be credited to the development. No credit will be granted for volumes below the elevation of the base flood at that location unless compensatory storage is also provided. Where encroachments in the existing floodplain fill the valley storage areas, an equal amount of detention volume shall be provided.

34-5-63 LAND CREDIT FOR DETENTION FACILITIES. The number of units/lots shall be based on the total area of the tract to be developed. All areas to be used as detention facilities shall be included in this total area.

34-5-64 RESERVED.

DIVISION XIV - DESIGN CRITERIA

34-5-65 GENERAL REQUIREMENTS. The design shall be accomplished under the direction of a Registered Professional Engineer. The design shall also be based on land use in the tributary area as zoned, actually developed, or indicated by an adopted future land use plan, whichever basis produces the greatest runoff.

34-5-66 OTHER REFERENCES. Other agencies have criteria and regulations pertaining to drainage systems which may complement this criteria. When conflicts are encountered the most rigorous criteria shall govern.

(A) **Federal Insurance Agency.** Floodplain Regulations and Implementing Ordinances Adopted by Municipalities: Drainage systems designed within the limits of the designated 100-year floodplain on the principal stream shall be designed to convey the flood as defined by applicable published floodplain information studies. For areas located in FIA Zone "A" outside the detailed study area, the developer shall prepare studies and calculations establishing the floodplain, elevation and width. These calculations shall be submitted to the reviewing agency for approval.

(B) **Illinois Department of Water Resources.** Rules and Regulations of Dams and Reservoirs shall apply to those structures classified as dams thereunder.

34-5-67 STORM WATER RUNOFF. The design criteria used in determining the amount of runoff shall be the same as set out in **Section 34-5-49** of this Code.

34-5-68 HYDRAULIC CONSIDERATIONS FOR DETENTION STORAGE.
(A) **Principal Spillways.** Shall be designed to meet the following requirements:

- (1) The principal spillway shall be designed to function without requiring attendance or operation of any kind or requiring use of equipment or tools.
- (2) All discharge from the detention facility when inflow is equal to or less than the 100-year inflow shall be via the principal spillway(s).
- (3) The design shall allow for discharge of at least **eighty percent (80%)** of the detention storage volume within **twenty-four (24) hours** after the peak or center of mass of the inflow has entered the detention basin. On basins less than **one hundred (100) acres**, this shall not apply.
- (4) The design discharge rate via the spillway shall continuously increase with increasing head and shall have hydraulic characteristics similar to weirs, orifices or pipes.

(B) **Emergency Spillways.** The emergency spillway shall be provided to pass a 100-year storm without damaging any property and, where applicable, designed to Illinois Urban Manual: Section 4 - Standards.

(C) **Outlet Works.** Shall have an outlet works consisting of valves, gates, pipes, and other devices as necessary to completely drain the facility in **seventy-two (72) hours** or less when required for maintenance or inspection on normally wet basins.

(D) **Sediment Storage.** Shall be designed to provide for **five (5) years** of sediment accumulation calculated by using the standards in Section 4 of the Illinois Urban Manual. All other detention facilities shall provide storage for **two (2) years** of sediment accumulation by using the Manual, except for those using roofs of buildings, paved parking areas or other facilities designed to preclude the deposition or accumulation of sediment. Sediment storage volume shall be in addition to the volume required for temporary storage of storm water to properly size the detention facility on normally wet basins.

(E) **Erosion Control.** Principal spillways and outlet works shall be designed to prevent erosion and if necessary equipped with energy dissipating devices to slow the water to normal velocity as called out in the Illinois Urban Manual. Special measures shall be taken by the developer to not permit sediment from filling the proposed detention basin during all construction of the proposed development.

(F) **Public Detention Facilities.** The owner shall dedicate the detention facility and easements as set forth upon completion of the one-year warranty period and approval by the City Engineer, except:

- (1) When multipurpose wet facilities are planned or are suitable for use for private aquatic recreation or for aesthetic enhancement of the owner's property.
- (2) When multipurpose dry facilities incorporate surface recreational improvements.

(G) **Private Detention Facilities.** Shall be designed requiring the same criteria as the public detention facilities.

The amount of easement shall be equal to the land occupied by the facility plus a **twenty (20) foot** wide strip around the perimeter of the highest elevation attained by the design storage volume, plus an excess easement **twenty (20) feet** in width between the facility and public street. This easement shall be shown as common ground or be dedicated to the trustees of the subdivision or owner of the property for the purpose of maintenance of the storm water detention facility.

A plan for perpetual maintenance and designating responsibility for the maintenance shall be provided for its continuing performance to the standards established by this criteria.

34-5-69 RESERVED.

DIVISION XV - PLAN REQUIREMENTS

34-5-70 PLAN REQUIREMENTS. The plan requirements shall be:

(A) Elevation-area-capacity curves for the storage facility including notation of the storage volumes allocated to runoff, and permanent residual water storage for other uses (wet basins only).

(B) Inflow hydrographs (detention volumes for rational method) for the 15-, 25-, and 100-year recurrence interval design storms.

(C) Stage-discharge rating curves for each spillway and for combined spillway discharges.

(D) Routing curves for the 15-year and all greater criteria recurrence interval design storms with time plotted as the abscissa and the following plotted as ordinates (this item is not required for the rational method):

- (1) Cumulative inflow volume.
- (2) Cumulative discharge.
- (3) Stage elevation.

34-5-71 CONSTRUCTION ALTERNATIVES.

(A) A developer shall build, as part of his development, a detention basin as required by this Code, unless the following sections apply.

(B) Developers of adjacent tracts may combine to build one detention site large enough to meet the requirements of all the tracts of land with approval of the City. The basin shall be located in the same drainage basin.

(C) On-site detention will be required whenever increased runoff from the proposed development creates a hazard down stream as determined by the City Engineer.

34-5-72 RESERVED.

**DIVISION XVI - INSPECTION, MAINTENANCE AND
ACCEPTANCE BY CITY**

34-5-73 INSPECTION. The developer shall inspect or cause to be inspected, all storm water detention systems constructed within the City. Through such inspection reports the City Engineer shall ensure that the facilities under construction are being constructed in accordance with the approved plans for such development.

34-5-74 MAINTENANCE. Each owner of the property being developed has the responsibility and duty to properly operate and maintain any storm water management system which has not been accepted for maintenance by the City. The responsibility of maintenance of the system and subdivision projects shall remain with the developer until such time as the storm

water management system escrow for such development has been released at the end of the one-year warranty period. Upon release of escrow, the maintenance responsibility shall be vested in the trustees of the subdivision by virtue of a trust indenture. Indenture of trusts shall clearly indicate resident responsibility for maintenance. All such privately owned maintained systems shall be subject to periodic inspections by the City Engineer or its representative. After an inspection by the City Engineer, he determines whether or not the conditions of the privately owned storm water detention system are safe and correct. Any cost incurred by the City, as a result of the City Engineer's actions, shall be attest against the owner(s) of the system.

34-5-75 ACCEPTANCE. Upon acceptance by the City Council, the storm water detention system may be dedicated to the City for perpetual maintenance. Any such system shall include adequate perpetual access and sufficient area for maintenance by the City personnel and vehicles.

34-5-76 RESERVED.

DIVISION XVII - PENALTIES FOR VIOLATION

34-5-77 GENERAL. Violation of the provisions of this Code or failure to comply with any of its requirements, including conditions and safeguards established shall constitute a misdemeanor. Each day such violation continues shall be considered a separate offense.

34-5-78 CORRECTIVE ACTIONS. Nothing herein contained shall prevent the City from taking such other lawful actions as is necessary to forbid or remedy any violations. All such costs connected therewith shall accrue to the person or persons responsible.

34-5-79 PENALTY. Any person who violates this Code shall be subject to the penalty in **Section 1-1-20** in the Revised Code.

TABLE 5-A**STREET DESIGN SPECIFICATIONS**

| <u>Residential Street Classification</u> | <u>Max. No. of Dwelling Units/ Net Acre</u> | <u>Permitted On-Street Parking</u> | <u>Required R.O.W. (ft.)</u> | <u>Min. Pave- ment Width (ft.)</u> | <u>Max. Grad- ient (%)</u> | <u>Min. Gradient (%)</u> |
|--|---|--|--------------------------------------|--|--------------------------------|----------------------------------|
| Marginal Access | To 1.99 | None | 40 | 20 | 6 | 1.3 |
| Local | 2.0-4.50 | Both Sides | 45 | 30 | 6 | 1.0 |
| Collector | 4.50/Greater | Both Sides | 50 | 34 | 6 | 1.0 |
| Arterial | Over 250 dwelling units served | None | 70 | 28 | 6 | 1.0 |

| <u>Commercial and Industrial Street Classification</u> | <u>Permitted On-Street Parking</u> | <u>Required R.O.W. (ft.)</u> | <u>Min. Pavement Width (ft.)</u> | <u>Max. Gradient (%)</u> | <u>Min. Gradient (%)</u> |
|--|--|--------------------------------------|--|----------------------------------|----------------------------------|
| Local | None | 60 | 26 | 10 | 1.0 |
| Local | One Side | 60 | 34 | 10 | 1.0 |
| Local | Both Sides | 60 | 42 | 10 | 1.0 |
| Collector | None | 80 | 44 | 8 | 1.0 |

TABLE 5-B**MINIMUM REQUIREMENTS FOR STRUCTURAL
COMPOSITION OF PAVEMENTS**

| Street Classification | Flexible Pavements | | Rigid Pavements | |
|---|--|--|--|---|
| | <u>Alt. #1</u> | <u>Alt. #2</u> | <u>Alt. #1</u> | <u>Alt. #2</u> |
| MARGINAL LAND ACCESS Residential | 4" BAM 2" I-11 Surf. | 8" Cr. St. 1 1/2" I-11 Bind. 1 1/2" I-11 Surf. | 6" P.C.C. (15' Plain Jts) | ----- |
| LOCAL Residential | 5" BAM 2" I-11 Surf. | 8" Cr. St. 2" I-11 Bind. 1 1/2" I-11 Surf. | 6" P.C.C. (15' Plain Jts) | ----- |
| COLLECTOR Residential | 4" BAM 2 1/2" I-11 Bind. 2" I-11 Surf. | 8" Cr. St. 3" BAM` 1 1/2" I-11 Surf. | 6" S.R.P.C.C. (40' Dowel Jts) | 6" P.C.C. 4" Cr. St./ U.L. (15' Dowel Jts) |
| LOCAL Commercial and Industrial | 4" Bam 2" I-11 Bind. 1 1/2" I-11 Surf. | 8" Cr. St. 3" BAM 2" I-11 Surf. | 6" S.R.P.C.C. (40' Dowel Jts) | 6" P.C.C. 4" Cr. St./ U.L. (15' Dowel Jts) |
| COLLECTOR Commercial and Industrial | 6" BAM 2 1/2" I-11 Bind. 1 1/2" I-11 Surf. | 8" Cr. St. 4" BAM 1 1/2" I-11 Bind. 1 1/2" I-11 Surf. | 7" S.R.P.C.C. (40' Dowel Jts) 4" Cr. St./ U.L. | ----- |

NOTE: Equivalent pavements in addition to those shown above shall be determined by the City Engineer. Should the total pavement thickness exceed 8" the granular base/subbase shall extend under the curb/gutter.

ABBREVIATIONS:

| | | |
|------------|---|--|
| Cr. St. | = | Crushed Stone |
| BAM | = | Bituminous Aggregate Mixture |
| U.L. | = | Underlayment |
| P.C.C. | = | Unreinforced Portland Cement Concrete |
| S.R.P.C.C. | = | Standard Reinforced Portland Cement Concrete |

MAXIMUM LIFT THICKNESS:

| | | |
|---------------|---|--------|
| Crushed Stone | = | 8" |
| BAM | = | 6" |
| I-11 Binder | = | 2 1/2" |
| I-11 Surface | = | 2" |

**SOIL CONSERVATION SERVICE
CONSERVATION PRACTICE
STANDARD**

**IMPOUNDMENTS STRUCTURE – FULL FLO
(no.)
CODE 841**

DEFINITION. A dam or excavation which creates an impoundment to collect and store debris, sediment, or water.

PURPOSE. The purpose of this practice is to reduce sediment and/or debris in runoff waters to prevent damage to downstream facilities; or to provide surface water for consumption, irrigation, wildlife habitat, recreation or fire protection.

CONDITIONS WHERE PRACTICE APPLIES. This practice applies where sediment or debris are expected to be contained in runoff waters and may impair the capacity of the watercourse or damage other structures or where a surface water supply is desirable; where storage for at least **one (1) inch** of water from the contributing watershed is either impractical or undesirable and where any embankment does not exceed the limits for Class III, small dams, as defined by the IDOT-DWR in "Rules for Construction and Maintenance of Dams" and the landowner or other responsible party has secured necessary permits, if required, for design and construction from IDOT-DWR and any local governmental authorities.

CRITERIA.

Investigations. Sufficient investigations shall be made of the impoundment site and borrow areas to determine the suitability of site and materials for construction, water holding ability and structure stability. A complete analysis of foundation and proposed fill materials shall be made when, in the opinion of the responsible engineer, it is necessary.

Hazard/Safety. Structures designed under criteria found in this practice shall fall within the Class III, small dam category, defined by the IDOT-DWR as follows: "*Class III. Dams located where failure has low probability for causing loss of life, where there are no permanent structures for human habitation, or minimum economic loss in excess of that which naturally would occur downstream of the dam if the dam had not failed. A dam has a low probability for causing loss of life or minimal economic loss if it is located where its failure may cause damage to agricultural fields, timber areas, township roads, or similar type areas where people seldom are present and where there are few structures. This corresponds to US Army Corps of Engineers Low Hazard Potential and USDA SCS class a dams.*"

Small dams have a total impounding capacity of less than **one thousand (1,000) acre-feet** and dam height of less than **forty (40) feet**, where dam height is defined as "*height of dam, in feet, as measured from the natural bed of the stream or watercourse at the downstream dam slope toe of the barrier to the top of the embankment or barrier.*"

Owners of impoundment structures shall obtain all necessary permits. IDOT-DWR permits may be required for Class III, small dams where:

1. The drainage area of the proposed dam is **six thousand four hundred (6,400) acres** or more in a rural area or **six hundred forty (640) acres** or more in an urban area, or
2. The dam is **twenty-five (25) feet** or more in height, provided that the

impounding capacity is greater than **fifteen (15) acre-feet**, or

3. The dam has an impounding capacity of **fifty (50) acre-feet** or more provided that the dam height is greater than **six (6) feet**.

Pool Capacities. Structures for the impoundment of debris or sediment shall have a capacity equal to the volume of sediment or debris expected to be trapped at the site during the planned useful life of the structure. That capacity may be proportionally reduced, if periodic removal of sediment/debris is planned.

Structures that impound water for consumptive use shall have capacity as required by local consumptive use standards.

Structures that impound water for irrigation, wildlife habitat or recreation shall have capacity and depth adequate for the intended use.

Structures that impound water for fire protection shall have a capacity of at least **four thousand (4,000) cubic feet** per residence. That capacity shall exist between the inlet to hydrant and an elevation **three (3) feet** below the permanent pool elevation.

Runoff Computation. Total runoff amounts and peak discharges may be computed using procedures found in SCS Engineering Field Handbook, SCS Engineering Handbook, SCS TR-55 and TR-20, US Army Corps of Engineers HEC-1 or other procedures designated by the appropriate regulatory authorities.

Principal Spillways. Non-permit, IDOT Class III dams shall have a principal spillway structure capable of passing the peak discharge from a **twenty-four (24) hour** duration storm event of frequency specified in Table 1 with stage at or below emergency spillway crest.

IDOT Class III, permit size dams shall have a principal spillway structure capable of passing the peak discharge from a **twenty-four (24) hour, twenty-five (25) year** storm event with stage at or below the emergency spillway crest.

Principal spillway structures may be conduits, weir-type straight drops, or chutes.

Principal spillway pipe conduits and fittings may be metal, as per material specifications 551, 552, or 554 or non-metal, as per SCS material specifications 541, 542, 544, or 547. Conduits or other materials may be used at the discretion of the appropriate regulatory authorities.

Pipe conduits should meet the following requirements:

The pipe should be capable of withstanding external loading without yielding, buckling, or cracking. Pipe strength should not be less than that of the grades indicated in Table 2 for plastic pipe and in Table 3 for corrugated aluminum and galvanized steel pipe. Flexible pipe strength shall not be less than that necessary to support the design load with maximum **five percent (5%)** deflection. The inlets and outlets should be structurally sound and made of materials compatible with that of the pipe. All pipe joints should be made watertight by the use of couplings or gaskets or by welding or caulking.

Acceptable pipe materials are cast-iron, steel, corrugated steel, or aluminum, concrete, plastic, vitrified clay with rubber gaskets, and cast-in-place reinforced concrete. Aluminum pipe will not be used in soils with pH values outside the range of 4-9. Concrete and vitrified clay pipe should be laid in a concrete bedding. Plastic pipe that will be exposed to direct sunlight should be made of ultraviolet-resistant materials and protected by coating or

shielding, or provisions for replacement should be specified. Connections of plastic pipe to less flexible pipe or structures must be designed to avoid stress concentrations that could rupture the plastic. Cantilever outlet sections, if used, should be designed to withstand the cantilever load. Pipe supports should be provided when needed. Other suitable outlet protection structure devices may also be used to provide a safe outlet.

Anti-seep collars should be installed around the pipe conduit in the normal saturation zone if any of the following conditions exist:

1. The settled dam height exceeds **fifteen (15) feet**.
2. The conduit is of smooth exterior pipe larger than **eight (8) inches** in diameter.
3. The conduit is of corrugated exterior pipe larger than **twelve (12) inches** in diameter.

Anti-seep collars and their connections to the pipe should be watertight. The collar material should be compatible with pipe materials. The maximum spacing should be approximately **fourteen (14) times** the minimum projection of the collar measured perpendicular to the pipe. A minimum of **one (1)** anti-seep collar should be used on all conduits.

Closed conduit spillways designed for pressure flow must have adequate antivortex devices at their inlets.

If needed to prevent clogging of the conduit, an appropriate trash guard should be installed at the inlet or riser.

For safety reasons, all vertical drop inlets should be constructed to prevent accidental injury. This may be accomplished by using a horizontal anti-vortex baffle, trash rack or guard rail.

Procedures for designing, dimensioning, and detailing pipe conduit spillways may be

found in the SCS Engineering Field handbook, the SCS National Engineering Handbook and Illinois Procedures and Standards for Urban Soil Erosion and Sedimentation Control or other references specified by local regulatory authorities.

Weir-type straight drops or box inlets and chutes shall be designed according to procedures in the SCS Engineering Field Handbook, the SCS National Engineering Handbook, and the USDA Agricultural Handbook No. 301, or as specified by the local regulatory authorities.

SCS toe wall drop structures can be used if the vertical drop is **four (4) feet** or less, flows are intermittent, downstream grades are stable, and tailwater depth at design flow is equal to or greater than **one-third (1/3)** of the height of the overfall.

The ratio of the capacity of drop boxes to road culverts shall be as required by the responsible road authority. The drop box capacity attached to a new or existing culvert must equal or exceed the culvert capacity at the design flow.

Emergency Spillways. An emergency spillway must be provided for each dam, unless the principal spillways are large enough to pass peak discharge from the routed design hydrograph and the trash that comes to it without overtopping the dam. The following are minimum criteria for acceptable use of pipe conduit principal spillway without an emergency spillway: a conduit with a cross-sectional area of **three (3) square feet** or more, an inlet that will not clog, and an elbow designed to facilitate the passage of trash.

The minimum capacity of a natural or constructed emergency spillway shall be that required to pass the peak flow expected from a design storm of the frequency and duration shown in Table 1. IDOT Class III permit dams shall have an emergency spillway capable of passing the

peak discharge from a 100-year, 24-hour storm event less principal spillway discharge.

Emergency spillways shall provide for passing the design flow at a safe velocity to a point downstream where the dam will not be endangered.

Constructed emergency spillways are open channels that usually consist of an inlet channel, a control section, and an exit channel. They shall be stable for the material in which the spillway is to be constructed. The emergency spillway shall have a bottom width of not less than **ten (10) feet**.

Upstream from the control section, the inlet channel shall be level for the distance needed to protect and maintain the crest elevation of the spillway. The inlet channel may be curved to fit existing topography. The grade of the exit channel of a constructed emergency spillway shall fall within the range established by discharge requirements and permissible velocities. Design procedures and details for vegetated earth emergency spillways may be found in the SCS Engineering Field Handbook, the SCS National Engineering Handbook, and SCS Technical Release 52, or other references specified by the local regulatory authorities.

Foundation Cutoff. A cutoff of relatively impervious material shall be provided under the dam if necessary. The cutoff shall be located at or upstream from the centerline of the dam. It shall extend up the abutments as required and be deep enough to extend into a relatively impervious layer or provide for a stable dam when combined with seepage control. The cutoff trench shall have a bottom width adequate to accommodate the equipment used for excavation, backfill, and compaction operations. Side slopes shall not be steeper than one horizontal to one vertical.

Seepage control. Seepage control is to be included if:

1. Pervious layers are not intercepted by the cutoff.
2. Seepage creates swamping downstream.
3. Such control is needed to insure a stable embankment.
4. Special problems require drainage for a stable dam.

Seepage may be controlled by:

1. Foundation, abutment, or embankment drains.
2. Reservoir blanketing.
3. A combination of these measures.

Earth Embankment. The minimum top width for a dam is shown in Table 4. If the embankment top is to be used as a public road, the minimum width shall be **sixteen (16) feet** for one-way traffic and **twenty-six (26) feet** for two-way traffic. Guardrails or other safety measures shall be used where necessary and shall meet the requirements of the responsible road authority.

The combined upstream and downstream side slopes of the settled embankments shall not be less than five horizontal to one vertical, and neither slope shall be steeper than two horizontal to one vertical. All slopes must be designed to be stable, even if flatter side slopes are required.

If needed to protect the slopes of the dam, special measures, such as berms, rock riprap, sand-gravel, soil cement, or special vegetation, shall be provided.

The minimum elevation of the top of the settled embankment shall be **one (1) foot** above the water surface in the reservoir with the emergency spillway flowing at design depth. The minimum difference in elevation between the crest of the emergency spillway and the settled top of the dam shall be **two (2) feet** for all dams having more than **twenty (20) acre**

drainage area or more than **twenty (20) feet** in effective height.

The design height of the dam shall be increased by the amount needed to insure that after settlement the height of the dam equals or exceeds the design height. This increase shall not be less than **five percent (5%)**, except where detailed soil testing and laboratory analyses show that a lesser amount is adequate.

EXCAVATED IMPOUNDMENTS.

Runoff. Provisions shall be made for a pipe and emergency spillway if necessary. Runoff flow patterns shall be considered when locating the pit and placing the spoil.

Side Slopes. Side slopes of excavated ponds shall be stable and shall not be steeper than one horizontal to one vertical.

Perimeter Form. If the structures are to be used for recreation or are highly visible to the public, the perimeter or edge should be curvilinear.

Inlet Protection. If surface water enters the pond in a natural or excavated channel, the side slope of the impoundment shall be protected against erosion.

Excavated Material. The material excavated from the pond shall be placed so that its weight will not endanger the stability of the pond side slopes and so that it will not be washed back into the pond by rainfall. It shall be disposed of in one of the following ways:

1. Uniformly spread to a height that does not exceed **three (3) feet**, with the top graded to a continuous slope away from the impoundment.
2. Uniformly placed or shaped reasonably well, with side slopes assuming a natural angle of repose. The excavated material will be placed at a distance equal to the depth of the impoundment

but not less than **twelve (12) feet** from the edge of the impoundment.

3. Shaped to a designed form that blends visually with the landscape.
4. Used for low embankment and leveling.
5. Hauled away.

Vegetation. Disturbed areas that are not to be cultivated shall be established as soon as practicable after construction. Seedbed preparation, seeding, fertilizing and mulching shall comply with practice standard 880 or 970 Permanent or Temporary Seeding.

CONSIDERATIONS.

Site Safety. Impoundments are potential attractive nuisances and safety aspects must be considered in their design and layout. If the area is used or may be used for recreation, it is recommended that warning signs be erected, that lifesaving equipment be available on site and that emergency instructions be posted in a conspicuous location.

Visual Resource Design. The visual design of impoundments shall be carefully considered in areas of high public visibility and those associated with recreation. The underlying criterion for all visual design is appropriateness. The shape and form of ponds, excavated material, and plantings are to relate visually to their surroundings and to their function.

The embankment may be shaped to blend with the natural topography. The edge of the impoundment may be shaped so that it is generally curvilinear rather than rectangular. Excavated material can be shaped so that the final form is smooth, flowing, and fitting to the adjacent landscape rather than angular geometric mounds. If feasible, islands may be added for visual interest and to attract wildlife.

Impoundments for water supply should have adequate drainage area to fill at least

yearly. As a minimum, drainage area, in acres, where water supply is a primary purpose, shall equal permanent storage in acre-feet.

PLANS AND SPECIFICATIONS. Plans and specifications for installing full flow impoundment structures shall be in keeping with this standard and shall describe the requirements for installing the practice. Items that specifications should address, if applicable, and appropriate construction/material specifications, standard drawings and other standards are as follows:

Site and Foundation Preparation. All site and foundation areas shall be prepared and maintained in such a manner that earthfill placement or other specified treatments allow the practice to achieve its intended purpose. Applicable construction specifications may include: 1 CLEARING, 2 CLEARING AND GRUBBING, 8 MOBILIZATION, 10 WATER FOR CONSTRUCTION, 11 REMOVAL OF WATER.

Applicable material specifications may include: 521 AGGREGATES FOR DRAINFILL FILTERS, 592 GEOTEXTILES.

Applicable standard drawings may include drawing number IL-515 DIVERSION PLAN, IL-585 EARTH DAM STRUCTURE PLAN, IL-630 STABILIZED CONSTRUCTION ENTRANCE, IL-650 SUMP PIT PLAN, AND IL-610 TEMPORARY SLOPE DRAIN PLAN.

Other applicable standards may include: 315 DIVERSION, 950 SUMP PIT, 970 TEMPORARY SLOPE DRAIN, 975 TEMPORARY STREAM CROSSING.

Excavations and Earthfill. All specified excavation shall be preformed and earthfills shall be placed in such a manner that allows the practice to achieve its intended purpose. Applicable construction specifications may include: 10 WATER FOR CONSTRUCTION, 21 EXCAVATION, 23 EARTHFILL, 24 DRAINFILL, 25 ROCKFILL, 26 SALVAGING

AND SPREADING TOPSOIL, 61 LOOSE ROCK RIPRAP, 62 GROUTED ROCK RIPRAP, 95 GEOTEXTILE.

Applicable material specifications may include: 521 AGGREGATES FOR DRAINFILL AND FILTERS, 523 ROCK FOR RIPRAP, 592 GEOTEXTILE.

Applicable standard drawings may include: IL-585 EARTHDAM STRUCTURE PLAN.

Spillway Structures. All spillways including inlet and outlet structures shall be constructed or installed in a manner that allows the practice to achieve its intended purpose. Materials and construction techniques specified shall be appropriate for the intended life and hazard classification of the practice. Where available, manufacturer's installation recommendations may be included in specifications. Application construction specifications may include: 24 DRAINFILL, 25 ROCKFILL, 32 CONCRETE FOR MINOR STRUCTURES, 34 STEEL REINFORCEMENT, 41 REINFORCED CONCRETE PRESSURE PIPE PRINCIPAL SPILLWAY CONDUITS, 42 CONCRETE PIPE CONDUITS AND DRAINS, 43 CLAY PIPE CONDUITS, 51 CORRUGATED METAL PIPE CONDUITS, 41 REINFORCED CONCRETE PRESSURE PIPE PRINCIPAL SPILLWAY CONDUITS, 42 CONCRETE PIPE CONDUITS AND DRAINS, 43 CLAY PIPE CONDUITS AND DRAINS, 51 CORRUGATED METAL PIPE CONDUITS, 52 STEEL PIPE CONDUITS, 53 DUCTILE-IRON PIPE CONDUITS, 61 LOOSE ROCK RIPRAP, 62 GROUTED ROCK RIPRAP, 64 WIRE MESH GABIONS, 71 WATER CONTROL GATES, 81 METAL FABRICATION AND INSTALLATION, 83 TIMBER FABRICATION & INSTALLATION, 95 GEOTEXTILES.

Applicable material specifications may include: 521 AGGREGATES FOR DRAINFILL and FILTERS, 522 AGGREGATES FOR CONCRETE, 523 ROCK FOR RIPRAP, 531 PORTLAND CEMENT, 532 AIR ENTRAINING ADMIXTURES, 534 CURING COMPOUND,

535 PREFORMED EXPANSION JOINT FILLER, 536 SEALING COMPOUND, 537 NON-METALLIC WATERSTOPS, 538 METAL WATERSTOPS, 539 STEEL REINFORCEMENT, 541 REINFORCED CONCRETE PRESSURE PIPE, 542 CONCRETE CULVERT PIPE, 544 CLAY PIPE AND CLAY DRAIN TILE, 546 BITUMINIZED FIBER PIPE, 547 PLASTIC (PVC, PE, ABS) PIPE, 551 METALLIC COATED CORRUGATED STEEL PIPE, 552 ALUMINUM CORRUGATED PIPE, 554 STEEL PIPE & FITTINGS, 581 METAL, 582 GALVANIZING, 584 STRUCTURAL TIMBER AND LUMBER, 585 WOOD PRESERVATIVES AND TREATMENT, 592 GEOTEXTILE.

Applicable standard drawings may include: IL-543 INLET FOR UNDERGROUND OUTLET, IL-545 CULVERT FLARED END METAL SECTION, IL-576 HEADWALL & SAFETY GUARD FOR PIPE RISERS, IL-577 HOOD INLET WITH BAFFLE FOR CMP, IL-578 CMP DROP INLET & BAFFLE, IL-579 CMP PIPE DIAPHRAGM, IL-580 COUPLING BAND FOR CMP, IL-581 TIMBER PROP FOR 10" – 30" DIAMETER CMP, IL-582 TIMBER PROP FOR 36" – 48" DIAMETER CMP, IL-583 DROP INLET STRUCTURE PLAN, IL-584 HOOD INLET STRUCTURE PLAN, IL-585 EARTH DAM STRUCTURE PLAN, IL-586 CMP SUPPORT, IL-590 TRASH RACKS FOR PIPE DROP INLET, IL-591 TRASH RACKS FOR HOODED INLET, IL-592 DETAIL FOR PVC CANOPY INLET, IL-593 FLEXIBLE ANTISEEP COLLAR, IL-594 CMP WATER CONTROL STRUCTURE, IL-610 PIPE OUTLET TO FLAT AREA.

Site Physical Protection Plan. Adequate measure shall be specified to control, on site, additional runoff and/or contaminants expected as a result of construction activities; to provide for the safety of the general public; and to provide a maintainable system of erosion protection for the constructed practice. Applicable construction specifications may include: 6 SEEDING, SPRIGGING, & MULCHING FOR PROTECTIVE COVER, 26 SALVAGING &

SPREADING TOPSOIL, 27 DIVERSIONS, 28 WATERWAYS, 46 TILE DRAINS, 61 LOOSE ROCK RIPRAP, 62 GROUTED ROCK RIPRAP, 64 WIRE MESH GABIONS, 91 CHAIN LINK FENCE, 95 GEOTEXTILES.

Applicable standard drawings may include: IL-515 DIVERSION PLAN, IL-540 WATERWAY PLAN, IL-541 ROCK CHECKS FOR WATERWAYS, IL-543 INLET FOR UNDERGROUND OUTLET, IL-595 PORTABLE SEDIMENT TANK PLAN, IL-620 SILT FENCE PLAN, IL-630 STABILIZED CONSTRUCTION ENTRANCE PLAN, IL-635 STRAW BALE DIKE PLAN, IL-615 SEDIMENT BASIN DEWATERING PLAN, IL-660 TEMPORARY SEDIMENT TRAP.

Other applicable standards may include: 815 DIVERSION, 820 DIVERSION DIKE, 825 DUST CONTROL, 830 EROSION BLANKET, 835 FILTER STRIP, 865 LAND GRADING, 895 MULCHING, 880 PERMANENT SEEDING, 895 PORTLAND SEDIMENT TANK, 910 ROCK OUTLET PROTECTION, 920 SILT FENCE, 925 SODDING, 935 STRAW BALE BARRIER, 945 SUBSURFACE DRAIN, 955 TEMPORARY DIVERSION, 960 TEMPORARY SEDIMENT TRAP, 965 TEMPORARY SEEDING, 980 TEMPORARY SWALE, 981 TOPSOILING.

OPERATION AND MAINTENANCE. An operation and maintenance plan should be developed and concurred in by the owners/operators of the impoundment structure. The operation plan shall establish a schedule for testing all operable facilities to ensure that they function as intended, or that necessary repairs are made. The maintenance plan shall specify responsible parties for maintaining or replacing, as necessary: all vegetative components of the structure, riprap for wave protection or outlet protection, inlet and outlet works, safety features including fences and signs, and on-site erosion/water control facilities.

Procedures and responsible parties for removing and disposing of accumulated debris and/or sediment as necessary to ensure the function of the structure shall be specified. Procedures and responsible parties for repairing damage to embankment, spillway structures and other appurtenances shall be specified. The structure shall be inspected at least yearly and after every storm event causing flows through vegetated spillways or over top of embankment.

If required by the IDOT-DWR, an emergency action plan shall be filed for permit structures.

SCS IL August 1994

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CHAPTER 35

TAX INCREMENT FINANCE – REGISTRY

ARTICLE I – TIF INTERESTED PARTIES REGISTRY REGISTRAITON RULES

35-1-1 **DEFINITIONS.** As used in these Registration Rules, the following terms shall have the definitions set forth below:

(A) **"Act"** shall mean the Tax Increment Allocation Redevelopment Act, **65 ILCS 5/11-74.4-1, et seq.**, as amended from time to time.

(B) **"Clerk"** shall mean the City Clerk.

(C) **"Interested Party(ies)"** shall mean (i) any organization(s) active within the City, (ii) any resident(s) of the City, and (iii) any other entity or person otherwise entitled under the Act to register in the *Interested Parties 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 (i) is intended to qualify or that has previously or subsequently qualified as a "redevelopment project area" under the Act, and (ii) is subject to the "interested parties registry" requirements of the Act.

(E) **"Registration Form"** shall mean the form appended to these Registration Rules, or such revised form as may be approved by the Department consistent with the requirements of the Act.

(F) **"Registry"** or **"Registries"** shall mean each interested parties registry, and all such registries, collectively, established by the City pursuant to Section 11-74.4-4.2 of the Act for a Redevelopment Project Area.

(G) **"City"** shall mean the City of Gibson, an Illinois Municipal Corporation.

35-1-2 **ESTABLISHMENT OF REGISTRY.** The City shall establish a separate interested parties registry for each Redevelopment Project Area, whether existing as of the date of the adoption of these Rules or hereafter established.

35-1-3 **MAINTENANCE OF REGISTRY.** The Registries shall be maintained by the Clerk, which has a principal business office located at City Hall, Gibson City, Illinois. The City may transfer the responsibility for maintaining the Registries to such other Department provided that the City (i) gives prior written notice to all Interested Parties not less than **thirty (30) days** prior to such transfer, and (ii) publishes notice of such transfer in a newspaper of general circulation in the City.

35-1-4 **REGISTRATION BY RESIDENTS.** An individual seeking to register as an Interested Party with respect to a Redevelopment Project Area must complete and submit a Registration Form to the Clerk. Such individual must also submit a copy of a current driver's license, lease, utility bill, or such other evidence as may be acceptable to the Clerk to establish the individual's current residency.

35-1-5 REGISTRATION BY ORGANIZATION. An organization seeking to register as an Interested Party with respect to a redevelopment project area must complete and submit a Registration Form to the Clerk. Such organization must also submit a copy of a one-page statement describing the organization's current operations in the City.

35-1-6 DETERMINATION OF ELIGIBILITY. All individuals and organizations whose Registration form and supporting documentation complies with these Registration Rules shall be registered in the applicable Registry within **ten (10) business days** of the Clerk's receipt of all such documents. The Clerk shall provide written notice to the registrant confirming such registration. Upon registration, Interested Parties shall be entitled to receive all notices and documents required to be delivered under these Rules or as otherwise required under the Act with respect to the applicable redevelopment project area. If the Clerk determines that a registrant's Registration Form and/or supporting documentation is incomplete or does not comply with these Rules, the Clerk shall give written notice to the registrant specifying the defect(s). The registrant shall be entitled to correct any defects and resubmit a new Registration Form and supporting documentation.

35-1-7 RENEWAL AND TERMINATION. An Interested Party's registration shall remain effective for a period of **three (3) years**. At the time after such **three (3) year** period, the Clerk may provide written notice by regular mail to the Interested Party stating that such registration shall terminate unless the Interested Party renews such registration within **thirty (30) days** of the Clerk's mailing of written notice. To renew such registration, the Interested Party shall, within such **thirty (30) day** period, complete and submit the same Registration form and supporting documentation then required of initial registrants in order to permit the Clerk to confirm such person's residency or such organization's operations in the City. The registration of all individuals and organizations whose Registration Form and supporting documentation is submitted in a timely manner and complies with these Registration Rules shall be reviewed for an additional, consecutive **three (3) year** period. If the Clerk determines that a registrant's renewal Registration Form and/or supporting documentation is incomplete or does not comply with these Registration Rules, the Clerk shall give written notice to the registrant at the address specified in the renewal Registration Form submitted by such registrant, specifying the defect(s). The registrant shall be entitled to correct any defects and resubmit a new Registration Form and supporting documentation within **thirty (30) days** of receipt of the Clerk's notice. If all defects are not corrected within **thirty (30) days** or the Interested Party's receipt of the 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 registrant.

35-1-8 AMENDMENT TO REGISTRATION. An Interested party may amend its registration by giving written notice to the Clerk by certified mail of any of the following: (i) a change in address for notice purposes; (ii) in the case of organizations, a change in the name of the contact person; and (iii) a termination of registration. Upon receipt of such notice, the Clerk shall revise the applicable Registry accordingly.

35-1-9 REGISTRIES AVAILABLE FOR PUBLIC INSPECTION. Each Registry shall be available for public inspection during normal City business hours. The Registry shall

include the name, address and telephone number of each Interested Person and, for organizations, the name and phone number of a designated contact person.

35-1-10 NOTICES TO BE SENT TO INTERESTED PARTIES. Interested Parties shall be sent the following notices and any other notices required under the Act with respect to the applicable Redevelopment Project Area.

(A) **Notice of Availability.** Pursuant to §74.4-5(a) of the Act, notice of the availability of a proposed redevelopment plan and eligibility report, including how to obtain this information; such notice shall be sent by mail within a reasonable period of time after the adoption of the ordinance fixing the public hearing for the proposed redevelopment plan.

(B) **Redevelopment Plan Revisions.** Pursuant to §74.4-5(a) of the Act, notice of changes to proposed redevelopment plans that do not (1) add additional parcels of property to the proposed redevelopment project area, (2) substantially affect the general land uses proposed in the redevelopment plan, (3) substantially change the nature of or extend the life of the redevelopment project, or (4) increase the number of low or very low income households to be displaced from the redevelopment project area, provided that measured from the time of creation of the redevelopment project area the total displacement of the households will exceed **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) **Notice of Amendments.** Pursuant to §74.4-5(c) of the Act, notice of amendments to previously approved redevelopment plans that do not (1) add additional parcels of property to the redevelopment project area, (2) substantially affect the general land uses in the redevelopment plan, (3) substantially change the nature of the redevelopment project, (4) increase the total estimated redevelopment project costs set out in the redevelopment plan by more than **five percent (5%)** after adjustment for inflation from the date the plan was adopted, (5) add additional redevelopment project costs to the itemized list of redevelopment project costs set out in the redevelopment plan, or (6) increase the number of low or very low income households to be displaced from the redevelopment project area, provided that measured from the time of creation of the redevelopment project area the total displacement of households will exceed **ten (10)**; such notice shall be sent by mail not later than **ten (10) days** following the City's adoption by ordinance of any such amendment.

(D) **Displacement of Residents.** Pursuant to §74.4-5(d)(9) of the Act, for redevelopment plans or projects that would result in the displacement of residents from **ten (10)** or more inhabited residential units or that contain **seventy-five (75)** or more inhabited residential units, notice of the availability of the certified audit report described in §74.4-5(d)(9), including how to obtain the certified audit report; such notice shall be sent by mail within a reasonable period of time after completion of the certified audit report.

(E) **Preliminary Public Meeting.** Pursuant to 74.4-6(e) of the Act, notice of the preliminary public meeting required under the Act for a proposed Redevelopment Project Area that will result in the displacement of **ten (10)** or more inhabited residential units or which will contain **seventy-five (75)** or more inhabited residential units, such notice shall be sent by certified mail not less than **fifteen (15) days** before the date of such preliminary public meeting.

35-1-11 NON-INTERFERENCE. These Registration Rules shall not be used to prohibit or otherwise interfere with the ability of eligible organizations and individuals to register for receipt of information to which they are entitled under the Act.

35-1-12 AMENDMENT OF REGISTRATION RULES. These Registration Rules may be amended by the City Council, subject to and consistent with the requirements of the Act.

(Ord. No. 06-33; 12-26-06)

(See 65 ILCS Sec. 5/11-74.4-1)

CITY OF GIBSON
FORD COUNTY, ILLINOIS
GIBSON CITY JOBS TIF DISTRICT

INTERESTED PARTIES REGISTRY

The following Individuals and Organizations have registered with the City under Rules adopted by the City pursuant to 65 Illinois Compiled Statutes 5/11-74.4-4.2:

INDIVIDUAL

| | <u>Name</u> | <u>Address</u> | |
|----|-----------------|----------------|-----------|
| 1. | _____ | _____ | |
| | Phone () _____ | _____ | Zip _____ |
| 2. | _____ | _____ | |
| | Phone () _____ | _____ | Zip _____ |
| 3. | _____ | _____ | |
| | Phone () _____ | _____ | Zip _____ |
| 4. | _____ | _____ | |
| | Phone () _____ | _____ | Zip _____ |
| 5. | _____ | _____ | |
| | Phone () _____ | _____ | Zip _____ |
| 6. | _____ | _____ | |
| | Phone () _____ | _____ | Zip _____ |
| 7. | _____ | _____ | |
| | Phone () _____ | _____ | Zip _____ |
| 8. | _____ | _____ | |
| | Phone () _____ | _____ | Zip _____ |
| 9. | _____ | _____ | |
| | Phone () _____ | _____ | Zip _____ |

ORGANIZATIONS

| | | | |
|----|--|----------------------------------|----------------|
| 1. | <div>Organization</div> <div>Contact Person:</div> | <div>Phone:</div> <div>()</div> | <div>Zip</div> |
| 2. | <div>Organization</div> <div>Contact Person:</div> | <div>Phone:</div> <div>()</div> | <div>Zip</div> |
| 3. | <div>Organization</div> <div>Contact Person:</div> | <div>Phone:</div> <div>()</div> | <div>Zip</div> |
| 4. | <div>Organization</div> <div>Contact Person:</div> | <div>Phone:</div> <div>()</div> | <div>Zip</div> |
| 5. | <div>Organization</div> <div>Contact Person:</div> | <div>Phone:</div> <div>()</div> | <div>Zip</div> |
| 6. | <div>Organization</div> <div>Contact Person:</div> | <div>Phone:</div> <div>()</div> | <div>Zip</div> |
| 7. | <div>Organization</div> <div>Contact Person:</div> | <div>Phone:</div> <div>()</div> | <div>Zip</div> |

CHAPTER 36

TAXATION

ARTICLE I - GENERALLY

36-1-1 CORPORATE RATE. The maximum rate for general corporate purposes of the City be and the same is hereby established at a rate of **.25%.** **(See 65 ILCS 5/8-3-1) (Ord. No. 605; 05-24-77)**

36-1-2 POLICE TAX. The maximum rate for police protection purposes of the City be and the same is hereby established at a rate of **.075%.** **(See 65 ILCS 5/11-1-3)**

36-1-3 AUDIT TAX. The City Council may levy a "Municipal Auditing Tax" upon all taxable property in the City which will produce an amount which will equal the cost of all auditing for the City. **(See 65 ILCS 5/8-8-8)**

36-1-4 F.I.C.A. TAX. The City Council may levy a tax upon all taxable property in the City at whatever rate is necessary to participate in the federal Social Security System. **(See 40 ILCS 5/21-101 et seq.)**

36-1-5 SWIMMING POOL TAX. The City Council may levy a "Playground and Recreation Tax" upon all taxable property in the City at a rate not to exceed **.09%.** **(See 65 ILCS 5/11-95-7 and 5/11-95-8)**

36-1-6 BAND FUND. The maximum tax rate limit for the Band Fund of the City shall be established at **.04%** of the full, fair cash value of all taxable property in the City. **(Ord. No. 605; 05-24-77)**

36-1-7 WORKMEN'S COMPENSATION. The maximum tax for Worker's Compensation and Occupational Diseases Claims purposes, be and the same is hereby established at a rate to pay for legal services, purchase insurance, purchase claim services, pay for judgments and settlements. **(See 745 ILCS 10/9-107)**

36-1-8 PUBLIC PARKS TAX. The maximum tax for Public Park purposes, be and the same is hereby established at a rate of **.075%.** **(See 65 ILCS 5/11-98-1) (Ord. No. 605; 05-24-77)**

36-1-9 STREET AND BRIDGE. The maximum tax for Street and Bridge purposes, be and the same is hereby established at a rate of **.06%.** **(See 65 ILCS 5/11-81-1 and 5/11-81-2)**

36-1-10 FORESTRY PROGRAM. The maximum tax for the Forestry Program purposes, be and the same is hereby established at a rate of **.05%**. (See **65 ILCS 5/11-7-1**)

ARTICLE II - SIMPLIFIED TELECOMMUNICATION TAX

36-2-1 TELECOMMUNICATIONS TAX RECITALS. This Article is adopted pursuant to the provisions of the Illinois Simplified Municipal Telecommunications Tax Act, Public Act 92-526 (the "Act").

36-2-2 DEFINITIONS. As used in this Article, the following terms shall have the following meanings:

(A) **"Amount Paid"** means the amount charged to the taxpayer's service address in such municipality regardless of where such amount is billed or paid.

(B) **"Department"** means the Illinois Department of Revenue.

(C) **"Gross Charge"** means the amount paid for the act or privilege of originating or receiving telecommunications in such municipality and for all services and equipment provided in connection therewith by a retailer, valued in money whether paid in money or otherwise, including cash, credits, services and property of every kind or nature, and shall be determined without any deduction on account of the cost of such telecommunications, the cost of the materials used, labor or service costs or any other expense whatsoever. In case credit is extended, the amount thereof shall be included only as and when paid. "Gross charges" for private line service shall include charges imposed at each channel point within this State, charges for the channel mileage between each channel point within this State, and charges for that portion of the interstate inter-office channel provided within Illinois. However, "gross charge" shall not include:

- (1) any amounts added to a purchaser's bill because of a charge made pursuant to:
 - (a) the tax imposed by this Section,
 - (b) the tax imposed by the Telecommunications Excise Tax Act,
 - (c) the tax imposed by Section 4251 of the Internal Revenue Code,
 - (d) 911 surcharges, or
 - (e) charges added to customers' bills pursuant to the provisions of Section 9-221 or 9-222 of the Public Utilities Act, as amended, or any similar charges added to customers' bills by retailers who are not subject to rate regulation by the Illinois Commerce Commission for the purpose of recovering any of the tax liabilities or other amounts specified in those provisions of the Public Utilities Act;
- (2) charges for a sent collect telecommunication received outside of such municipality;
- (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 Department of Commerce and Community Affairs;
- (6) charges for telecommunications and all services and equipment provided in connection therewith between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries when the tax imposed under this Act has already been paid to a retailer and only to the extent that the charges between the parent corporation and wholly owned subsidiaries or between wholly owned subsidiaries represent expense allocation between the corporations and not the generation of profit for the corporation rendering such service;
- (7) bad debts ("bad debt" means any portion of a debt that is related to a sale at retail for which gross charges are not otherwise deductible or excludable that has become worthless or uncollectible, as determined under applicable federal income tax standards; if the portion of the debt deemed to be bad is subsequently paid, the retailer shall report and pay the tax on that portion during the reporting period in which the payment is made);
- (8) charges paid by inserting coins in coin-operated telecommunication devices; or
- (9) amounts paid by telecommunications retailers under the Telecommunications Infrastructure Maintenance Fee Act.

(D) **"Interstate Telecommunications"** means all telecommunications that either originate or terminate outside this State.

(E) **"Intrastate Telecommunications"** means all telecommunications that originate and terminate within this State.

(F) **"Person"** means any natural individual, firm, trust, estate, partnership, association, joint stock company, joint venture, corporation, limited liability company, or a receiver, trustee, guardian, or other representative appointed by order of any court, the Federal and State governments, including State universities created by statute, or any city, town, country, or other political subdivision of this State.

(G) **"Purchase at Retail"** means the acquisition, consumption or use of telecommunications through a sale at retail.

(H) **"Retailer"** means and includes every person engaged in the business of making sales at retail as defined in this Section. The Department may, in its discretion, upon application, authorize the collection of the tax hereby imposed by any retailer not maintaining a place of business within this State, who, to the satisfaction of the Department, furnishes adequate security to insure collection and payment of the tax. Such retailer shall be issued,

without charge, a permit to collect such tax. When so authorized, it shall be the duty of such retailer to collect the tax upon all of the gross charges for telecommunications in this State in the same manner and subject to the same requirements as a retailer maintaining a place of business within this State. The permit may be revoked by the Department at its discretion.

(I) **"Retailer maintaining a place of business in this State"**, or any like term, means and includes any retailer having or maintaining within this State, directly or by a subsidiary, an office, distribution facilities, transmission facilities, sales office, warehouse or other place of business, or any agent or other representative operating within this State under the authority of the retailer or its subsidiary, irrespective of whether such place of business or agent or other representative is located here permanently or temporarily, or whether such retailer or subsidiary is licensed to do business in this State.

(J) **"Sale at Retail"** means the transmitting, supplying or furnishing of telecommunications and all services and equipment provided in connection therewith for a consideration, to persons other than the Federal and State governments, and State universities created by statute and other than between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries for their use or consumption and not for resale.

(K) **"Service Address"** means the location of telecommunications equipment from which telecommunications services are originated or at which telecommunications services are received by a taxpayer. In the event this may not be a defined location, as in the case of mobile phones, paging systems, and maritime systems, "service address" means the customer's place of primary use as defined in the Mobile Telecommunications Sourcing Conformity Act. For air-to-ground systems and the like, "service address" shall mean the location of a taxpayer's primary use of the telecommunications equipment as defined by telephone number, authorization code, or location in Illinois where bills are sent.

(L) **"Taxpayer"** means a person who individually or through his or her agents, employees, or permittees engages in the act or privilege of originating or receiving telecommunications in a municipality and who incurs a tax liability as authorized by the Article.

(M) **"Telecommunications"**, in addition to the meaning ordinarily and popularly ascribed to it, includes, without limitation, messages or information transmitted through use of local, toll, and wide area telephone service, private line services, channel services, telegraph services, teletypewriter, computer exchange services, cellular mobile telecommunications service, specialized mobile radio, stationary two-way radio, paging service, or any other form of mobile and portable one-way or two-way communications, or any other transmission of messages or information by electronic or similar means, between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite, or similar facilities. As used in this Article, "private line" means a dedicated non-traffic sensitive service for a single customer, that entitles the customer to exclusive or priority use of a communications channel or group of channels, from one or more specified locations to one or more other specified locations. The definition of "telecommunications" shall not include value added services in which computer processing applications are used to act on the form, content, code, and protocol of the information for purposes other than transmission. "Telecommunications" shall not include purchases of telecommunications by a telecommunication service provider for use as a component part of the service provided by such provider to the ultimate retail consumer who originates or terminates the taxable end-to-end communications. Carrier access charges, right of access charges, charges for use of inter-company facilities, and all telecommunications resold in the subsequent provision of, used as a component of, or integrated into, end-to-end telecommunications service shall be non-taxable as sales for resale. Prepaid telephone calling arrangements shall not be considered "telecommunications" subject to the tax imposed under

this Act. For purposes of this Section, "prepaid telephone calling arrangements" means that term as defined in Section 2-27 of the Retailer's Occupations Tax Act.

36-2-3 SIMPLIFIED MUNICIPAL TELECOMMUNICATIONS TAX IMPOSED.

A tax imposed upon any and all of the following acts or privileges:

(A) The act or privilege of originating in the City or receiving in the City intrastate telecommunications by a person at a rate of **three percent (3%)** of the gross charge for such telecommunications purchased at retail from a retailer.

(B) The act or privilege of originating in the City or receiving in the City interstate telecommunications by a person at a rate of **three percent (3%)** of the gross charge for such telecommunications purchased at retail from a retailer. To prevent actual multi-state taxation of the act or privilege that is subject to taxation under this Section, any taxpayer, upon proof that the taxpayer has paid a tax in another state on such event, shall be allowed a credit against any tax enacted pursuant to or authorized by this Section to the extent of the amount of such tax properly due and paid in such other state which was not previously allowed as a credit against any other state or local tax in this State.

(C) The tax imposed by this Article is not imposed on such act or privilege to the extent such act or privilege may not, under the Constitution and statutes of the United States, be made the subject of taxation by the City.

36-2-4 COLLECTION OF TAX BY RETAILERS.

(A) The tax authorized by this Article shall be collected from the taxpayer by a retailer maintaining a place of business in this State and shall be remitted by such retailer to the Department. Any tax required to be collected pursuant to or as authorized by this Article and any such tax collected by such retailer and required to be remitted to the Department shall constitute a debt owed by the retailer to the State. Retailers shall collect the tax from the taxpayer by adding the tax to the gross charge for the act or privilege of originating or receiving telecommunications when sold for use, in the manner prescribed by the Department. The tax authorized by this Article shall constitute a debt of the taxpayer to the retailer until paid, and, if unpaid, is recoverable at law in the same manner as the original charge for such sale at retail. If the retailer fails to collect the tax from the taxpayer, then the taxpayer shall be required to pay the tax directly to the Department in the manner provided by the Department.

(B) Whenever possible, the tax authorized by this Article shall, when collected, be stated as a distinct item separate and apart from the gross charge for telecommunications.

36-2-5 RETURNS TO DEPARTMENT. Commencing on **February 1, 2003**, the tax imposed under this Article on telecommunication retailers shall be returned with appropriate forms and information as required by the Department pursuant to the Illinois Simplified Municipal Telecommunications Tax Act (Public Act 92-526, Section 5-50) and any accompanying rules and regulations created by the Department to implement this Act.

36-2-6 RESELLERS.

(A) If a person who originates or receives telecommunications claims to be a reseller of such telecommunications, such person shall apply to the Department for a resale number. Such applicant shall state facts which will show the Department why such applicant is

not liable for the tax authorized by this Article on any of such purchases and shall furnish such additional information as the Department may reasonably require.

(B) Upon approval of the application, the Department shall assign a resale number to the applicant and shall certify such number to the applicant. The Department may cancel any number which is obtained through misrepresentation, or which is used to send or receive such telecommunications tax-free when such actions in fact are not for resale, or which no longer applies because of the person's having discontinued the making of resales.

(C) Except as provided hereinabove in this Section, the act or privilege of originating or receiving telecommunications in this State shall not be made tax-free on the ground of being a sale for resale unless the person has an active resale number from the Department and furnishes that number to the retailer in connection with certifying to the retailer that any sale to such person is non-taxable because of being a sale for resale.

ARTICLE III - MUNICIPAL UTILITY TAX

36-3-1 TAX IMPOSED. A tax is imposed on all persons engaged in the following occupations or privileges:

(A) Persons engaged in the business of transmitting messages by means of electricity, at the rate of **three percent (3%)** of the gross receipts from such business originating within the City.

(B) Persons engaged in the business of distributing, supplying, furnishing or selling gas for use or consumption within the City and not for resale, at the rate of **three percent (3%)** of the gross receipts therefrom.

(C) Persons engaged in the business of distributing, supplying, furnishing, or selling water for use or consumption within the corporate limits of the City and not for resale, and persons engaged in the business of providing sewerage services within the corporate limits of the City, at the rate of **three percent (3%)** of the gross receipts therefrom. **(Ord. No. 769)**

36-3-2 EXCEPTIONS. None of the taxes authorized by this Article may be imposed with respect to any transaction in interstate commerce or otherwise to the extent to which such business may not, under the Constitution and Statutes of the United States, be made the subject of taxation by this State or any political subdivision thereof; nor shall any person engaged in the business of distributing, supplying, furnishing or selling gas, water, or engaged in the business of transmitting messages, be subject to taxation under the provisions of this Section for such transactions as are or may become subject to taxation under the provisions of this Section for such transactions as are or may become subject to taxation under the provisions of the "**Municipal Retailers' Occupation Tax Act**" authorized by **Chapter 65, Sec. 5/8-11-1, Illinois Compiled Statutes**, nor shall any tax authorized by this Section be imposed upon any person engaged in the business unless such tax is imposed in like manner and at the same rate upon all persons engaged in businesses of the same class in the Municipality, whether privately or municipally owned or operated.

36-3-3 ADDITIONAL TAXES. Such tax shall be in addition to the payment of money, or value of products or services furnished to this Municipality by the taxpayer as compensation for the use of its streets, alleys, or other public places, or installation and

maintenance therein, thereon or thereunder of poles, wires, pipes or other equipment used in the operation of the taxpayers' business. **(Ord. No. 769; 02-13-84)**

36-3-4 DEFINITIONS. For the purposes of this Article, the following definitions shall apply:

"GROSS RECEIPTS" means the consideration received for the transmission of messages, the consideration received for distributing, supplying, furnishing or selling gas for use or consumption and not for resale, and the consideration received for distributing, supplying, furnishing, and the consideration received for distributing, supplying, furnishing or selling water for use or consumption and not for resale, except for that consideration received from the City; and for all services rendered in connection therewith valued in money, whether received in money or otherwise, including cash, credit, services and property of every kind and material and for all services rendered therewith, and shall be determined without any deduction on account of the cost of transmitting such messages without any deduction on account of the service, product or commodity supplied, the cost of materials used, labor or service costs, or any other expenses whatsoever.

"TRANSMITTING MESSAGES", in addition to the usual and popular meaning of person to person communication, shall include the furnishing, for a consideration, of services or facilities (whether owned or leased), or both, to persons in connection with the transmission of messages where such persons do not, in turn, receive any consideration in connection therewith, but shall not include such furnishing of services or facilities to persons for the transmission of messages to the extent that any such services or facilities for the transmission of messages are furnished for a consideration, by such persons to other persons for the transmission of messages.

"PERSON" means any natural individual, firm, trust, estate, partnership, association, joint stock company, joint adventure, corporation, municipal corporation or political subdivision of this State, or a receiver, trustee, conservator, or other representative appointed by order of any court.

36-3-5 REPORTS TO MUNICIPALITY. On or before the last day of **June, 1984**, each taxpayer shall make a return to the City Treasurer for the month of **May, 1984**, stating:

- (A) His name.
- (B) His principal place of business.
- (C) His gross receipts during those months upon the basis of which the tax is imposed.
- (D) Amount of tax.
- (E) Such other reasonable and related information as the corporate authorities may require.

On or before the last day of every third month thereafter, each taxpayer shall make a like return to the City Treasurer for a corresponding **three (3) month** period.

The taxpayer making the return herein provided for shall, at the time of making such return, pay to the City Treasurer, the amount of tax herein imposed; provided that in connection with any return, the taxpayer may, if he so elects, report and pay an amount based upon his total billings of business subject to the tax during the period for which the return is

made (exclusive of any amounts previously billed) with prompt adjustments of later payments based upon any differences between such billings, and the taxable gross receipts.

36-3-6 CREDIT FOR OVER-PAYMENT. If it shall appear that an amount of tax has been paid which was not due under the provisions of this Article, whether as the result of a mistake of fact or an error of law, then such amount shall be credited against any tax due, or to become due, under this Article from the taxpayer who made the erroneous payment; provided that no amounts erroneously paid more than **three (3) years** prior to the filing of a claim therefor shall be so credited.

No action to recover any amount of tax due under the provisions of this Article shall be commenced more than **three (3) years** after the due date of such amount.

36-3-7 PENALTY. Any taxpayer who fails to make a return, or who makes a fraudulent return, or who willfully violates any other provision of this Article shall, upon conviction, be fined as provided in **Section 1-1-20** of the City Code and in addition, shall be liable in a civil action for the amount of tax due.

(Ord. No. 769; 02-13-84)

(See 65 ILCS Sec. 5/8-11-2)

ARTICLE IV - ELECTRIC UTILITY TAX

36-4-1 TAX IMPOSED. A tax is imposed on all persons engaged in the following occupations or privileges:

(A) The privilege of using or consuming electricity acquired in a purchase at retail and used or consumed within the corporate limits of the City at the following rates, calculated on a monthly basis for each purchaser:

| | | |
|------|---------------------|--------------------|
| (1) | First 2,000 KWH | .277 cents per KWH |
| (2) | Next 48,000 KWH | .181 cents per KWH |
| (3) | Next 50,000 KWH | .163 cents per KWH |
| (4) | Next 400,000 KWH | .159 cents per KWH |
| (5) | Next 500,000 KWH | .154 cents per KWH |
| (6) | Next 2,000,000 KWH | .145 cents per KWH |
| (7) | Next 2,000,000 KWH | .143 cents per KWH |
| (8) | Next 5,000,000 KWH | .141 cents per KWH |
| (9) | Next 10,000,000 KWH | .138 cents per KWH |
| (10) | Over 20,000,000 KWH | .136 cents per KWH |

The tax rates set forth in the preceding table will be used at least through **December 31, 2008**, are proportional to the rates enumerated in **65 ILCS Sec. 5/8-11-2** (as modified by Public Act 90-561), and do not exceed the revenue that could have been collected during 1997 using the rates enumerated in **65 ILCS Sec. 5/8-11-2** (as modified by Public Act 90-561).

36-4-2 TYPE OF CUSTOMER -- RATE EFFECTIVE. Pursuant to **65 ILCS Sec. 5/8-11-2**, the rates set forth in **Section 36-4-1** above shall be effective:

- (A) On **August 1, 1998** for residential customers; and
- (B) On the earlier of:
 - (1) the last bill issued prior to **December 31, 2000**, or
 - (2) the date of the first bill issued pursuant to **220 ILCS Sec. 5/16-104**, for non-residential customers.

36-4-3 EFFECTIVE DATE FOR ARTICLE. The provisions of **Section 36-4-1** shall not be effective until **August 1, 1998**.

36-4-4 EXCEPTIONS. None of the taxes authorized by this Article may be imposed with respect to any transaction in interstate commerce or otherwise to the extent to which the business or privileges may not, under the Constitution and statutes of the United States, be made the subject of taxation by this State or any political subdivision thereof; nor shall any persons engaged in the business of distributing, supplying, furnishing, or selling or transmitting gas or electricity, or using or consuming electricity acquired in a Purchase at Retail, be subject to taxation under the provisions of this Article for those transactions that are or may become subject to taxation under the provisions of the **"Municipal Retailers' Occupation Tax Act"** authorized by Section 8-11-1 of the Illinois Municipal Code; nor shall any tax authorized by this Article be imposed upon any person engaged in a business or on any privilege unless the tax is imposed in like manner and at the same rate upon all persons engaged in business of the same class in the City, whether privately or municipally owned or operated, or exercising the same privilege within the City. However, no such tax shall be imposed on City buildings and/or facilities owned by the City of Gibson Municipal Corporation. **(Ord. No. 16-03; 02-08-16)**

36-4-5 ADDITIONAL TAXES. Such tax shall be in addition to other taxes levied upon the taxpayer or its business.

36-4-6 COLLECTION. The tax authorized by this Article shall be collected from the purchaser by the person maintaining a place of business in this State who delivers the electricity to the purchaser. This tax shall constitute a debt of the purchaser to the person who delivers the electricity to the purchaser and if unpaid, is recoverable in the same manner as the original charge for delivering the electricity. Any tax required to be collected pursuant to this Article and any such tax collected by a person delivering electricity shall constitute a debt owed to the City by such person delivering the electricity. Persons delivering electricity shall collect the tax from the purchaser by adding such tax to the gross charge for delivering the electricity. Persons delivering electricity shall also be authorized to add to such gross charge an amount equal to **three percent (3%)** of the tax to reimburse the person delivering electricity for the expense incurred in keeping records, billing customers, preparing and filing returns, remitting the tax and supplying data to the City upon request. If the person delivering electricity fails to collect the tax from the purchaser, then the purchaser shall be required to pay the tax directly to the City in the manner prescribed by the City. Persons delivering electricity who file returns pursuant to this Section shall, at the time of filing such return, pay the City the amount of the tax collected pursuant to this Article.

36-4-7 REPORTS TO CITY. On or before the last day of each month, each taxpayer shall make a return to the City for the preceding month stating:

- (A) His name.
- (B) His principal place of business.
- (C) His gross receipts and/or kilowatt-hour usage during the month upon the basis of which the tax is imposed.
- (D) Amount of tax.
- (E) Such other reasonable and related information as the corporate authorities may require.

The taxpayer making the return herein provided for shall, at the time of making such return, pay to the City, the amount of tax herein imposed; provided that in connection with any return, the taxpayer may, if he so elects, report and pay an amount based upon his total billings of business subject to the tax during the period for which the return is made (exclusive of any amounts previously billed) with prompt adjustments of later payments based upon any differences between such billings, and the taxable gross receipts.

36-4-8 CREDIT FOR OVER-PAYMENT. If it shall appear that an amount of tax has been paid which was not due under the provisions of this Article, whether as the result of a mistake of fact or an error of law, then such amount shall be credited against any tax due, or to become due, under this Article from the taxpayer who made the erroneous payment; provided that no amounts erroneously paid more than **three (3) years** prior to the filing of a claim therefor shall be so credited.

No action to recover any amount of tax due under the provisions of this Article shall be commenced more than **three (3) years** after the due date of such amount.

36-4-9 PENALTY. Any taxpayer who fails to make a return, or who makes a fraudulent return, or who willfully violates any other provision of this Article is guilty of a misdemeanor and, upon conviction thereof, shall be fined as provided in **Section 1-1-20** of this Code and in addition, shall be liable in a civil action for the amount of tax due.

36-4-10 UNCONSTITUTIONALITY OF LAW. In the event that Public Act 90-561 is declared unconstitutional, or if Section 46 of Article X created by this Amendatory Ordinance is voided by court action, the provision of Article IV, Section 36 of the City Code (commonly known as the Gross Receipts Utility Tax) shall remain in effect in all respects as if it had never been amended by this Ordinance, and any amounts paid to the City by any person delivering electricity pursuant to this Amendatory Ordinance shall be deemed to have been paid pursuant to the Gross Receipts Utility Tax as it existed prior to the passage of this Amendatory Ordinance. **(Ord. No. 99-05; 05-10-99)**

(See 65 ILCS Sec. 5/8-11-2)

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 Mayor, 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 Gibson City, 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 was made. The City shall not grant a credit or refund of locally imposed and administered taxes, interest, or penalties to a person who has not paid the amounts directly to the City.

(C) The procedure for claiming a credit or refund of locally imposed and administered taxes, interest or penalties paid in error shall be as follows:

- (1) The taxpayer shall submit to the local tax administrator in writing a claim for credit or refund together with a statement specifying:
 - (a) the name of the locally imposed and administered tax subject to the claim;
 - (b) the tax period for the locally imposed and administered tax subject to the claim;
 - (c) the date of the tax payment subject to the claim and the cancelled check or receipt for the payment;
 - (d) the taxpayer's recalculation, accompanied by an amended or revised tax return, in connection with the claim; and
 - (e) a request for either a refund or a credit in connection with the claim to be applied to the amount of tax, interest and penalties overpaid, and, as applicable, related interest on the amount overpaid; provided, however, that there shall be no refund and only a credit given in the event the taxpayer owes any monies to the City.
- (2) Within **ten (10) days** of the receipt by the local tax administrator of any claim for a refund or credit, the local tax administrator shall either:
 - (a) grant the claim; or
 - (b) deny the claim, in whole or in part, together with a statement as to the reason for the denial or the partial grant and denial.

- (3) In the event the local tax administrator grants, in whole or in part, a claim for refund or credit, the amount of the grant for refund or credit shall bear interest at the rate of **six percent (6%)** per annum, based on a year of **three hundred sixty-five (365) days** and the number of days elapsed, from the date of the overpayment to the date of mailing of a refund check or the grant of a credit.

36-5-8 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 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 **eight percent (8%)** 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 **two (2) years** maximum after the end of the calendar year for which the return for the applicable period was filed or for the calendar year in which the return for the applicable period was due, whichever occurs later.

(B) If any tax return is not filed or if during any **four (4) year** period for which a notice of tax determination or assessment may be issued by the City, the tax paid was less than **seventy-five percent (75%)** of the tax due, the statute of limitations shall be **six (6) years** maximum after the end of the calendar year in which return for the applicable period was due or end of the calendar year in which the return for the applicable period was filed.

(C) No statute of limitations shall not apply if a fraudulent tax return was filed by the taxpayer.

36-5-15 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. 00-22; 12-26-00)

CHAPTER 37

TREE CODE

37-1-1 DEFINITIONS.

"STREET TREES" are herein defined as trees, shrubs, bushes, and all other woody vegetation on land lying between property lines on either side of all streets, avenues, or ways within the City.

"PARK TREES" are herein defined as trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the City, or to which the public has free access as a park.

"SMALL TREES" are those up to **twenty-five (25) feet** in height.

"MEDIUM TREES" are those trees between **twenty-five (25) to fifty (50) feet** in height at maturity.

"LARGE TREES" are **fifty (50) feet** and up in height.

37-1-2 STREET TREES TO BE PLANTED. The City Superintendent will determine the species of trees to be planted annually.

37-1-3 SPACING. The spacing of Street Trees will be in accordance with the **three (3)** size classes listed in **Section 37-1-1** of this Code, and no trees may be planted closer together than the following: Small trees, **thirty (30) feet**; Medium Trees, **forty (40) feet**; and Large Trees, **fifty (50) feet**; except in special plantings designed or approved by a landscape architect.

37-1-4 DISTANCE FROM CURB AND SIDEWALK. The distance trees may be planted from curbs or curblines and sidewalks will be in accordance with the **three (3)** size classes listed in **Section 37-1-1** of this Code, and no trees may be planted closer to any curb or sidewalk than the following: Small Trees, **two (2) feet**; Medium Trees, **three (3) feet**; and Large Trees, **four (4) feet**.

37-1-5 DISTANCE FROM STREET CORNERS AND FIREPLUGS. No Street Trees shall be planted closer than **thirty-five (35) feet** of any street corner, measured from the point of nearest intersecting curbs or curblines. No Street Tree shall be planted closer than **ten (10) feet** of any fireplug.

37-1-6 UTILITIES. No Street Tree other than Small Trees may be planted under or within **ten (10) lateral feet** of any overhead utility wire, or over or within **five (5) lateral feet** of any underground water line or sewer line.

37-1-7 PUBLIC TREE CARE. The City shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

The City may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insect or other pest. This Section does not prohibit the planting of Street Trees by adjacent property owners providing that the selection and location of said trees is in accordance with this Code.

37-1-8 TREE TOPPING. It shall be unlawful as a normal practice for any person, firm, or City department to top any Street Tree, Park Tree or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than **three (3) inches** in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this Code at the determination of the City.

37-1-9 PRUNING, CORNER CLEARANCE. Every owner of any tree overhanging any street or right-of-way within the City shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of **eight (8) feet** above the surface of the street or sidewalk. Said owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The City shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light or interferes with visibility of any traffic control device or sign.

37-1-10 TREE REMOVAL ON PRIVATE PROPERTY. The City shall have the right to cause the removal of any dead or diseased trees on private property within the City, when such trees constitute a hazard to life and property, or harbor insects or disease which constitute a potential threat to other trees within the City. The City will notify in writing the owners of such trees. Removal shall be done by said owners at their own expense within **sixty (60) days** after the date of service of notice. In the event of failure of owners to comply with such provisions, the City shall have the authority to remove such trees and charge the cost of removal on the owners property tax notice.

37-1-11 REMOVAL OF STUMPS. All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

37-1-12 INTERFERENCE WITH CITY. It shall be unlawful for any person to prevent, delay or interfere with the City, or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any Street Trees, Park Trees, or trees on private grounds, as authorized in this Code.

37-1-13 LICENSE. Any tree work on City Street Trees or Park Trees shall be done under the direction of the City Superintendent.

37-1-14 PENALTY. Any person violating any provision of this Chapter shall be, upon conviction or a plea of guilty, subject to a fine not to exceed **Five Hundred Dollars (\$500.00).**

(Ord. No. 06-12; 04-24-06)
[See Section 1-1-20 for applicable penalty.]

CHAPTER 38

UTILITIES

ARTICLE I - DEPARTMENTS ESTABLISHED

DIVISION I – WATER DEPARTMENT

38-1-1 WATER DEPARTMENT ESTABLISHED. There shall be a department of the City known as the **Waterworks Department**. It shall include the Water Superintendent and employees of the Department. The designated office shall be the City Hall.

38-1-2 WATER AND WASTEWATER COMMITTEE. The City Council standing committee on Water and Wastewater shall exercise a general supervision over the affairs of the Water and Wastewater Departments. They shall ascertain the condition and needs thereof; and shall, from time to time, report the same to the Mayor and City Council so that a full understanding thereof shall be had; and generally, shall do all acts necessary to promote the efficiency of the Departments.

38-1-3 WATER SUPERINTENDENT. The Water Superintendent shall provide the leadership and direct management of the day-to-day operations of the Water Department of the City including the assignment of personnel duties, equipment, materials, provision of accurate and timely documentation of hours worked, and organization of materials and equipment used to perform daily Department activities. Typical responsibilities include but are not limited to: maintenance operation and repair of the City water pumping, storage and distribution systems. The position is subject to 24-hour availability, 7 days per week, including weekends and holidays and reports to the Mayor.

38-1-4 DUTIES OF THE WATER SUPERINTENDENT. Essential and other important duties and responsibilities of the Water Superintendent include, but are not limited to:

- (A) Responsible for ensuring the residents of the Gibson City are provided with safe, clean potable water and maintaining the City water systems.
- (B) Plan, prioritize, and review the work of the Water Department staff.
- (C) Effectively interact with the citizens of Gibson City in responding to requests for services.
- (D) Ensure that accurate and timely documentation of the hours worked, materials and equipment used to perform the daily activities is accomplished.
- (E) Ensure that the daily, weekly and monthly testing and reporting required by the United States and Illinois Department of Environmental Protection Agency are accurately performed, complied, prepared and submitted within the time limits established by the appropriate agencies.
- (F) Take immediate action to inform the City staff, residents, and the general public of any problems or situations that affect water quality.
- (G) Establish work schedules, productivity standards and methods for providing cost effective maintenance and repairs to the City water infrastructure.
- (H) Ensure compliance with City policies and procedures, state, federal laws and initiate required actions when violations are observed.
- (I) Review and evaluate the documentation of the daily work productivity records of the field personnel.
- (J) Prepare, review and evaluate analytical and statistical reports on the historical maintenance and conditions of the City water systems.
- (K) Evaluate and recommend needed training for field personnel and regular performance evaluation of field personnel within the Department implementing disciplinary action, when necessary, in compliance with City Personnel Policies, City Ordinances, and applicable law.

- (L) Identify, obtain and schedule resources required to meet or exceed the established service levels of the Department.
- (M) Ensure that all field personnel wear proper safety clothing and protective gear and that industry accepted safety standards and practices are adhered to and violations are corrected immediately.
- (N) Direct repairs and maintenance activities, if and when needed due to personnel shortages or based on complexity of needed repairs.
- (O) Identify opportunities for improvement of service delivery methods and procedures and review with appropriate management staff.
- (P) Review records of the water system, atlases, and assume responsibility for the inventory of supplies for the Department.
- (Q) Maintain and document the inventory of supplies for the Department and oversee activities concerning the ordering, procurement, and inventory of maintenance materials and supplies.
- (R) Prepare and develop the annual Department budget and supporting documentation. Forecast funding needed for staffing, equipment, materials, and supplies that are required to meet established service levels.
- (S) Participate and assist in the implementation of the goals and objectives of the City and participate in professional group meetings and activities in order to maintain a high level of competence in the latest trends and techniques in the public works industry.
- (T) Coordinate efforts with the Wastewater Department and all other City Departments.
- (U) Perform related duties and responsibilities as assigned by the Mayor.

(Ord. No. 2021-04; 06-01-21)

38-1-5 RESERVED.

DIVISION II – WASTEWATER DEPARTMENT

38-1-6 WASTEWATER DEPARTMENT ESTABLISHED. There is hereby established an executive department of the City known as the **Wastewater Department**. It shall include the Wastewater Superintendent and the employees of the Department. The designated office shall be the City Hall.

38-1-7 WASTEWATER SUPERINTENDENT. The Wastewater Superintendent shall provide the leadership and direct management of the day-to-day operations of the Wastewater Department of the City including the assignment of personnel duties, equipment, materials, provision of accurate and timely documentation of hours worked, and organization of materials and equipment used to perform daily Department activities. Typical responsibilities include, but are not limited to: maintenance operation, maintenance and repair of the City sanitary and storm wastewater distribution and process systems. The position is subject to 24-hour availability, 7 days per week, including weekends and holidays and reports to the Mayor.

38-1-8 DUTIES OF THE WASTEWATER SUPERINTENDENT. Essential and other important duties and responsibilities of the Wastewater Superintendent include, but are not limited to:

- (A) Responsible for ensuring the residents of the Gibson City are provided with safe, functional, and compliant sanitary and wastewater service.
- (B) Plan, prioritize, and review the work of the Wastewater Department staff.
- (C) Effectively interact with the citizens of Gibson City in responding to requests for services.

- (D) Ensure that accurate and timely documentation of the hours worked, materials and equipment used to perform the daily activities is accomplished.
- (E) Ensure that the daily, weekly and monthly testing and reporting required by the United States and Illinois Department of Environmental Protection Agency are accurately performed, complied, prepared and submitted within the time limits established by the appropriate agencies.
- (F) Take immediate action to inform the City staff, residents, and the general public of any problems or situations that affect wastewater and/or storm wastewater service.
- (G) Establish work schedules, productivity standards and methods for providing cost effective maintenance and repairs to the City wastewater and stormwater infrastructure.
- (H) Ensure compliance with City policies and procedures, state, federal laws and initiate required actions when violations are observed.
- (I) Review and evaluate the documentation of the daily work productivity records of the field personnel.
- (J) Prepare, review and evaluate analytical and statistical reports on the historical maintenance and conditions of the City water systems.
- (K) Evaluate and recommend needed training for field personnel and regular performance evaluation of field personnel with the Department implementing disciplinary action, when necessary, in compliance with City Personnel Policies, City Ordinances, and applicable law.
- (L) Identify, obtain and schedule resources required to meet or exceed the established service levels of the Department.
- (M) Ensure that all field personnel wear proper safety clothing and protective gear and that industry accepted safety standards and practices are adhered to and violations are corrected immediately.
- (N) Direct repairs and maintenance activities, if and when needed due to personnel shortages or based on complexity of needed repairs.
- (O) Identify opportunities for improvement of service delivery methods and procedures and review with appropriate management staff.
- (P) Review records of the wastewater system, stormwater system, atlases, and assume responsibility for the inventory of supplies for the Department.
- (Q) Maintain and document the inventory of supplies for the Department and oversee activities concerning the ordering, procurement, and inventory of maintenance materials and supplies.
- (R) Prepare and develop the annual Department budget and supporting documentation. Forecast funding needed for staffing, equipment, materials, and supplies that are required to meet established service levels.
- (S) Participate and assist in the implementation of the goals and objectives of the City and participate in professional group meetings and activities in order to maintain a high level of competence in the latest trends and techniques in the public works industry.
- (T) Coordinate efforts with the Water Department and all other City Departments.
- (U) Perform related duties and responsibilities as assigned by the Mayor.

(Ord. No. 2021-04; 06-01-21)

ARTICLE II - RATES AND REGULATIONS

38-2-1 CONTRACT FOR UTILITY SERVICES.

(A) **Customer Accepts Service.** The rates, rules and regulations contained in this Chapter shall constitute and be considered a part of the contract with every person, company or corporation who is supplied with water and sewer services from the waterworks and sewerage system and every person, company or corporation, hereinafter called a "**customer**" who accepts and uses City water and sewer services shall be held to have consented to be bound thereby.

(B) **Not Liable for Interrupted Service.** The Department shall endeavor at all times to provide a regular and uninterrupted supply of service, however, in case the supply of service shall be interrupted or irregular or defective or fail from causes beyond its control or through ordinary negligence of employees, servants or agents, the Departments shall not be liable therefor.

(C) **Using Services Without Paying.** Any person using utility services from the City without paying therefor, or who shall be found guilty of breaking the seal of any meter or appurtenances, or bypassing any meter, shall be guilty of violating this Code, and upon conviction, shall be fined a sum as provided in Section 1-1-20 of the Revised Code.

(D) **Destroying Property.** Any person found guilty of defacing, tampering, injuring or destroying, or in any manner, limiting the use or availability of any meter or any property of the waterworks system and sewerage system, or erecting signs on the property of the Department without permission shall, upon conviction of such act, be fined as provided in Section 1-1-20 of the Revised Code.

(E) **Service Obtained By Fraud.** All contracts for water and sewer services shall be made in the name of the head of the household, firm or corporation using the established spelling of that person's or firm's name. Attempts to obtain service by the use of other names, different spellings or by substituting other persons or firms shall be considered a subterfuge and service shall be denied. If service has been discontinued because of nonpayment of bills, or any unpaid obligation and service has again been obtained through subterfuge, misrepresentation or fraud, that service shall be promptly disconnected and the whole or such part of the advanced payment as may be necessary to satisfy the unpaid obligation shall be retained by the City and credited to the appropriate account.

(F) **Failure to Receive Bill.** Failure to receive a bill shall not excuse a customer from his obligation to pay within the time specified. Should the Department be unable to bill a customer for services used during any month, the following billing shall include the charges for services used during the unbilled month.

(G) **Request to Discontinue Service.** Services shall have been deemed to have been supplied to any property connected to the Water and Sewer through the date specified by the customer or the date upon which service can be read or turned off, whichever is later. **(Ord. No. 06-19; 06-12-06)**

(H) **Billing; Utility Shut-off.**

(1) All bills for utility services shall be due and payable upon presentation. If a bill is not paid within **twenty (20) days** after

the statement has been rendered, a penalty equal to **ten percent (10%)** of the amount due on said bill shall be added thereto. This penalty shall be in addition to the charges heretofore established for the utility services.

- (2) Any customer who fails to pay their utility bills within **twenty-five (25) days** of presentation shall have the utility services disconnected. The City shall send a penalty bill to all persons who are delinquent in their utility bills. Once that notice has been delivered to the last known address of the customer, the entire amount of the bill shall be due and owing and shall be paid within **five (5) days** of such delivery. If payment is not received by the City within **five (5) days**, service shall be discontinued and a fee of **One Hundred Dollars (\$100.00)** for each disconnection of such utility services shall be added to the penalty bill (unless prior arrangements have been made), except that service will not be discontinued on a Saturday, Sunday or a legal holiday. Such discontinuation of service shall be in addition to, and not in lieu of, any other remedy for collection of such bill. Any order by a customer for disconnection of physical shutoff of such service shall incur a fee of **One Hundred Dollars (\$100.00)** for each disconnection or shutoff. Transfer of an account without a shutoff of service shall not incur a disconnection fee. **(Ord. No. 2022-02; 02-28-22)**
- (3) If the customer who has been notified for nonpayment of utility bills is not the owner of record, then the City shall notify the owner of the property utilizing the name and address appearing on the tax bill. **(Ord. No. 06-19; 06-12-06)**
- (4) Once utility services have been disconnected, the same shall not be again connected or used until all delinquent accounts and bills of service are paid in full, including a fee of **One Hundred Dollars (\$100.00)** for each connection of such utility services, plus expenses incurred in the reconnection of the utility services. The reconnection of services shall be done during "normal business hours" which are described in **Section 1-2-57(B)**. **(Ord. No. 2022-02; 02-28-22)**
- (5) The customer has the option of requiring restoration of utilities during times other than normal business hours. Service to a customer for which utility services has been disconnected as described in paragraph (2) of this Section will be restored by the City during times other than "normal business hours" as described in **Section 1-2-57(B)** upon the customer making full payment of the delinquent bill plus of the off-time reconnection charge of **One Hundred Dollars (\$100.00)**. **(Ord. No. 06-19; 06-12-06)**
- (6) It is unlawful for any third person to disconnect or cause to be disconnected, any City water supply line or any City sewer line. Any person found guilty of disconnecting or cause to be disconnected, any City water supply line or any City sewer line shall, upon conviction of such act, be fined **Five Hundred Dollars (\$500.00)**. **(Ord. No. 2022-02; 02-28-22)**

(I) **Lien Notice.** Whenever a bill for utility services remains unpaid for **sixty (60) days** after it has been rendered, the Administrative Assistant shall file with the County Recorder of Deeds a statement of lien claim. This statement shall contain the legal description of the premises served, the amount of the unpaid bill, and a notice that the municipality claims a lien for this amount to the period covered by the bill.

If the consumer of utility services whose bill is unpaid is not the owner of the premises and the Administrative Assistant has notice of this, then notice shall be mailed to the owner of the premises if his address is known to the Administrative Assistant whenever such bill remains unpaid for a period of **thirty (30) days** after it has been rendered.

The failure of the Administrative Assistant to record such lien or to mail such notice, or the failure of the owner to receive such notice shall not affect the right to foreclose the lien for unpaid utility bills as mentioned herein.

(J) **Foreclosure of Lien.** Property subject to a lien for unpaid utility charges may be sold for non-payment of the same, and the proceeds of such sale shall be applied to pay the charges, after deducting costs, as is the case in the foreclosure of statutory liens. Such foreclosure shall be by bill-in-equity in the name of the City.

The City Attorney is hereby authorized to institute such proceedings in the name of the City in any Court having jurisdiction over such matters against any property for which the bill for utility services has remained unpaid **ninety (90) days** after it has been rendered.

38-2-2 CONSUMER LISTS. It is hereby made the duty of the Administrative Assistant to prepare or cause to be prepared a complete and accurate list of all premises and properties receiving utility services, showing the name and address of the occupant and the owner of the same. The list shall be kept up-to-date, and shall be corrected from time to time to allow changes in the occupancy or ownership of any such property or premises. It shall be presented at the regular monthly meeting if requested.

38-2-3 LIABILITY FOR CHARGES. The owner of any lot, parcel of land or premises and the user of the services shall be jointly and severally liable for the payment of the services to such lot, parcel of land or premises, and all services are rendered to the premises by the City only on the condition that such owner, occupant and user shall be jointly and severally liable therefor to the City. The owner of the premises shall be notified whenever the City is required to shut off the utilities of a tenant for failure to pay the charges.

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 charge of the **previous three (3) billing periods.** If no record of the previous **three (3) billing periods** exists, then it shall be the duty of the Administrative Assistant 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 UTILITY SERVICE. No free utility service shall be furnished to any person, public or private, and all rates and charges shall be non-discriminatory, provided that the Mayor and City Council reserve the right to impose special rates and charges in cases where particular circumstances render the regular rates inadequate or unjust.

38-2-6 UTILITY DEPOSITS.

(A) **Water Deposit.** No person other than the owner of the premises for which service is supplied, shall be furnished or supplied with water service until such person has deposited with the Administrative Assistant the sum of **Seventy-Five Dollars (\$75.00)** as security for the payment of all water used by or water service furnished to such person upon such premises. For water service furnished to automobile service stations the amount of the deposit herein required shall be the sum of **Seventy-Five Dollars (\$75.00).** **(Ord. No. 03-18; 07-12-03)**

(B) **Sewer Deposit.** No person other than the owner of the premises, for which sewerage service is supplied and who does not use the water service of this City, shall be furnished or supplied with sewerage service until such person has deposited with the Administrative Assistant the sum of **Twenty-Five Dollars (\$25.00)** as security for the payment of all sewerage service furnished to such person upon the premises. The owner of premises to which sewerage service is supplied for the use of a tenant or an occupant thereof shall be liable for all unpaid bills for such service. **(Ord. No. 454; 05-09-72)**

(C) **Security for Payment - No Interest.** The deposits made under the provisions of this Section shall be held by the City as security for the payment of utility services used by the applicant upon the premises to which his application pertains, and may be so applied when any default is made in the payment in the utilities bill in accordance with this Chapter. The depositor shall earn no interest on the deposit.

(D) **Liability for Deposit.** The owner of the premises and the tenant thereof shall be jointly and severally liable to pay the required deposit herein established before water and sewer services shall be made available to the premises. In the case a portion of the deposit is used as aforesaid, the tenant or owner of the premises shall immediately deposit with the Administrative Assistant an amount sufficient to bring the deposit to the established rate of deposit.

38-2-7 UTILITY BILL SETTLEMENTS.

(A) **Settlement.** Water and sewer bills may be settled and compromised by the City where there has been a leak in the water line between the customer's structure and the meter. **(Ord. No. 475; 02-27-73)**

(B) **Same Charge Required.** The customer shall be required to pay the same charge on the sewer portion of his bill as was made in the preceding bi-monthly and the entire water portion of his bill for the present bi-monthly charge. **(Ord. No. 99-17)**

(C) **Proof of Leak Required.** The customer shall furnish to the City, within a reasonable time after receiving his bill, proof of the leak in the water line and that it has been repaired before such a settlement and compromise, as abovementioned, will be made on the customer's bill. **(Ord. No. 475; 02-27-73)**

(D) **Failure to Show Proof – Liability.** Failure of customer to furnish proof, as above required, constitutes a waiver to compromise and settle his bill and he shall remain liable for the entire bill for the period charged. **(Ord. No. 475; 02-27-73)**

38-2-8 **OUTSIDE CONNECTIONS PROHIBITED.** It is unlawful for any person to connect or cause to be connected, any City water supply line, any sewer line or storm water tile lines to serve any real estate located outside the corporate limits of the City, except where all of the owners of the real estate sought to be served by such City water lines, sewer lines or storm water lines have filed with the City a petition to annex the real estate affected to the City, or, in the event the real estate is not contiguous to corporate limits of the City, to enter into an agreement whereby the owners will petition for annexation of the affected real estate to the City at such time as same is contiguous or is included within a petition for annexation with other contiguous real estate. **(Ord. No. 402; 12-09-69)**

ARTICLE III - WATER SYSTEM

DIVISION I - GENERAL REGULATIONS

38-3-1 APPLICATION FOR TAPS AND SERVICE CONNECTIONS TO THE WATERWORKS SYSTEM. An applicant desiring a water tap or service connection with the Waterworks System of the City shall file a written application at the City Hall, signed by the owner of the property for which the tap or service connection is desired, or by the duly authorized agent of such owner. The application shall be accompanied by payment of the fee hereinafter prescribed to cover the cost of such service connection. In the event the application is made by an agent for the owner, then the application shall also be accompanied by the written authority of the owner to the agent for the making of the application.

38-3-2 ALL SERVICE TO BE BY METER. All water service, whether for domestic, commercial or industrial use shall be metered. All meters shall be so placed and installed as to render the same accessible at all times for the purpose of reading or repairing and so as to be free from danger of freezing. Meters outside of a building shall be set in a suitable meter box approved by the 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 have been fully complied with.

38-3-3 INSPECTION: METERS AND VALVES.
(A) **Access to Premises.** The City shall have access to all portions of the premises of the consumer at any reasonable time for inspection of the use of water and the consumer's pipe, fixtures, plumbing, and any other apparatus in any manner connected to the Waterworks System of the City. The City shall have the right and option to demand change or stopping of use or to require any repair, change, removal or improvement of any pipe, fixture, plumbing or other apparatus that would in any manner affect the water supply or system of the City or the supply or fixtures of other consumers.

(B) **Meters to be Open to Inspection.** All water meters and water fixtures, connections and appurtenances on private property connected with the Waterworks System of the City shall be accessible and open to the inspection of the proper officers and employees of the City at all reasonable hours.

(C) **Cut-Off Valves and Service Boxes.** All cut-off valves and service boxes are required to be installed in the street, alley or avenue, so far as practicable, adjacent to the premises served thereby.

38-3-4 METER DAMAGED. Whenever a meter is found to have been damaged by hot water being forced back into it from the consumer's hot water or heating apparatus or for any other cause within control of the consumer, the consumer shall pay the

City for the actual cost of the removal, repair, and replacement of the damaged meter and all previous water bills shall be corrected on an estimated basis to cover such period as it appears that the meter was out of order for such damage.

38-3-5 CITY NOT LIABLE FOR INTERRUPTION OF SUPPLY. The City reserves the right to shut off water at any time in the mains for the purpose of repairing, cleaning, making connections with or extensions to same, or for the concentrating of water in any part of the City in case of fire, and for restricting the use of water in case of deficiency in supply. No claim shall be made against the City by reason of the breaking of any service pipe or service cock, or damage arising from shutting off of water for repairing, laying or relaying mains, hydrants, or other connections or repairing any part of the Water System, or from failure of the water supply, or by increasing the water pressure at any time, or from concentration or restricted use of water as shown above.

38-3-6 RESALE. No water shall be resold or distributed by the recipient or consumer thereof from the City supply to any premises other than that for which application has been made and the meter installed, except in cases of emergency.

38-3-7 DISCONTINUING SERVICE - DANGEROUS USAGE. The City shall have the right to refuse water service or to discontinue water service, without notice, at any time to any consumer if the City finds any apparatus or appliances, the operation of which will be detrimental to the water system of the City or to any or all of its consumers. Standpipes, hydrants, gate valves and any other apparatus that cause water hammer or any danger to the water system or other customer's plumbing shall be immediately repaired or removed upon notice from the City or, at its option, the City may immediately discontinue service without notice and without any liability for direct or resulting damages therefrom.

38-3-8 ELECTRIC GROUND WIRES. All persons are strictly forbidden to attach any electric ground wire to any plumbing or water piping which is or may be connected to any water service pipe, water meter, or water main belonging to the City.

The City shall hold the owner of the premises responsible and liable for any damage to the property or injury to the employees of the City caused by such ground wire. Any and all owners and consumers shall remove any existing ground wires immediately upon written notice from the City. If not so disconnected **five (5) days** after notice, the City, through its officials, may enter the property and remove such ground wires and the consumer shall pay all costs.

38-3-9 WATER FOR BUILDING OR CONSTRUCTION PURPOSES.

Applicants desiring to use water from the City Waterworks System for building or construction purposes shall make application therefor to the Superintendent on a form provided by the Water and Sewer Department for that purpose.

Upon a permit being granted, the service pipe shall be carried at the expense of the applicant to the inside of the curb line where a service cock and meter shall be placed with pipe leading to the surface and a faucet placed (with proper backflow prevention) at the end thereof above the surface. When the building or construction is completed, the faucet and meter shall be removed and the water shut off unless permanent connection is made in accordance with the provisions of this Chapter. Charge for the use and connection of the meter shall be prescribed by the Superintendent of the Water and Sewer Department. **(See also Sections 38-3-22 et seq.)**

38-3-10 FIRE HYDRANTS.

(A) All public fire hydrants with gate valves, tees, and connections from the main, inside the City Limits, shall be owned, maintained and used only by the City and shall be solely responsible for same. Use of water from fire hydrants by contractors and others shall be only upon permission by the City and after approved application to the City.

(B) The City shall not be held liable and will not assume any responsibility for the condition of any fire hydrant inside or outside of the City Limits or the pressure or amount of water obtainable therefrom or any damage either direct or resultant because of the condition, pressure or amount of water available at any fire hydrant.

(C) All public fire hydrants located outside the City Limits owned by the City shall be maintained in as good order as reasonably possible, but the City will not undertake or assume any responsibility or liability for their condition or use or abuse. Such public fire hydrants shall be used only for the purpose of extinguishing fires except when the City may issue a special permit for their use to contractors who shall then be responsible for the hydrants and the use of water from them.

38-3-11 LIMITED WATER USAGE IN EMERGENCIES.

(A) The Mayor is hereby authorized to proclaim the existence of an emergency whenever it appears that the City water supply is inadequate for all general uses and purposes, which proclamation shall be published in a newspaper of general circulation in the community and the Mayor is further authorized to declare in similar manner the end of an emergency period.

(B) From and after the publication of a proclamation as provided for in subsection (A) of this Section, the following uses of water shall be prohibited:

- (1) the washing of cars and other vehicles;
- (2) the sprinkling of lawns and shrubbery;
- (3) the watering of gardens;
- (4) other nonessential uses;

and it shall be unlawful for any person to so use water from the City supply during such an emergency.

38-3-12 SHORTAGE AND PURITY OF SUPPLY. The City shall not be held responsible for or in any manner liable to any person, company, consumer or public body for any claim or damage, either direct or resultant because of any shortage of water supply, any shutoff of water for any reason, any bursting or leakage of either the consumer's or City's mains, pipes and fixtures, any pollution or impurity in water supply or any fire or water damage.

38-3-13 EASEMENTS. The consumer shall give such easements and rights-of-way as necessary to the City and allow access for the purpose of construction, repair, maintenance, meter reading, relocation or expansion of the water system. The necessity shall be determined by the City Council.

38-3-14 USE OF WATER ON CONSUMER'S PREMISES. The City shall reserve the right to use the water from the consumer's facilities at any time deemed necessary. No charge shall be made by the consumer for the use of the facilities and no charge shall be made by the City for the water used by the City.

38-3-15 REMOVAL OF METERS. All meters shall remain the property of the department and may be removed from the customer's premises at any time without notice for the purpose of testing and repairing the same or upon discontinuance of service. Upon discovery of any unlawful act by any customer, his agent, or employee herein prohibited or upon failure to comply with any other rules and regulations of the department, such service shall be disconnected.

38-3-16 INSTALLING AND MAINTAINING SERVICE LINES. The user shall be responsible for installation and maintenance of service lines between the curb stop and the residence or business. Such service lines must be at least **three-fourths inch (3/4")** in diameter, and must be installed at a minimum depth of **three (3) feet**. Service lines must have a minimum working pressure rating of **160 psi at 73.4 degrees F** and must be constructed of one of the following types of materials: Copper, (Type K), polyvinyl chloride (PVC), polyethylene or polybutylene. Service lines shall not be covered until they are inspected and approved by the Superintendent.

The user shall not connect any service line or any plumbing connected with the service line to any other water source. The service line shall meet all requirements of the Illinois Environmental Protection Agency's rules and regulations, the Illinois Plumbing Code, and the regulations in this Chapter.

38-3-17 ALLOCATION OF MAINTENANCE COSTS BETWEEN USER AND CITY. The City shall maintain and repair all water service pipes between the water mains and the curb lines. Any repairs to service lines or taps between the water mains and the sidewalk or property line shall be the City's expense. Any repairs or renewals of water service pipes between the property line or curb line and extending to the owner's premises shall be made at the sole expense of the consumer or owner of the premises.

38-3-18 PRIVATE WATER SYSTEMS PROHIBITED. No person, business or entity having its residence or place of business within the territorial limits of the City shall be permitted to secure water for such residence, place of business or property located within the City otherwise than through the water mains of the City.

A restricted use permit may be granted by the City Council and said well installation be inspected by the City Superintendent, and said well have all necessary back flow prevention devices installed and inspected annually and said well shall not be connected by any fitting or fixture in any way to the City's water distribution system. **(Ord. No. 826; 01-22-96)**

38-3-19 RULES TO BECOME PART OF CONTRACT. All of the rules and regulations concerning the use of the facilities of the water system and the consumption of water shall be adopted and the same shall become part of the contract with every water consumer and every water consumer shall be considered to take water from the City, subject thereto and bound thereby.

38-3-20 NON-COMPLIANCE WITH RULES AND REGULATIONS. If any consumer fails to comply with any of the rules and regulations in force, the City shall notify the consumer of such failure. If the consumer does not remedy the same as the rules provide and within a reasonable time, the City shall have the right to discontinue service. Except in case of non-payment, emergency, necessity, or as otherwise provided, the City will not discontinue service for violation of any rule until **five (5) days** after notice has been given and the violation has not been remedied.

38-3-21 RESERVED.

DIVISION II - CROSS-CONNECTION ADMINISTRATION

38-3-22 APPROVED BACKFLOW DEVICE. All plumbing installed within the City shall be installed in accordance with the Illinois Plumbing Code, 77 Ill. Adm. Code 890. If, in accordance with the Illinois Plumbing Code or in the judgment of the Inspector, an approved backflow prevention device is necessary for the safety of the public water supply system, the Inspector shall give notice to the water customer to install such an approved device immediately. The water customer shall, at his own expense, install such an approved device at a location and in a manner in accordance with the Illinois Plumbing Code, Illinois Environmental Protection Agency and all applicable local regulations, and shall have inspections and tests made of such approved devices upon installation and as required by the Illinois Plumbing Code, Illinois Environmental Protection Agency and local regulations.

[ED. NOTE: This Division is the law required to be adopted by the City as per the Illinois E.P.A.]

38-3-23 CROSS-CONNECTION PROHIBITED; EXCEPTION. No person shall establish or permit to be established or maintain or permit to be maintained any connection whereby a private, auxiliary or emergency water supply other than the regular public water supply enters the supply or distribution system of the City, unless such private, auxiliary or emergency water supply and the method of connection and use of such supply shall have been approved by the Superintendent and the Illinois Environmental Protection Agency.

38-3-24 INVESTIGATIONS BY SUPERINTENDENT. It shall be the duty of the Superintendent to cause surveys and investigations to be made of commercial industrial and other properties served by the public water supply to determine whether actual or potential hazards to the public water supply may exist. Such surveys and investigations shall be made a matter of public record and shall be repeated at least every **two (2) years** or as often as the Inspector shall deem necessary. Records of such surveys shall be maintained and available for review for a period of at least **five (5) years**.

38-3-25 RIGHT TO ENTER PREMISES. The approved cross-connection control device inspector shall have the right to enter at any reasonable time any property served by a connection to the public water supply or distribution system for the purpose of verifying the presence or absence of cross-connections and that the Inspector or his authorized agent shall have the right to enter at any reasonable time any property served by a connection to the public water supply or distribution system for the purpose of verifying information submitted by the customer regarding the required cross-connection control inspection. On demand, the owner, lessee or occupants of any property so served shall furnish to the Inspector

any information which he may request regarding the piping system or systems or water use on such property. The refusal of such information when demanded shall, within the discretion of the Inspector, be evidence of the presence of improper connections as provided in this Chapter.

38-3-26 NOTICE TO CUSTOMER; RECONNECT FEE.

(A) The Administrative Assistant is hereby authorized and directed to discontinue, after reasonable notice to the occupant thereof, the water service to any property wherein any connection in violation of the provisions of this Chapter is known to exist, and to take such other precautionary measures as he may deem necessary to eliminate any danger of contamination of the public water supply distribution mains. Water service to such property shall not be restored until such conditions have been eliminated or corrected in compliance with the provisions of this Chapter and until a reconnection fee of **One Hundred Dollars (\$100.00)** is paid to the Administrative Assistant.

(B) Immediate disconnection with verbal notice can be effected when the Inspector is assured that imminent danger of harmful contamination of the public water supply system exists. Such action shall be followed by written notification of the cause of disconnection. Immediate disconnection without notice to any party can be effected to prevent actual or anticipated contamination or pollution of the public water supply, provided that, in the reasonable opinion of the Inspector or the Illinois Environmental Protection Agency, such action is required to prevent actual or potential contamination or pollution of the public water supply.

(C) The public water supply, the Inspector or the agents or assigns shall not be liable to any customer for any injury, damages or lost revenues which may result from termination of the customer's water supply in accordance with the terms of this Chapter, whether or not said termination was with or without notice.

38-3-27 CONTAMINATIONS COST AND THE CONSUMER. The consumer responsible for backsiphoned material or contamination through backflow, if contamination of the potable water supply system occurs through an illegal cross-connection or an improperly installed, maintained or repaired device, or a device which has been bypassed, shall bear the cost of clean-up of the potable water supply system.

38-3-28 - 38-3-30 RESERVED.

DIVISION III - CROSS-CONNECTION CONTROL CODE

38-3-31 PURPOSE. The purpose of these Rules and Regulations is:

(A) To protect the public water supply system from contamination or pollution by isolating within the customer's water system contaminants or pollutants which could backflow through the service connection into the public water supply system.

(B) To promote the elimination or control of existing cross-connections, actual or potential, between the public or consumer's potable water system and non-potable water systems, plumbing fixtures and sources or systems containing substances of unknown or questionable safety.

(C) To provide for the maintenance of a continuing program of cross-connection control which will prevent the contamination or pollution of the public and consumer's potable water systems.

38-3-32 APPLICATION. These Rules and Regulations shall apply to all premises served by the public potable water supply system of the City.

38-3-33 RESPONSIBILITY OF OWNER. The owner or official custodian shall be responsible for protection of the public water supply system from contamination due to backflow or back-siphonage of contaminants through the customers water service connection. If, in the judgment of the Superintendent or his authorized representative, an approved backflow prevention device is necessary for the safety of the public water supply system, the Superintendent shall give notice to the consumer to install such approved backflow prevention device at each service connection to the premises. The consumer shall immediately install such approved device or devices at his own expense; failure, refusal or inability on the part of the consumer to install such device or devices immediately shall constitute grounds for discontinuing water service to the premises until such device or devices have been installed. The consumer shall retain records of installation, maintenance, testing and repair as required in **Section 38-3-37(D)** below for a period of at least **five (5) years**. The Superintendent may require the consumer to submit a cross-connection inspection report to the City to assist in determining whether or not service line protection will be required. All cross-connection inspections shall be conducted by a Cross-Connection Control Device Inspector certified by the Illinois Environmental Protection Agency.

38-3-34 DEFINITIONS. The following definitions shall apply in the interpretation and enforcement of these regulations:

"Fixed Proper Air Gap" means the unobstructed vertical distance through the free atmosphere between the water discharge point and the flood level rim of the receptacle.

"Agency" means Illinois Environmental Protection Agency.

"Approved" means backflow prevention devices or methods approved by the Research Foundation for Cross-Connection Control of the University of Southern California, Association of State Sanitary Engineers, American Water Works Association, American National Standards Institute or certified by the National Sanitation Foundation.

"Auxiliary Water System" means any water source or system on or available to the premises other than the public water supply system and includes the water supplied by the system. These auxiliary waters may include water from another purveyor's public water supply system; or water from a source such as wells, lakes, or streams or process fluids; or used water. These waters may be polluted or contaminated or objectionable or constitute a water source or system over which the water purveyor does not have control.

"Backflow" means the backflow of water or other liquids, mixtures, or substances into the distribution pipes of a potable water system from any source other than the intended source of the potable water supply.

"Backflow Prevention Device" means any device, method, or type of construction intended to prevent backflow into a potable water system. All devices used for backflow prevention in Illinois must meet the standards of the Illinois Plumbing Code and the Illinois Environmental Protection Agency.

"Consumer" or "Customer" means the owner, official custodian or person in control of any premises supplied by or in any manner connected to a public water system.

"Consumer's Water System" means any water system located on the customer's premises. A building plumbing system is considered to be a customer's water system.

"Contamination" means an impairment of the quality of the water by entrance of any substance to a degree which could create a health hazard.

"Cross-Connection" means any physical connection or arrangement between two otherwise separate piping systems, one of which contains potable water and the other a substance of unknown or questionable safety or quality, whereby there may be a flow from one system into the other.

"Direct Cross-Connection" means a cross-connection formed when a water system is physically joined to a source of unknown or unsafe substance.

"Indirect Cross-Connection" means a cross-connection through which an unknown substance can be forced, drawn by vacuum or otherwise introduced into a safe potable water system.

"Double Check Valve Assembly" means an assembly composed of single, independently acting check valves approved under ASSE Standard 1015. A double check valve assembly and suitable connections for testing the water-tightness of each check valve.

"Health Hazard" means any condition, device or practice in a water system or its operation resulting from a real or potential danger to the health and well-being of consumers. The word "severe" as used to qualify "health hazard" means a hazard to the health of the user that could be expected to result in death or significant reduction in the quality of life.

"Inspection" means a plumbing inspection to examine carefully and critically all materials, fixtures, piping and appurtenances, appliances and installations of a plumbing system for compliance with requirements of the Illinois Plumbing Code, 77 Ill. Admn. Code 890.

"Non-potable Water" means water not safe for drinking, personal, or culinary use as determined by the requirements of 35 Ill. Adm. Code 604.

"Plumbing" means the actual installation, repair, maintenance, alteration or extension of a plumbing system by any person. Plumbing includes all piping, fixtures, appurtenances and appliances for a supply of water for all purposes, including without limitation lawn sprinkler systems, from the source of a private water supply on the premises or from the main in the street, alley or at the curb to, within and about any building or buildings where a person or persons live, work or assemble. Plumbing includes all piping, from discharge of pumping units to and including pressure tanks in water supply systems. Plumbing includes all piping, fixtures, appurtenances, and appliances for a building drain and a sanitary drainage and related ventilation system of any building or buildings where a person or persons live, work or assemble from the point of connection of such building drain to the building sewer or private sewage disposal system **five (5) feet** beyond the foundation walls.

"Pollution" means the presence of any foreign substance (organic, inorganic, radiological, or biological) in water that tends to degrade its quality so as to constitute a hazard or impair the usefulness of the water.

"Potable Water" means water which meets the requirements of 35 Ill. Adm. Code 604 for drinking, culinary, and domestic purposes.

"Potential Cross-Connection" means a fixture or appurtenance with threaded hose connection, tapered spout, or other connection which would facilitate extension of the water supply line beyond its legal termination point.

"Process fluid(s)" means any fluid or solution which may be chemically, or biologically or otherwise contaminated or polluted in a form or concentration such as would constitute a health, pollutional, or system hazard if introduced into the public or a consumer's potable water system. This includes but is not limited to:

- (A) polluted or contaminated waters;
- (B) process waters;
- (C) used waters originating from the public water supply system which may have deteriorated in sanitary quality;
- (D) cooling waters;
- (E) questionable or contaminated natural waters taken from wells, lakes, streams, or irrigation systems;
- (F) chemicals in solution or suspension;
- (G) oils, gases, acids, alkalis and other liquid and gaseous fluids used in industrial or other processes, or for fire fighting purposes.

"Public Water Supply" means all mains, pipes and structures through which water is obtained and distributed to the public, including wells and well structures, intakes and cribs, pumping stations, treatment plants, reservoirs, storage tanks and appurtenances, collectively or severally, actually used or intended for use for the purpose of furnishing water for drinking or general domestic use and which serve at least 15 service connections or which regularly serve at least 25 persons at least 60 days per year. A public water supply is either a "community water supply" or a "non-community water supply".

"Reduced Pressure Principle Backflow Prevention Device" means a device containing a minimum of two independently acting check valves together with an automatically operated pressure differential relief valve located between the two check valves and approved under ASSE Standard 1013. During normal flow and at the cessation of normal flow, the pressure between these two checks shall be less than the supply pressure. In case of leakage of either check valve, the differential relief valve, by discharging to the atmosphere, shall operate to maintain the pressure between the check valves at less than the supply pressure. The unit must include tightly closed shutoff valves located at each end of the device, and each device shall be fitted with properly located test cocks.

"Service Connection" means the opening, including all fittings and appurtenances, at the water main through which water is supplied to the user.

"Survey" means the collection of information pertaining to a customer's piping system regarding the location of all connections to the public water supply system and must include the location, type and most recent inspection and testing date of all cross-connection control devices and methods located within that customer's piping system. The survey must be in written form, and should not be an actual plumbing inspection.

"System Hazard" means a condition through which an aesthetically objectionable or degrading material not dangerous to health may enter the public water supply system or a consumer's potable water system.

"Used Water" means any water supplied by a public water supply system to a consumer's water system after it has passed through the service connection and is no longer under the control of the water supply official custodian.

"Water Purveyor" means the owner or official custodian of a public water system.

38-3-35 WATER SYSTEM.

(A) The water system shall be considered as made up of two parts: the public water supply system and the consumer's water system.

(B) The public water supply system shall consist of the source facilities and the distribution system, and shall include all those facilities of the potable water system under the control of the Superintendent up to the point where the consumer's water system begins.

(C) The source shall include all components of the facilities utilized in the production, treatment, storage, and delivery of water to the public water supply distribution system.

(D) The public water supply distribution system shall include the network of conduits used to deliver water from the source to the consumer's water system.

(E) The consumer's water system shall include all parts of the facilities beyond the service connection used to convey water from the public water supply distribution system to points of use.

38-3-36 CROSS-CONNECTION PROHIBITED.

(A) Connections between potable water systems and other systems or equipment containing water or other substances of unknown or questionable quality are prohibited except when and where approved cross-connection control devices or methods are installed, tested and maintained to insure proper operation on a continuing basis.

(B) No physical connection shall be permitted between the potable portion of a supply and any other water supply not of equal or better bacteriological and chemical quality as determined by inspection and analysis by the Agency.

(C) There shall be no arrangement or connection by which an unsafe substance may enter a supply.

38-3-37 SURVEY AND INVESTIGATIONS.

(A) The consumer's premises shall be open at all reasonable times to the approved cross-connection control device inspector for the inspection of the presence or absence of cross-connections within the consumer's premises, and testing, repair and maintenance of cross-connection control devices within the consumer's premises.

(B) On request of the Superintendent, or his authorized representative, the consumer shall furnish information regarding the piping system or systems or water use within the customer's premises. The consumer's premises shall be open at all reasonable times to the

Superintendent for the verification of information submitted by the inspection consumer to the public water supply custodian regarding cross-connection inspection results.

(C) It shall be the responsibility of the water consumer to arrange periodic surveys of water use practices on his premises to determine whether there are actual or potential cross-connections to his water system through which contaminants or pollutants could backflow into his or her public potable water system. All cross-connection control or other plumbing inspections must be conducted in accordance with Ill. Comp. Stat., Ch. 225, Sec. 320/3.

(D) It is the responsibility of the water consumer to prevent backflow into the public water system by ensuring that:

- (1) All cross-connections are removed; or approved cross-connection control devices are installed for control of backflow and back-siphonage.
- (2) Cross-connection control devices shall be installed in accordance with the manufacturer's instructions.
- (3) Cross-connection control devices shall be inspected at the time of installation and at least annually by a person approved by the Agency as a cross-connection control device inspector (CCCDI). The inspection of mechanical devices shall include physical testing in accordance with the manufacturer's instructions.
- (4) Testing and Records
 - (a) Each device shall be tested at the time of installation and at least annually or more frequently if recommended by the manufacturer.
 - (b) Records submitted to the community public water supply shall be available for inspection by Agency personnel in accordance with Ill. Comp. Stat., Ch. 415, Sec. 5/4(e).
 - (c) Each device shall have a tag attached listing the date of most recent test, name of CCCDI, and type and date of repairs.
 - (d) A maintenance log shall be maintained and include:
 1. date of each test;
 2. name and approval number of person performing the test;
 3. test results;
 4. repairs or servicing required;
 5. repairs and date completed; and
 6. serving performed and date completed.

38-3-38 WHERE PROTECTION IS REQUIRED.

(A) An approved backflow device shall be installed on all connections to the public water supply as described in the Plumbing Code, 77 Ill. Adm. Code 890 and the Agency's regulations 35 Ill. Adm. Code 680. In addition, an approved backflow prevention

device shall be installed on each service line to a consumer's water system serving premises, where in the judgment of the Superintendent, actual or potential hazards to the public water supply system exist.

(B) An approved backflow prevention device shall be installed on each service line to a consumer's water system serving premises where the following conditions exist:

- (1) Premises having an auxiliary water supply, unless such auxiliary supply is accepted as an additional source by the Superintendent and the source is approved by the Illinois Environmental Protection Agency.
- (2) Premises on which any substance is handled which can create an actual or potential hazard to the public water supply system. This shall include premises having sources or system containing process fluids or waters originating from the public water supply system which are no longer under the sanitary control of the Superintendent.
- (3) Premises having internal cross-connections that, in the judgment of the Superintendent, are not correctable or intricate plumbing arrangements it make which impractical to determine whether or not cross-connections exist.
- (4) Premises where, because of security requirements or other prohibitions or restrictions, it is impossible or impractical to make a complete cross-connection survey.
- (5) Premises having a repeated history or cross-connections being established or reestablished.

(C) An approved backflow device shall be installed on all connections to the public water supply as described in the Plumbing Code, 77 Ill. Adm. Code 890 and the Agency's regulations 35 Ill. Adm. Code 653. In addition, an approved backflow prevention device shall be installed on each service line to a consumer's water system serving, but not necessarily limited to, the following types of facilities unless the Superintendent determines that no actual or potential hazard to the public water supply system exists:

- (1) Hospitals, mortuaries, clinics, nursing homes.
- (2) Laboratories.
- (3) Piers, docks, waterfront facilities.
- (4) Sewage treatment plants, sewage pumping stations or storm water pumping stations.
- (5) Food or beverages processing plants.
- (6) Chemical plants.
- (7) Metal plating industries.
- (8) Petroleum processing or storage plants.
- (9) Radioactive material processing plants or nuclear reactors.
- (10) Car washes.
- (11) Pesticide, or herbicide or extermination plants and trucks.
- (12) Farm service and fertilizer plants and trucks.

38-3-39 TYPE OF PROTECTION REQUIRED.

(A) The type of protection required under **Section 38-3-38** of these regulations shall depend on the degree of hazard which exists as follows:

- (1) An approved fixed proper air gap separation shall be installed where the public water supply system may be contaminated with substances that could cause a severe health hazard.
- (2) An approved fixed proper air gap separation or an approved reduced pressure principle backflow prevention assembly shall be installed where the public water supply system may be contaminated with a substance that could cause a system or health hazard.
- (3) An approved fixed proper air gap separation or an approved reduced pressure principle backflow prevention assembly or a double check valve assembly shall be installed where the public water supply system may be polluted with substances that could cause a pollution hazard not dangerous to health.

(B) The type of protection required under **Section 38-3-38** of these regulations shall be an approved fixed proper air gap separation or an approved reduced pressure principle backflow prevention connected to the public water supply when:

(C) Where a public water supply or an auxiliary water supply is used for a fire protection system, reduced pressure principle backflow preventers shall be installed on fire safety systems connected to the public water supply when:

- (1) The fire safety system contains antifreeze, fire retardant or other chemicals;
- (2) water is pumped into the system from another source; or
- (3) water flows by gravity from a non-potable source; or water can be pumped into the fire safety system from any other source;
- (4) there is a connection whereby another source can be introduced into the fire safety system.

(D) All other fire safety systems connected to the potable water supply shall be protected by a double check valve assembly on metered service lines and a double detector check valve assembly on unmetered service lines.

38-3-40 BACKFLOW PREVENTION DEVICES.

(A) All backflow prevention devices or methods required by these rules and regulations shall be approved by the Research Foundation for Cross-Connection Control of the University of Southern California, American Water Works Association, American Society of Sanitary Engineering, or American National Standards Institute or certified by the National Sanitation Foundation to be in compliance with applicable industry specification.

(B) Installation of approved devices shall be made in accordance with the manufacturer's instructions. Maintenance as recommended by the manufacturer of the device shall be performed. Manufacturer's maintenance manual shall be available on-site.

38-3-41 INSPECTION AND MAINTENANCE.

(A) It shall be the duty of the consumer at any premises on which backflow prevention devices required by these regulations are installed to have inspection, tests, maintenance and repair made in accordance with the following schedule or more often where inspections indicate a need or are specified in manufacturer's instructions.

- (1) Fixed proper air gap separations shall be inspected to document that a proper vertical distance is maintained between the discharge point of the service line and the flood level rim of the receptacle at the time of installation and at least annually thereafter. Corrections to improper or by passed air gaps shall be made within 24 hours.
- (2) Double check valve assemblies shall be inspected and tested at time of installation and at least annually thereafter, and required service performed within **five (5) days**.
- (3) Reduced pressure principle backflow prevention assemblies shall be tested at the time of installation and at least annually or more frequently if recommended by the manufacturer, and required service performed within **five (5) days**.

(B) Testing shall be performed by a person who has been approved by the Agency as competent to service the device. Proof of approval shall be in writing.

(C) Each device shall have a tag attached listing the date of most recent test or visual inspection, name of tester, and type and date of repairs.

(D) A maintenance log shall be maintained and include:

- (1) date of each test or visual inspection;
- (2) name and approval number of person performing the test or visual inspection;
- (3) test results;
- (4) repairs or servicing required;
- (5) repairs and date completed; and
- (6) servicing performed and date completed.

(E) Whenever backflow prevention devices required by these regulations are found to be defective, they shall be repaired or replaced at the expense of the consumer without delay as required by **Section 38-3-41(A)**.

(F) Backflow prevention devices shall not be bypassed, made inoperative, removed or otherwise made ineffective without specific authorization by the Superintendent.

38-3-42 BOOSTER PUMPS.

(A) Where a booster pump has been installed on the service line to or within any premises, such pump shall be equipped with a low pressure cut-off device designed to shut-off the booster pump when the pressure in the service line on the suction side of the pump drops to 20 psi or less.

(B) It shall be the duty of the water consumer to maintain the low pressure cut-off device in proper working order and to certify to the Superintendent, at least once a year, that the device is operable.

38-3-43 VIOLATIONS AND PENALTIES.

(A) The Superintendent shall deny or discontinue, after reasonable notice to the occupants thereof, the water service to any premises wherein any backflow prevention device required by these regulations is not installed, tested, maintained and repaired in a manner acceptable to the Superintendent, or if it is found that the backflow prevention device has been removed or bypassed, or if an unprotected cross-connection exists on the premises, or if a low pressure cut-off required by these regulations is not installed and maintained in working order.

(B) Water service to such premises shall not be restored until the consumer has corrected or eliminated such conditions or defects in conformance with these regulations and to the satisfaction of the Superintendent, and the required reconnection fee is paid.

(C) Water service to such premises shall not be restored until the consumer has corrected or eliminated such conditions or defects on conformance with these Regulations and to the satisfaction of the Superintendent.

(D) Neither the City, the Superintendent, or its agents or assigns, shall be liable to any customers of the City for any injury, damages or lost revenues which may result from termination of said customer's water supply in accordance with the terms of this ordinance, whether or not said termination of the water supply was with or without notice.

(E) The consumer responsible for back-siphoned material or contamination through backflow, if contamination of the potable water supply system occurs through an illegal cross-connection or an improperly installed, maintained or repaired device, or a device which has been bypassed, must bear the cost of clean-up of the potable water supply system.

(F) Any person found to be violating any provision of this Code shall be served with written notice stating the notice of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violation.

(G) Any person violating any of the provisions of this Code in addition to the fine provided, shall become liable to the City for any expense, loss or damage occasioned by the City by reason of such violation, whether the same was caused before or after notice.

38-3-44 - 38-3-52 RESERVED.

DIVISION IV - EXTENSION OF MAINS

38-3-53 DETERMINATION OF WHO PAYS EXPENSE OF EXTENSION. The City Council shall first determine if an extension of water main is economically feasible based on the estimated cost of the extension and the number of existing potential users that will use water along the extension. If the extension is economically feasible then the City may install and pay the cost of the extension at the discretion of the City Council. If the City elects not to pay the cost of extending the water main then the person or persons desiring water service shall install the extension at their own personal expense upon written consent by the City Council. The City shall not pay for any extensions to an undeveloped area, such as a subdivision being developed, unless there are sufficient existing residents or businesses to make the extension economically feasible. **(See Chapter 34 for Design Requirements.) (See Section 38-2-8 for extension outside City.)**

38-3-54 EASEMENTS. Applicants for main extensions shall deliver, without cost to the City, permanent easements or right-of-way when necessary for the installation and maintenance of the extensions or subsequent additions thereto. The City shall not be obligated to authorize any construction until all requirements of this Chapter have been met.

38-3-55 SIZE AND TYPE. The City reserves the right to determine and specify the diameter and type of pipe required to provide the service requested, and subject to the requirements of municipal authorities, its location within or without the limits of a street. The City further reserves the right to install a main larger in diameter than the main required to render the service requested, in which case, the City will pay the difference in cost.

38-3-56 TITLE. Title to all main extensions shall be vested in the City and the City shall have the right to further extend any main installed in and to other streets or premises without repayment or refund to any applicant. However, the City reserves the right to consider extensions made at the applicant's expense and without written agreement as to service lines. Upon such lines, the City will set a meter at the beginning of the extension to measure all water used and title to the line beyond the meter will be vested in the customer who shall be responsible for maintenance and replacement, when necessary.

38-3-57 MAINTENANCE AND REPLACEMENT. The City, at its own expense, shall maintain and when necessary, replace the City-owned mains used to supply water to its customers, and if adequate service requires the reconstruction or replacement of such mains, the mains shall be reconstructed or replaced by the City at its expense.

38-3-58 - 38-3-70 RESERVED.

DIVISION V – WELL SETBACK ZONE CODE

38-3-71 PURPOSE. Pursuant to the authority conferred by **Illinois Compiled Statutes, 1998, Ch. 65, Sec. 5/11-125-4; Illinois Compiled Statutes, 1998, Ch. 415, Secs. 5/14.2 and 5/14.3;** and in the interest of securing the public health, safety, and welfare; to preserve the quality and quantity of groundwater resources in order to assure a safe and adequate water supply for present and future generations; and to preserve groundwater resources currently in use and those aquifers having a potential for future use as a public water supply, the provisions of this Code shall apply to all properties located within the minimum setback zone established under Section 14.2 of the Environmental Protection Act ("Act") (**415 ILCS Sec. 5/14.2**) and this Code and the maximum setback zone established under Section 14.3 of the Act (**415 ILCS Sec. 5/14.3**) and this Code.

All property which (1) is owned by a municipality, and (2) lies outside the corporate limits of the municipality, and (3) does not lie within the corporate limits of any municipality, shall be subject to the ordinances, control, and jurisdiction of the municipality in all respects the same as the property owned by the municipality which lies within the corporate limits thereof.

38-3-72 DEFINITIONS. Except as stated in this Code, and unless a different meaning of a word or term is clear from the context, the definition of words or terms in this Code shall be the same as those used in the Act and the Illinois Groundwater Protection Act (**415 ILCS Sec. 55/1 et seq.**):

"Act" means the Environmental Protection Act (**415 ILCS Sec. 5/1 et seq.**).

"Agency" means the Illinois Environmental Protection Agency.

"Board" means the Illinois Pollution Control Board.

"Minimum Setback Zone" means the area around a community water supply well established under Section 14.2 of the Act and this Code. The City water wells each have been designated a **four hundred (400) foot** radius minimum setback zone. **[See Appendix A for map delineation which is on file at the City Hall.]**

"Maximum Setback Zone" means the area around a community water supply well established under Section 14.3 of the Act and this Code. For each water well used by the City the maximum setback zone is the area greater than **four hundred (400) foot** radius distance and less than or equal to **one thousand (1,000) foot** radius from each City water well. **[See Appendix A for map delineation which is on file at the City Hall.]**

38-3-73 PROHIBITIONS.

(A) Except as provided in **Section 38-3-74** and **38-3-75** of this Code, no person shall place a new potential primary source, new potential secondary source, or new potential route within the minimum setback zone.

(B) Except as provided in **Section 38-3-74** of this Code, no person shall place a new potential primary source within the maximum setback zone.

38-3-74 WAIVERS, EXCEPTION, AND CERTIFICATIONS OF MINIMAL HAZARD.

(A) If, pursuant to Section 14.2(b) of the Act, the owner of a new potential primary source (other than landfilling or land treating), new potential secondary source, or new potential route is granted an exception by the Board, such owner shall be deemed to have an exception to the same extent from **Section 38-3-73(A)** of this Code.

(B) If, pursuant to Section 14.2(c) of the Act, the owner of a new potential primary source (other than landfilling or land treating), new potential secondary source, or new potential route is granted an exception by the Board, such owner shall be deemed to have an exception to the same extent from **Section 38-3-73(A)** of this Code.

(C) If, pursuant to Section 14.2(c) of the Act, the owner of a new potential primary source (other than landfilling or land treating) is granted an exception by the Board, such owner shall be deemed to have an exception to the same extent from **Section 38-3-73(B)** of this Code.

(D) If, pursuant to Section 14.5 of the Act, the owner of a new potential primary source, new potential secondary source, or new potential route is issued a certification of minimal hazard by the Agency, such owner shall not be subject to **Section 38-3-73(A)** of this Code to the same extent that such owner is not subject to Section 14.2(d) of the Act.

38-3-75 EXCLUSION. **Section 38-3-73(A)** of this Code shall not apply to new common sources of sanitary pollution as specified pursuant to Section 17 of the Act and the regulations adopted thereunder by the Agency; however, no such common sources may be located within the applicable minimum distance from a community water supply well specified by such regulations.

(Ord. No. 94-06; 08-22-94)

ARTICLE IV - UTILITY RATES

DIVISION I - GENERAL

38-4-1 BUILDING UNIT DEFINED. All persons or families residing in a building under one roof, be it an apartment or homes converted into more than one dwelling place, each family or individual resident residing therein shall be deemed an individual customer or such homes or apartments or dwellings shall be billed for at least one minimum water and/or sewer account according to the number of families or individual residents residing therein.

38-4-2 REVENUES. All revenues and moneys derived from the operation of the water and sewer systems shall be deposited in the Water and Sewage Fund. All such revenues and moneys shall be held by the Treasurer separate and apart from his private funds and separate and apart from all other funds of the City and all of said sum, without any deductions whatever, shall be delivered to the Treasurer not more than **ten (10) days** after receipt of the same, or at such more frequent intervals as may, from time to time, be directed by the City Council.

The Treasurer shall receive all such revenues from the water and sewer systems and all other funds and moneys incident to the operation of such systems as the same may be delivered to him and deposit the same in the account of the fund designated as the "Water Fund and the Sewer Fund of the City". The Treasurer shall administer such fund in every respect in the manner provided by the **Illinois Compiled Statutes, Chapter 65** and by the Investment Policy of the City. **(See Chapter I; Art. II)**

38-4-3 ACCOUNTS. The Treasurer shall establish a proper system of accounts and shall keep proper books, records and accounts in which complete and correct entries shall be made of all transactions relative to the water and sewer systems and at regular annual intervals, he shall cause to be made an audit by an independent auditing concern of the books to show the receipts and disbursements of the water and sewer systems.

In addition to the customary operating statements, the annual audit report shall also reflect the revenues and operating expenses of the water and 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.

38-4-4 NOTICE OF RATES. A copy of this Article, properly certified by the Administrative Assistant, shall be filed in the office of the County Recorder of Deeds and shall be deemed notice to all owners of real estate of the charges of the water and sewer systems of the City on their properties. Each user shall be notified at least annually, in conjunction with a regular bill, of the rate and that portion of the user charges which are attributable to wastewater treatment services.

38-4-5 ACCESS TO RECORDS. The Illinois Environmental Protection Agency, United States Environmental Protection Agency, or its authorized representative shall have access to any books, documents, papers and records of the City which are applicable to the City's water and sewer systems 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 or Federal Grant.

38-4-6 APPEALS. The method for computation of rates and service charges established for user charges in Article IV shall be made available to a user within **seven (7) days** of receipt of a written request for such. Any disagreement over the method used, or in the computation thereof, shall be remedied by a third party selected by both parties within **ninety (90) days** after notification of a formal written appeal outlining the discrepancies.

38-4-7 - 38-4-9 RESERVED.

DIVISION II - WATER CHARGES

38-4-10 WATER RATES. All water furnished, supplied and sold by the City shall be measured and registered by and through water meters and all charges for such water is furnished, supplied or sold shall fall due bi-monthly on each succeeding **September 5, November 5, January 5, March 5, May 5, and July 5**. The Administrative Assistant shall mail statements for the amount due on said respective dates to the person to whom or for whom such water was furnished, supplied or sold by the City. Effective **October 1, 2022** bi-monthly rates to be charged for water as measured and registered by and through meters aforesaid, provided the same are paid on or before **twenty (20) days** after the mailing of such statement, shall be as follows:

(A) **Inside Corporate Limits.**

| | |
|-------------------------|---------------------------|
| Minimum Bi-Monthly Rate | \$19.50 |
| First 100,000 gallons | \$ 3.13 per 1,000 gallons |
| Next 1,000,000 gallons | \$ 2.84 per 1,000 gallons |
| Next 3,000,000 gallons | \$ 2.35 per 1,000 gallons |

(See Section 38-2-1 for billing procedures.)

(B) **Outside Corporate Limits.**

| | |
|-------------------------|---------------------------|
| Minimum Bi-Monthly Rate | \$21.12 |
| First 100,000 gallons | \$ 4.69 per 1,000 gallons |
| Next 1,000,000 gallons | \$ 4.26 per 1,000 gallons |
| Next 3,000,000 gallons | \$ 3.52 per 1,000 gallons |
| Over 4,000,000 gallons | \$ 2.24 per 1,000 gallons |

Effective **December 1, 2022** bi-monthly rates to be charged for water as measured and registered by and through meters aforesaid, provided the same are paid on or before **twenty (20) days** after the mailing of such statement, shall be as follows:

(C) **Inside Corporate Limits.**

| | |
|-------------------------|---------------------------|
| Minimum Bi-Monthly Rate | \$19.50 |
| First 100,000 gallons | \$ 3.13 per 1,000 gallons |
| Next 1,000,000 gallons | \$ 2.84 per 1,000 gallons |

(See Section 38-2-1 for billing procedures.)

(D) **Outside Corporate Limits.**

| | |
|-------------------------|---------------------------|
| Minimum Bi-Monthly Rate | \$21.12 |
| First 100,000 gallons | \$ 4.69 per 1,000 gallons |
| Next 1,000,000 gallons | \$ 4.26 per 1,000 gallons |

Effective **February 1, 2023** bi-monthly rates to be charged for water as measured and registered by and through meters aforesaid, provided the same are paid on or before **twenty (20) days** after the mailing of such statement, shall be as follows:

(E) **Inside Corporate Limits.**

| | |
|-------------------------|---------------------------|
| Minimum Bi-Monthly Rate | \$19.50 |
| | \$ 3.13 per 1,000 gallons |

(See Section 38-2-1 for billing procedures.)

(F) **Outside Corporate Limits.**

| | |
|-------------------------|---------------------------|
| Minimum Bi-Monthly Rate | \$21.12 |
| | \$ 4.69 per 1,000 gallons |

(G) Effective **October 1, 2022** the minimum rate for water services inside the City limits shall be **Nineteen Dollars Fifty Cents (\$19.50)** bi-monthly plus applicable taxes and for water service outside the City limits the minimum rate for water service shall be **Twenty-One Dollars Twelve Cents (\$21.12)** bi-monthly plus applicable taxes.

(H) Effective **May 1, 2023**, and on the first day of May of each calendar year thereafter, the charges (including the minimum bi-monthly rate) as established and referenced anywhere in this Article shall be increased to reflect a total increase of **four percent (4%)** in the amount of the charges over and above the amount of the charges in effect on the first day of April of that calendar year. (Ord. No. 2023-14; 06-12-23)
(Ord. No. 2022-04; 09-26-22)

38-4-11 METERS.

(A) **Separate Meter Required.** No water service shall be furnished to any customer unless such customer has a separate water meter and cut-off valve for the premises occupies by him alone and no water service shall be furnished to **two (2) customers** off of or through the same water meter or cut-off valve.

(B) **Location of Meter.** No water meter shall be installed in a crawl space. Placement of new water meters shall be done at the direction of the City Superintendent.

(C) **Inside Building Water Shut-Off Valves.** Wherever a water meter is installed inside any building, a shut-off valve shall be provided by the customer to be installed on each side of the meter.

(D) **Water Turn Off/On Service Charge.** Any time a water department employee is called out, outside of his normal working hours, days off, Saturdays and Sundays or holidays to turn off or turn on a customer water service for a customer's convenience (non-emergency) a service charge of **Twenty-Five Dollars (\$25.00)** shall be charged to that customer for each call.

38-4-12 INSTALLATION OF WATER SERVICE PIPE. It is determined to be the policy of the City Council that future installations, for residential or commercial use of water meters and water service pipe from the City main to the building line of a specific user shall be paid for by the user.

(A) The price to be paid for the installation of up to **fifty (50) feet** of service line pipe and shutoff shall be as follows: (if a service line extends more than **fifty (50) feet** the additional pipe used will be charged to the customer at the City's cost)

| | | |
|-----|--|----------|
| (1) | One (1) inch service line | \$300.00 |
| (2) | One and one-half (1 ½) inch service line | 500.00 |
| (3) | Two (2) inch service line | 700.00 |

(B) For installations larger than **two (2) inch** pipe, the cost of such installation shall all material used plus **ten percent (10%)** of that cost.

(C) The price to be paid for the water service connection shall be as follows: (the water service connection is per water meter that is connected to a service line and is in addition to the service line cost)

| | | |
|-----------------------------------|---------|--------|
| three-quarter (3/4) inch meter | 30 gpm | 165.00 |
| one (1) inch meter | 50 gpm | 225.00 |
| one and one-half (1 ½) inch meter | 100 gpm | 400.00 |
| two (2) inch meter | 160 gpm | 500.00 |

(D) With respect to the cost of installation and service connection of water service for manufacturing or similar industrial use, the City shall make such charges or provide for such refund as seems reasonable and for the best interests of the City, having in mind the desire of the City to aid in the location of new factories and industries here. **(Ord. No. 99-07; 05-10-99)**

(E) Installation requiring meter pits (up to the discretion of the City Superintendent) the cost of such installation shall be all materials used plus **ten percent (10%)** of that cost.

38-4-13 - 38-4-15 RESERVED.

DIVISION III - WASTEWATER SERVICE CHARGES

38-4-16 BI-MONTHLY RATES FOR SEWAGE SERVICE. There shall be and there are established bi-monthly rates and charges for the use of and the service supplied by the sewerage system of the City, such rates and charges established being as follows:

(A) **Base User Rate.** The user rate shall be **Eight Dollars Fifty-One Cents (\$8.51)** bi-monthly, plus **Five Dollars Nineteen Cents (\$5.19)** per **one thousand (1,000) gallons** of water used, or where water consumption does not reflect the actual quantity of wastewater tributary to the wastewater treatment works, **Five Dollars Nineteen Cents (\$5.19)** per **one thousand (1,000) gallons** of wastewater as recorded in a control manhole required by **Section 38-5-56**.

The basic user rate shall be equal to the estimated and annual revenue required divided by the total annual wastewater contribution from users in thousands of gallons, where annual revenue required equals the estimated annual revenue required to retire the revenue bonds, plus the annual operation and maintenance costs, including replacement.

The City shall independently audit operation, maintenance, and debt service costs for the wastewater facilities and review user rates annually and revise such rates periodically to reflect actual treatment works operation and maintenance costs and the cost of debt services. **(Ord. No. 17-10; 07-24-17)**

(B) **Surcharge for Industrial Users.** When the average concentration of BOD and/or suspended solids exceeds **two hundred (200) mg/l** or **two hundred fifty (250) mg/l**, respectively, a surcharge shall be added to the base user rate. The surcharge shall be equal to the base rate times the number of **one thousand (1,000) gallons** used times the sum of:

- (1) The average BOD concentration less **two hundred (200) mg/l** divided by **two hundred (200) mg/l** times **twenty-nine hundredths (0.29)**; plus
- (2) The average suspended solids concentration less **two hundred fifty (250) mg/l** divided by **two hundred fifty (250) mg/l** times **twenty-five hundredths (0.25)**. BOD and suspended solids shall be as defined in **Section 38-5-1**, "Suspended Solids".

All measurements, tests and analyses of the characteristics of water and wastes to determine the industrial user surcharge factors shall be conducted in conformation with **Section 38-5-57**.

The foregoing bi-monthly rates and charges shall be applicable only for the use of and service supplied by the sewerage system of the City within the City. The bi-monthly rates to be charged all users of the sewerage system of the City outside the corporate limits of the City shall be **one and one-half (1 ½) times** the bi-monthly rates and charges as filed and established in subsections (A) and (B) of this Section.

All residential users of the sewerage system of the City within the City who do not use the water services of the City shall pay a service charge of **Forty-Three Dollars Sixty-Six Cents (\$43.66)** bi-monthly for each connection to the sewerage system of the City, and all residential users of the sewerage system outside the corporate limits of the City who do not use the water services of the City shall pay a service charge of **Sixty-Five Dollars Fifty Cents (\$65.50)** bi-monthly for each connection to the sewerage system of the City.

All commercial and industrial users of the sewerage system of the City who do not use the water services of the City shall be required to install a control manhole as required by **Section 38-5-56** equipped with a metering device approved by the Superintendent which records the total sewage flow for the purpose of determining the basis for user charges as provided by subsections (A) and (B) of this Section. **(Ord. No. 10-11; 08-23-10)**

38-4-17 DISCHARGE RESTRICTIONS.

(A) It is unlawful to discharge to any natural outlet within the City, or in any 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 Chapter. **(See Section 38-5-10)**

(B) A commercial entity shall dump wastewater only in an approved sanitary sewer "dump" site within the City, if it first obtains from the City Superintendent a permit to so dump. Such commercial dumps shall be subject to rates of **Twenty-Five Dollars (\$25.00)** for dumping up to **one thousand (1,000) gallons** of wastewater into the sewage system per single dump, and **Fifty Dollars (\$50.00)** for dumping up to **two thousand (2,000) gallons** of wastewater into the sewage system per single dump. There shall be no dumping in excess of **two thousand (2,000) gallons** of wastewater. **(Ord. No. 01-04; 03-26-01)**

ARTICLE V - SEWER SYSTEM

DIVISION I - DEFINITIONS

38-5-1 DEFINITIONS. Unless the context specifically indicates otherwise, the meaning of terms used in this Chapter shall be as follows:

"GOVERNMENT, FEDERAL".

(A) **"Administrator"** means the Administrator of the U.S. Environmental Protection Agency.

(B) **"Federal Act"** means the Federal Clean Water Act (**33 U.S.C. 466 et seq**) as amended, (**Pub. L. 95-217**).

(C) **"Federal Grant"** shall mean the U.S. government participation in the financing of the construction of treatment works as provided for by Title II-Grants for Construction of Treatment Works of the Act and implementing regulations.

"GOVERNMENT, LOCAL".

(A) **"Approving Authority"** shall mean the Superintendent of Sewage Works of the City or his authorized deputy, agent, or representative.

(B) **"NPDES Permit"** means any permit or equivalent document or requirements issued by the Administrator, or, where appropriated by the Director, after enactment of the Federal Clean Water Act to regulate the discharge of pollutants pursuant to Section 402 of the Federal Act.

(C) **"Person"** shall mean any and all persons, natural or artificial including any individual, firm, company, municipal or private cooperation, association, society, institution, enterprise, governmental agency or other entity.

(D) **"Inspector"** shall mean the Superintendent or other person or persons duly authorized by the City to inspect and approve the installation of building sewers and their connection to the sanitary sewer system.

"GOVERNMENT, STATE".

(A) **"Director"** means the Director of the Illinois Environmental Protection Agency.

(B) **"State Act"** means the Illinois Anti-Pollution Bond Act of 1970.

(C) **"State Grant"** shall mean the State of Illinois participation in the financing of the construction of treatment works as provided for by the Illinois Anti-Pollution Bond Act and for making such grants as filed with the Secretary of State of State of Illinois.

"CLARIFICATION OF WORD USAGE". "Shall" is mandatory; "may" is permissible.

"SEWER TYPES AND APPURTENANCES".

(A) **"Building Drain"** shall mean that part of the lowest piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer or other approved point of discharge, beginning **five feet (5') (1.5 meters)** outside the inner face of the building wall.

(B) **"Building Sewer"** shall mean the extension from the building drain to the public sewer or other place of disposal.

(C) **"Combined Sewer"** shall mean a sewer which is designed and intended to receive wastewater, storm, surface and groundwater drainage.

(D) **"Easement"** shall mean an acquired legal right for the specific use of land owned by other.

(E) **"Public Sewer"** shall mean a sewer provided by or subject to the jurisdiction of the City. It shall also include sewers within or outside the City boundaries that serve **one (1)** or more persons and ultimately discharge into the City sanitary sewer or combined sewer system, even though those sewers may not have been constructed with City funds.

(F) **"Sanitary Sewer"** shall mean a sewer that conveys sewage or industrial wastes or a combination of both, and into which storm, surface and groundwaters or unpolluted industrial wastes are not intentionally admitted.

(G) **"Sewer"** shall mean a pipe or conduit for conveying sewage or any other waste liquids, including storms, surface and groundwater drainage.

(H) **"Sewerage"** shall mean the system of sewers and appurtenances for the collection, transportation and pumping of sewage.

(I) **"Storm Sewer"** shall mean a sewer that carries storm, surface and groundwater drainage, but excludes sewage and industrial wastes other than unpolluted cooling water.

(J) **"Stormwater Runoff"** shall mean that portion of the precipitation that is drained into the sewers.

"TREATMENT":

(A) **"Pretreatment"** shall mean the treatment of wastewater from sources before introduction into the wastewater treatment works.

(B) **"Wastewater Treatment Works"** shall mean an arrangement of devices and structures for treating wastewater, industrial wastes, and sludge. Sometimes used as synonymous with "waste treatment plant" or "wastewater treatment plant" or "pollution control plant".

"TYPES OF CHARGES":

(A) **"Basic User Charge"** shall mean the basic assessment levied on all users of the public sewer system.

(B) **"Capital Improvement Charge"** shall mean the charge levied on users to improve, extend or reconstruct the sewage treatment works.

(C) **"Debt Service Charge"** shall be the amount to be paid each billing period for payment of interest, principal and coverage of (loan, bond, etc.) outstanding.

(D) **"Local Capital Cost Charge"** shall mean charges for costs other than the Operation, Maintenance and Replacements costs, i.e. debt service and capital improvement costs.

(E) **"Replacement"** shall mean expenditures for obtaining and installing equipment, accessories, or appurtenances which are necessary during the service life of the treatment works to maintain the capacity and performance for which such works were designed and constructed. The term "operation and maintenance" includes replacement.

(F) **"Sewerage Fund"** is the principal accounting designation for all revenues received in the operation of the sewerage system.

(G) **"Surcharge"** shall mean the assessment in addition to the basic user charge and debt service charge which is levied on those persons whose wastes are greater in strength than average concentration values as established by code.

(H) **"Useful Life"** shall mean the estimated period during which the collection system and/or treatment works will be operated.

(I) **"User Charge"** shall mean a charge levied on users of treatment works for the cost operation, maintenance and replacement.

(J) **"Wastewater Service Charge"** shall be the charge per quarter or bi-monthly levied on all users of the Wastewater Facilities. The service charge shall be computed as outlined in Article IV of this Code and shall consist of the total or the Basic User Charge, the local capital cost and a surcharge, if applicable.

(K) **"Reserve Fund Charge"** shall mean a revolving fund for expansion and construction of the sewer system.

"USER TYPES":

(A) **"Control Manhole"** shall mean a structure located on a site from which industrial wastes are discharged. Where feasible, the manhole shall have an interior drop. The purpose of a "control manhole" is to provide access for the City representative to sample and/or measure discharges.

(B) **"Industrial User"** shall include establishments engaged in manufacturing activities involving the mechanical or chemical transformation of materials of substance into products.

(C) **"Residential User"** shall mean all dwelling units such as houses, buildings, mobile homes, apartments, permanent multi-family dwellings.

(D) **"User Class"** which only applies to the industrial cost recovery system, means the type of user, either "residential or commercial" or "industrial", as defined in "Residential or Commercial User" or "Industrial User", respectively.

(E) **"Commercial User"** shall include transit lodging, retail and wholesale establishments or places engaged in selling merchandise, or rendering services.

(F) **"Institutional/Governmental User"** shall include schools, churches, penal institutions, and users associated with Federal, State and local governments.

"WASTEWATER FACILITIES" shall mean the structures, equipment, and processes required to collect, carry away, and treat domestic and industrial wastes and transport effluent to a watercourse.

"WATERCOURSE AND CONNECTIONS":

- (A) **"Watercourse"** shall mean a channel in which a flow of water occurs, either continuously or intermittently.
- (B) **"Natural Outlet"** shall mean any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

"WASTEWATER AND ITS CHARACTERISTICS":

- (A) **"BOD"** (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in **five (5) days** at **20 degrees centigrade (20°C)**, expressed in milligrams per liter.
- (B) **"Effluent Criteria"** are defined in any applicable "NPDES Permit".
- (C) **"Floatable Oil"** is oil, fat, or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. A wastewater shall be considered free of floatable fat if it is properly pretreated and the wastewater does not interfere with the collection system.
- (D) **"Garbage"** shall mean solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage and sale of produce.
- (E) **"Industrial Waste"** shall mean any solid, liquid or gaseous substance discharged, permitted to flow or escaping from any industrial, manufacturing, commercial or business establishment or process or from the development, recovery or processing of any natural resource as distinct from sanitary sewage.
- (F) **"Major Contributing Industry"** shall mean an industrial user the publicly owned treatment works that:
- (1) Has a flow of 50,000 gallons or more per average work day; or
 - (2) Has a flow greater than **ten percent (10%)** of the flow carried by the municipal system receiving the waste; or
 - (3) Has in its waste, a toxic pollutant in toxic amounts as defined in standards issued under Section 307(a) of the Federal Act; or
 - (4) Is found by the permit issuance authority, in connection with the issuance of the NPDES permit to the publicly owned treatment works receiving the waste, to have significant impact, either singly or in combination with other contributing industries, on that treatment works or upon the quality of effluent from that treatment works.
- (G) **"Milligrams per Liter"** (mg/l) shall mean a unit of the concentration of water or wastewater constituent. It is 0.001 gram of the constituent in 1,000 milliliter of water. It has replaced the unit formerly used commonly, parts per million, to which it is approximately equivalent, in reporting the results of water and wastewater analysis.
- (H) **"pH"** shall mean the logarithm (base 10) of the reciprocal of the hydrogen-ion concentration expressed by one of the procedures outlined in the IEPA Division of Laboratories Manual of Laboratory Methods.

(I) **"Population Equivalent"** is a term used to evaluate the impact of industrial or other waste on a treatment works or stream. One population equivalent is 100 gallons of sewage per day, containing 0.17 pounds of BOD and 0.20 pounds of suspended solids.

(J) **"ppm"** shall mean parts per million by weight.

(K) **"Properly Shredded Garbage"** shall mean the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than **one half inch (1/2") (1.27 centimeters)** in any dimension.

(L) **"Sewage"** is used interchangeably with "wastewater".

(M) **"Slug"** shall mean any discharge of water, sewage or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than **fifteen (15) minutes more than five (5) times** the average **twenty-four (24) hour** concentration or flows during normal operation.

(N) **"Suspended Solids"** (SS) shall mean solids that either float on the surface of, or are in suspension in water, sewage, or industrial waste, and which are removable by a laboratory filtration device. Quantitative determination of suspended solids shall be made in accordance with procedures set forth in the I.E.P.A. Division of Laboratories Methods.

(O) **"Unpolluted Water"** is water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.

(P) **"Wastewater"** shall mean the spent water of a community. From this standpoint of course, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, together with any groundwater, surface water, and stormwater that may be present.

(Q) **"Water Quality Standards"** are defined in the Water Pollution Regulations of Illinois.

(Ord. No. 533; 01-14-75)

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 DISCHARGE RESTRICTIONS.
(A) It shall be unlawful to discharge to any natural outlet within the City, or in area under the jurisdiction of the City, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this ordinance.
(B) A commercial entity may only dump wastewater into any natural outlet within the City if it first obtains from the City Superintendent a permit to so dump. Such commercial dumps shall be subject to rates of **Twenty-Five Dollars (\$25.00)** for dumping up to **one thousand (1,000) gallons** of wastewater into the sewage system per single dump, and **Fifty Dollars (\$50.00)** for dumping up to **two thousand (2,000) gallons** of wastewater into the sewage system per single dump. There shall be no dumping in excess of **two thousand (2,000) gallons** of wastewater. **(Ord. No. 01-04; 03-26-01)**

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 houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the City and abutting on any street, alley, or 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 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 the public sewer is within **one hundred (100) feet** of the property line. However, no such notice shall be served unless and until the City Council determines, based upon facts submitted to it by the Superintendent, that the presently existing system located thereon, is either inadequate to properly handle such sanitary sewage or industrial wastes or is not functioning in a sanitary manner, or that waters or wastes are being discharged into the public sewers in violation of the provisions of **Division VI. (Ord. No. 451; 03-28-72)**

38-5-8 TRANSFERRER OF INFLOW SOURCES FROM COMBINED SEWERS TO STORM SEWERS. Any inflow sources, i.e., foundation drains, downspouts, or other such sources which are connected to a combined sewer shall be disconnected from said combined sewer and connected to a separate storm sewer at such time as said storm sewer is made available to the property with the inflow source connection. The disconnection of the inflow source(s) shall be made within **one hundred eighty (180) days** after the issuance date of said notice from the City to property owner to make said disconnection. "Made available" shall be defined as a condition in which a separate storm sewer has been installed and made operational within a City right-of-way that is contiguous with said property. **(Ord. No. 04-03; 01-28-04)**

38-5-9 RESERVED.

DIVISION III

PRIVATE SEWAGE DISPOSAL

38-5-10 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.

38-5-11 HEALTH DEPARTMENT APPROVAL. Before commencement of construction of a private sewage disposal system the owner shall first obtain a written permit signed by the Superintendent. The application for such permit shall be made on a form furnished by the City (reference Appendix #2) which the applicant shall supplement by any plans, specifications and other information as deemed necessary by the Superintendent. A permit and inspection fee of **Twenty-Five Dollars (\$25.00)** shall be paid to the City at the time the application is filed. **(Ord. No. 451; 03-28-72)**

38-5-12 PERMIT APPROVAL. A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Superintendent. He shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Superintendent when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within **sixty (60) hours** of the receipt of written notice by the Superintendent. **(Ord. No. 451; 03-28-72)**

38-5-13 COMPLIANCE WITH STATE REQUIREMENTS. The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendations of the State of Illinois Private Sewage Disposal Licensing Act and Code and with the State of Illinois Environmental Protection Agency. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than a size suitable for installation of an effective system. No septic tank or cesspool shall be permitted to discharge to any public sewer natural outlet.

38-5-14 AVAILABILITY OF PUBLIC SEWER. At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in **Section 38-5-12**, a direct connection shall be made to the public sewer in compliance with this Code, and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

38-5-15 OPERATION OF PRIVATE SYSTEM. The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, and at no expense to the City.

38-5-16 ADDITIONAL RESTRICTIONS. No statement contained in this Article shall be construed to interfere with any additional requirements that may be imposed by the Local Health Officer or the State of Illinois.

38-5-17 TIME CONSTRAINTS FOR PUBLIC SEWER. When a public sewer becomes available, the building sewer shall be connected to said sewer within **sixty (60) days** and the private sewage disposal system shall be cleaned of sludge and filled with clean bank-run gravel or dirt.

(Ord. No. 451; 03-28-72)

38-5-18 - 38-5-20 RESERVED.

DIVISION IV

BUILDING SEWERS AND CONNECTIONS

38-5-21 DISTURBING SYSTEM UNLAWFUL. No unauthorized person shall uncover, make any connections with, or opening into; use; alter; or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Superintendent.

38-5-22 COMPLIANCE WITH REGULATING AUTHORITIES. All disposal by any person into the sewer system is unlawful except those discharges in compliance with Federal Standards promulgated pursuant to the Federal Act and more stringent State and local standards.

38-5-23 BUILDING SEWER PERMIT CLASSES. There shall be **two (2)** classes of building sewer permits:

- (A) For residential and commercial service; and
- (B) For service to establishments producing industrial wastes.

In either case, the owner or his agent shall make application on a special form furnished by the City. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Superintendent. A permit and inspection fee of **Two Hundred Fifty Dollars (\$250.00)** for a residential or commercial building sewer permit and **Two Hundred Fifty Dollars (\$250.00)** for an industrial building sewer permit shall be paid to the Administrative Assistant at the time the application is filed. **(Ord. No. 06-08; 04-10-06)**

38-5-24 COST BORNE BY OWNER. All costs and expenses including labor and material incidental to the installation, connection and maintenance of a lateral sewer line shall be borne by the owner(s). The owner(s) shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation, connection and maintenance of the lateral sewer lines. This section shall apply even where the lateral sewer line runs under a public street, public right-of-way, or public easement.

38-5-25 SEPARATE SEWER: EXCEPTION. A separate and independent building sewer shall be provided for every building, except that where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer. The domestic waste connection, for all new buildings and when connected to a combined sewer, shall be constructed to handle only domestic waste from the building. All inflow sources, i.e., foundation drains, downspouts, or other such sources, shall be connected to a separate inflow connection. At such time as a separate storm sewer is made available to the property, the property owner shall disconnect the inflow connection from the combined sewer and connect it to the separate storm sewer, entirely at the expense of the property owner. **(Ord. No. 04-04; 01-28-04)**

38-5-26 OLD BUILDING SEWERS. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Superintendent, to meet all requirements of this Code.

38-5-27 CONSTRUCTION METHODS.

(A) **Gravity Sewers.** The size, slope, depth and alignment, of the building sewer shall be subject to the approval of the Superintendent. In no case shall the inside diameter of the sewer lateral (from the sewer main to the property line) be less than **six (6) inches** and the slope shall not be less than **one-eighth (1/8") inch** per foot. The depth of the building sewer shall be sufficient to afford protection from frost. The building sewer shall be laid at a uniform grade and in straight alignment, insofar as possible. Changes in direction shall be made only with properly curved pipe and fittings, unless the break in alignment is made at a manhole facilitating servicing. In no case shall the inside diameter of the building sewer be less than **four (4) inches** and the slope shall not be less than **one-quarter (1/4) inch** per foot. Installation shall be in accordance with **Standard Specifications for Water and Sewer Main Construction in Illinois.**

All building sewers shall be constructed of materials approved by the City.
Generally all building sewers shall be constructed of the following materials:

- (1) Cast or ductile iron pipe
- (2) ABS solid wall plastic pipe
- (C) PVC solid wall plastic pipe SDR-35

All pipe joints must be gaslight and watertight and are subject to the approval of the City. Transition joints from one pipe material to another shall be made using fittings manufactured for such transitions.

(B) **Force/Pressure Sewers.** The materials and size of the sewer line must be compatible with the pump system installed, all must be approved by the Superintendent.

38-5-28 PLUMBING CODE REQUIREMENTS. The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the American Society of Testing materials, **Water Pollution Control Federation Manual of Practice No. 9**, and **Standard Specifications for Water and Sewer Main Construction in Illinois** shall apply.

38-5-29 ELEVATION. Structures for which a building permit for initial construction is issued after **April 1, 2002**, with levels below grade which are provided with plumbing fixtures or drains, must have overhead discharge and no gravity discharge to the sewer system. No building sewer shall be laid parallel to any bearing wall if within **three (3) feet** of any wall, which might thereby be weakened. The depth shall be sufficient to afford protection from frost. The building sewer shall be laid at uniform grade and in straight alignment insofar as possible. Changes in direction shall be made only with the properly curved pipe and fillings, unless the break in alignment is made at a manhole facilitating servicing.

38-5-30 PROHIBITED CONNECTIONS. No person(s) shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to public sanitary sewer.

38-5-31 CONNECTIONS TO SEWER MAINS. Building sewer connections with any sewer shall be made only at manholes or other such junctions as may be provided or designated by the City, and then only in such manner as directed. The connection of the building sewer shall be made at a wye branch, if such branch is available. The building service sewer shall generally enter the sewer main or lateral by way of an existing wye. In the event of absence of the wye, the connection to the sewer main or lateral shall be made by one of the methods indicated below.

(A) Installation of a manhole

(B) Circular saw-cut sewer main by proper tools ("Sewer Tap" machine or similar), and proper installation of hub wye saddle, in accordance with manufacturer's recommendation. This method shall not be allowed when the wye branch is larger than **four (4) inches** in diameter. The entire sewer main in the location of the wye and the wye shall be encased in concrete.

(C) Using the pipe cutter only, neatly and accurately cut out desired length of pipe for insertion of proper fitting. Remove both hub and bell ends, or other compression couplings from wye branch fitting to allow the wye branch to be inserted with no more than a total of **one-half (1/2) inch** gap. Use "Band Seal" couplings, or similar couplings, and shear rings and clamps to fasten the inserted fitting and hold it firmly in place. The entire section shall then be encased in concrete having a minimum thickness of **four (4) inches** and extending **eight (8) inches** beyond each joint.

If another method is desired, a detail shall be submitted for review and approval by the City before the connection is made. Indiscriminate breaking of the sewer main pipe is not allowed.

On Site Inspection. After the wye branch has been inserted and jointed, and before any additional fittings have been placed in the service line, the installation shall be approved by the Superintendent, or his authorized representative. After approval is granted the contractor shall encase the work area as specified herein.

Backfill. To be placed in accordance with The Standard Specifications for Water and Sewer Main Construction in Illinois, Current Edition. In addition, any building sewers crossing any street, or traveled alley shall be backfilled with granular backfill material.

Concrete Encasement. When a riser is constructed and its height is **four (4) feet** or more measured from the flowline of the sewer main to the top of the riser pipe, the wye connection shall be encased in concrete to a height of at least **one foot six inches (1' 6")** above the flowline of the sewer main. When the height of the riser is less than **four (4) feet** above the flowline of the sewer main, the wye connection shall be backfilled to the top of the riser pipe with carefully placed and compacted granular backfill.

38-5-32 CAPACITY OF SEWER. A building sewer permit will only be issued and a sewer connection shall only be allowed if it can be demonstrated that the downstream sewerage facilities, including sewers, pump stations and wastewater treatment facilities, have sufficient reserve capacity to adequately and efficiently handle the additional anticipated waste load.

38-5-33 TAP-IN SUPERVISION AND TESTING. The applicant for the building sewer permit shall notify the City when the building sewer is ready for inspection and connection to the public sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the City or its representative.

At any time after the installation of the building sewer, the City may test the building sewer for violation of this ordinance.

38-5-34 INSPECTION. After the building sewer has been constructed in the trench but before the sewer is backfilled, the applicant for the building sewer permit shall notify the Superintendent that the building sewer is ready for inspection. If the sewer has been constructed properly, permission will be given to backfill the trench. If the sewer construction is found to be unsuitable, the permit applicant will correct the installation to meet City's requirements.

38-5-35 PUBLIC SEWER CONNECTION. The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code, or other applicable rules and regulations of the City, or the procedures set forth in appropriate specifications of the American Society of Testing Materials, **Water Pollution Control Federation Manual of Practice No. 9**, and **Standard Specifications for Water and Sewer Main Construction in Illinois**. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the City before installation.

38-5-36 PROTECTION OF PROPERTY. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City.

38-5-37 BOND REQUIRED. If the applicant for the building sewer permit does not have a general bond on file with the City, the applicant shall furnish a corporate surety bond in an amount **one and one-half (1 1/2) times** the cost of the contemplated work for which the permit is to be issued.

Any experienced sewer builder or drain layer may furnish to the City a continuing surety bond in the sum of **Five Thousand Dollars (\$5,000.00)** to apply to all building sewer permits issued to such builder or to the principals thereof for a term of **one (1) year** from the date thereof subject to renewal from year to year, and such continuing bond may be accepted in behalf of the City in lieu of a special bond to cover each permit issued during the term of the bond.

Home owners wishing to install their own building services are not required to post a bond. Any person performing building sewer work for hire shall post the bond.

38-5-38 UNLAWFUL DISCHARGES. All disposal by any person into the sewer system is unlawful except those ordinances in compliance with Federal Standards promulgated pursuant to the Federal Act and more stringent State and local standards.

38-5-39 INFLOW CONTRIBUTIONS TO COMBINED SEWERS. The construction of any new buildings or developments that are to be tributary to the combined sewer system shall be designed to minimize and/or delay any inflow contribution to the combined sewer system. **(Ord. No. 04-02; 01-26-04)**

38-5-40 - 38-5-41 RESERVED.

DIVISION V - EXTENSION OF COLLECTING SEWERS

38-5-42 PERMIT REQUIRED; AUTHORIZED PERSONNEL. No person, other than an authorized employee of the City, shall make any connection with, uncover, alter or disturb a City sewer, or open any manhole, intercepting chamber, or any appurtenance thereof without first obtaining a written permit to do so from the City, and no person shall make any connection or opening into any sewer, the flow of which is directly or indirectly discharged into any City sewer, without first obtaining a written permit to do so from the City.

38-5-43 EXTENSION PERMITS. Issuance of sewer extension permits shall be initiated by an application for construction permit. The application shall be made on the forms provided by the IEPA, shall be fully completed by the applicable persons or parties, and shall be accompanied by a set of plans, specifications, and any other information as may be required by the City.

Plans and specifications shall be prepared by a registered professional engineer and approval thereof must be obtained from the City and IEPA.

If the application is in proper form, and the sewer extension indicated therein appears to be in accordance with this ordinance and all state and federal requirements, the City shall issue the permit for construction of the sewer. If otherwise, the application for permit shall be denied by the City. There shall be no fee charged for sewer extension application or permits.

If the application is denied by the City, they shall state the reason or reasons therefore in writing, mailed or personally delivered to the applicant. The applicant shall have the right to amend such application in conformity with the reasons given for denial, and resubmit it to the City for further consideration.

All permits issued under this Article V shall have an expiration date of **two (2) years** after the date of issuance. Any sewers not constructed prior to the date of expiration shall have a new application submitted and a new permit issued prior to their construction.

The applicant for the permit shall furnish a corporate surety bond in an amount **one and one-half (1 1/2) times** the cost of the contemplated work for which the permit is to be issued.

38-5-44 MATERIALS. All sewer extensions shall be constructed of the following materials:

(A) Sewer pipe with diameters **eight (8) inches** and larger shall be one of the following:

- (1) ABS composite pipe conforming to ASTM D-2680 with solvent weld joints or O-ring rubber gasket joints as referenced in ASTM D-2680.
- (2) PVC sewer pipe SDR-35 conforming to ASTM 03033 or D3034 with joints conforming to ASTM D3212.

(B) Laterals and fittings from the sewer to the property lines shall be **six (6) inch** diameter and

- (1) of comparable material to the sewer main for VCP and PVC pipe.
- (2) for ABS pipe use ABS solid wall pipe SDR-23.5 conforming to ASTM D-2751.

38-5-45 INSPECTIONS OF CONSTRUCTION. Construction of the sewers shall be inspected under competent supervision supplied by a registered professional engineer and upon completion of construction, accurate detailed plans as constructed ("record drawings") shall be certified and submitted by the professional engineer to the City before any applications for building sewer permits are filed; all at the expense of the Owner. These plans shall show all elevations as installed as well as accurate measurements showing the locations of service connections. The Engineer shall also submit a certified statement showing the source, place and volume of foreign waters.

All sewers shall be subjected to:

(A) A lamp test which shall provide that from one manhole to another, at least **one-half (1/2)** of the pipe end area shall be visible.

(B) Infiltration or exfiltration test with acceptable allowance of 200 gallons per day per inch diameter per mile;

(C) Under special circumstances, when approved by the City, air pressure testing with allowance to be specified by the City.

When any sewer line fails to pass the infiltration test, the exfiltration test, or an air pressure test, the sewer line shall be televised in the presence of the City's representatives to determine points of faulty construction. The Owner shall repair all defects; the method of repair shall be subject to the approval of the City.

38-5-46 MANHOLES REQUIRED. Manholes shall be installed at all changes in grade and/or direction and at distances not greater than **four hundred (400) feet** apart. All manhole covers shall be watertight and self-sealing, incorporating an "O" ring gasket. All covers shall have concealed pick holes. Where manhole covers may be subjected to frequent and extreme submergence, additional watertightness shall be ensured by using bolt down covers.

38-5-47 - 38-5-48 RESERVED.

DIVISION VI

USE OF PUBLIC WASTEWATER FACILITIES

38-5-49 DISCHARGE OF STORM WATER. No person shall discharge, or cause to be discharged, any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer.

38-5-50 STORM WATER. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged on approval of the Superintendent, to a storm sewer, combined sewer or natural outlet.

38-5-51 REGULATIONS OF WASTES. No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

(A) Any gasoline, benzene, naptha, 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, including but not limited to cyanides in excess of **two (2) mg/l** as cyanide in the wastes as discharged to the public sewer.

(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.

38-5-52 HARMFUL EFFECTS OF CERTAIN MATERIALS. No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Superintendent that such wastes can harm either the sewers, sewage treatment process or equipment; have an adverse effect on the receiving stream; or can otherwise endanger life, limb, public property, or constitute a

nuisance. In forming his opinion as to the acceptability of these wastes, the Superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. 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 Superintendent.

(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 Superintendent for such materials. **(See Appendix "A")**

(F) Any waters or wastes containing phenols or other waste odor-producing substances, in such concentration exceeding limits which may be established by the Superintendent 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 Superintendent in compliance with applicable State or Federal regulations.

(H) Any mercury or any of its compounds in excess of **0.0005 mg/l as Hg** at any time except as permitted by the City in compliance with applicable State and Federal regulations.

(I) Materials which exert or cause:

- (1) unusual concentrations or inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate);
- (2) excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions);
- (3) unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works;
- (4) unusual volume of flow or concentrations of wastes constituting "slugs" as defined herein.

(J) Waters or wastes containing substances which are not amendable to treatment or reduction by the sewage treatment processes employed, or are amendable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of agencies having jurisdiction over discharge to the receiving waters.

(K) Any waters or wastes having a pH in excess of 9.5.

(L) Any cyanide in excess of 0.025 mg/l at any time except as permitted by the City in compliance with applicable State and Federal regulations.

The Superintendent is authorized to assure that impacts on water quality from discharges from combined sewer overflows that receive non-domestic waste are to be minimized. The Superintendent is further authorized to determine which non-domestic wastewater discharges are tributary to any combined sewer overflows and City may, at its discretion, review and modify these provisions to control pollutants sourced from said combined sewer overflows. **(Ord. No. 04-05; 01-26-04)**

38-5-53 HARMFUL WASTES; APPROVAL.

(A) If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in **Section 38-5-52** of this Division, and/or which are in violation of the standards for pretreatment provided in 40 CFR 403, June 26, 1978 and any amendments thereto, and which in the judgment of the Superintendent may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

- (1) reject the wastes;
- (2) require pretreatment to an acceptable condition for discharge; and/or;
- (3) require control over the quantities and rates for discharge; and/or;
- (4) require payment to cover the added costs of handling and treating the wastes not covered by existing taxes or sewer charges, under the provisions of **Section 38-4-16.**

(B) If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent, and subject to the requirements of all applicable codes, articles, and laws.

(C) The owner of the pretreatment or equalization facilities shall obtain construction and operating permits from the Illinois Environmental Protection Agency prior to the issuance of final approval by the Superintendent.

(D) Where multiple process or discharges are present or contemplated at an industry, the City shall have the authority to require the owner or person to furnish and install more than one control manhole with appurtenances and/or require that all wastewater be discharged through a single control manhole or structure with appurtenances described herein.

38-5-54 GREASE AND OIL INTERCEPTORS. Grease, oil, and sand interceptors shall be provided when, in the opinion of the Superintendent they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be

required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection. Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, water-tight, and equipped with easily removable covers which, when bolted in place shall be gas-tight and water-tight. Where installed, all grease, oil, and sand interceptors shall be maintained by the owner, at his expense, in continuously efficient operation at all times. **(Ord. No. 451; 03-28-72)**

38-5-55 MAINTENANCE OF 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.

38-5-56 INDUSTRIAL-WASTES CONTROL MANHOLE. Each industry shall be required to install a control manhole and, when required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessible and safely 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.

38-5-57 INDUSTRIAL WASTE TESTING.
(A) The owner of any property serviced by a building sewer carrying industrial wastes shall provide laboratory measurements, tests, and analyses of waters and wastes to illustrate compliance with this Code and any special conditions for discharge established by the City or regulatory agencies having jurisdiction over the discharge.

(B) The number, type, and frequency of laboratory analyses to be performed by the owner shall be as stipulated by the City, but no less than once per year the industry must supply a complete analysis of the constituents of the wastewater discharge to assure that compliance with the Federal, State, and local standards are being met. The owner shall report the results of measurements and laboratory analyses to the City at such times and in such a manner as prescribed by the City. The owner shall bear the expense of all measurements, analyses, and reporting required by the City. At such times as deemed necessary the City reserves the right to take measurements and samples for analysis by an outside laboratory service.

38-5-58 MEASUREMENTS AND TESTS. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this Code shall be determined in accordance with the latest edition of **IEPA Division of Laboratories Manual of Laboratory Methods**, and shall be determined at the control manhole provided, or upon suitable samples taken at the control manhole. In the event that no special manhole has been required the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected provided the Superintendent shall be permitted to take samples within the premises of the user, including lagoons, ponds, and other places. 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.)

38-5-59 SPECIAL ARRANGEMENTS. No statement contained in this Article shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment therefore, in accordance with the Chapter, hereof, by the industrial concern provided such payments are in accordance with Federal and State guidelines for User Charge System and Industrial Cost Recovery System. **(See Article IV - Division III of this Code)**

38-5-60 PRE-TREATMENT.
(A) **Pre-Treatment for Compatible Pollutant Removal Not Required.** Except as required by **Sections 38-5-51(C)** and **38-5-52(K)**, pre-treatment for removal of compatible pollutants is not required. **(Ord. No. 533; 01-14-75)**

(B) **Standard for Incompatible Pollutant Removal.** In addition to the prohibitions set forth in **Sections 38-5-51** and **38-5-52**, the pre-treatment standard for incompatible pollutants introduced into a treatment works by a major contributing industry shall be that established by a promulgated effluent limitations guideline defining best practicable control technology currently available pursuant to Sections 301(b) and 304(b) of the Act. Compliance with pre-treatment standards shall be as provided for by the Act and subsequent rules and regulations as promulgated by the Administrator. **(Ord. No. 533; 01-14-75)**

38-5-61 - 38-5-64 RESERVED.

DIVISION VII

INSPECTIONS

38-5-65 DAMAGE. No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, or tamper with any structure, appurtenance, or equipment which is part of the sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

38-5-66 INSPECTION AND TESTING.

(A) The Superintendent and other duly authorized employees of the City, the Illinois Environmental Protection Agency, and the United States Environmental Agency, bearing proper credentials and identification, shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of **Divisions I through XI.**

(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.

38-5-67 LIABILITY OF CITY. While performing the necessary work on private properties referred to in **Section 38-5-66** above, the Superintendent or duly authorized employees of the City, the Illinois Environmental Protection Agency, and the United States Environmental Protection Agency shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the City employees and the City shall indemnify the company against loss or damage to its property by City employees and 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 38-5-56.**

38-5-68 PRIVATE PROPERTY INSPECTIONS. The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within the easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

38-5-69 - 38-5-70 RESERVED.

DIVISION VIII – INDUSTRIAL COST RECOVERY

38-5-71 WASTEWATER TREATMENT PAYMENT – REQUIRED. Each industrial user shall pay that portion of any Federal grant, such grant obtained by the City for the financing of the construction of wastewater treatment works, allocable to the treatment of the wastewater from such user as required by Section 204(b) of the Act and subsequent rules, regulations and guidelines. **(Ord. No. 533; 01-14-75)**

38-5-72 WASTEWATER TREATMENT PAYMENT – AMOUNT DETERMINATIONS. An industrial user's portion of any Federal grant shall be based on the population equivalent attributable to wastewater of such user tributary to the wastewater treatment works of the City.

The population equivalent shall be determined by one of the following calculations, whichever produces the largest value:

(A) 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, 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 38-5-56** divided by **one hundred (100) gallons** per day;

(B) The average daily pounds of **five (5) day** biochemical oxygen demand (BOD) in the wastewater as determined by the Superintendent in accordance with **Section 38-5-58** divided by **seventeen hundredths (0.17) pounds** of BOD per day;

(C) The average daily pounds of suspended solids in the wastewater from such user as determined by the Superintendent in accordance with **Section 38-5-58** divided by **twenty hundredths (0.20) pounds** of suspended solids per day. **(Ord. No. 533; 01-14-75)**

38-5-73 WASTEWATER TREATMENT PAYMENT – COST PER POPULATION EQUIVALENT. The dollar cost per population equivalent shall be equal to the total Federal grant amount divided by the design population equivalent of the wastewater treatment works. The cost per population equivalent shall be **Two Hundred Ten Dollars Thirty-Two Cents (\$210.32)**. **(Ord. No. 533; 01-14-75)**

38-5-74 WASTEWATER TREATMENT PAYMENT – AMOUNT. Each year during the industrial cost recovery period, each industrial user of the treatment works shall pay the dollar cost per population equivalent times the population equivalent determined by **Section 38-5-72** 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 quarter remaining in the recovery period. Such industry will not be required to pay for those bi-monthly billings of the recovery period prior to connection to a public sewer. **(Ord. No. 589; 01-25-77)**

38-5-75 RECOVERY PERIOD. The industrial cost recovery period shall be equal to the useful life of the treatment works. **(Ord. No. 533; 01-14-75)**

38-5-76 PAYMENT PERIODS. For the purpose of industrial cost recovery, the calendar year shall be divided into bi-monthly periods; said periods to begin on the first days of March, May, July, September, November and January, and all industrial users of the City shall pay the costs as determined by **Section 38-5-74** for industrial cost recovery and such payments shall be made in equal amounts quarterly on the first day of the month immediately following the expiration of the bi-monthly period 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 said **ten (10) days**, a service charge of **ten percent (10%)** shall be added thereto. **(Ord. No. 589; 01-25-77)**

38-5-77 SERVICE CHARGE DELINQUENCIES – ACTION. In the event the charges for industrial cost recovery are not paid within **twenty (20) days** after the rendition of that bill, then such service charges shall be deemed and are 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 Administrative Assistant is authorized and directed each quarter to file sworn statements showing such delinquencies in the office of the County Recorder of Deeds, and the filing of such statements shall be deemed notice of a lien for the payment of such charges for sewer service. If the delinquency in the payment of the recovery cost continues for a period of more than **twenty (20) days**, the sewer service shall be discontinued. **(Ord. No. 533; 01-14-75)**

38-5-78 INITIAL PAYMENT. The initial payment made by any 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 38-5-76** and shall be equal to **one-quarter (1/4)** of the amount as determined by **Section 38-5-74**. **(Ord. No. 533; 01-14-75)**

38-5-79 CHARGE ADJUSTMENTS. 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's records, the City may adjust the user's portion of any Federal grant accordingly. Such change shall be as determined by **Sections 38-5-72 and 38-5-88**. **(Ord. No. 533; 01-14-75)**

38-5-80 CHARGE ADJUSTMENT FOR FACILITIES IMPROVEMENTS.

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. **(Ord. No. 533; 01-14-75)**

38-5-81 WASTEWATER TREATMENT PAYMENT – UNUSED OR UNRESERVED CAPACITY EXEMPT. An industrial user's portion of any Federal grant shall not include any portion of the grant amount allocable to unused or unreserved capacity. **(Ord. No. 533; 01-14-75)**

38-5-82 PROVISION FOR INCREASED USE. An industrial user's portion of any Federal grant shall include any firm commitment to the City of increased use by such user. **(Ord. No. 533; 01-14-75)**

38-5-83 CITY'S DISPOSITION OF COST RECOVERIES. 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 U.S. Treasury on an annual basis. **(Ord. No. 533; 01-14-75)**

38-5-84 MONEYS USE FOR EXPANSION OR RECONSTRUCTION. **Eighty percent (80%)** of the retained amounts, together with interest earned thereon, shall be used solely for the eligible costs (in accordance with Title 40 CFR 35,940) of the expansion or reconstruction of treatment works associated with the project and necessary to meet the requirements of the Act. The City shall obtain the written approval of the Regional Administrator prior to commitment of the retained amounts for any expansion and reconstruction. The remainder of the retained amounts may be used for such expenditures as the City deems appropriate. **(Ord. No. 533; 01-14-75)**

38-5-85 RECONSTRUCTION AND EXPANSION MONEYS – INVESTMENT. Pending use, the City shall invest the retained amounts for reconstruction and expansion in U.S. Treasury bonds, U.S. Treasury bills or U.S. Treasury notes, whichever has the highest interest rate at the time of investment. **(Ord. No. 533; 01-14-75)**

38-5-86 RECORDS AND AUDIT. The Administrative Assistant shall maintain the necessary records for determination of the user's share of the cost and shall provide the billing and collection services as required by **Sections 38-5-72 and 38-5-76**. The City shall independently audit the industrial cost recovery system annually and shall maintain all records for the duration of the cost recovery period. **(Ord. No. 533; 01-14-75)**

38-5-87 TREASURER'S DUTIES. The City Treasurer shall be responsible for the investment and expenditure of all moneys collected for industrial cost recovery in accordance with **Sections 38-5-83, 38-5-84 and 38-5-85. (Ord. No. 533; 01-14-75)**

38-5-88 INDUSTRIAL DISCHARGE MONITORING. The Superintendent shall maintain a program of monitoring industrial user discharges as the Superintendent 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 38-5-72** greater than or equal to **fifty (50)** shall be monitored no less than once annually. All the industrial users shall be monitored at such frequency as deemed necessary by the Superintendent. Monitoring shall consist of taking and testing of grab samples of **twenty-four (24) hour** composite samples as deemed 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 38-5-72. (Ord. No. 533; 01-14-75)**

38-5-89 - 38-5-90 RESERVED.

DIVISION IX – GUIDELINES FOR APPLICATION OF USER CHARGE AND INDUSTRIAL COST RECOVERY

38-5-91 INDUSTRIAL COST RECOVERY.

(A) New User. When a connection permit is issued for a new user the following procedure should be used to determine the user class:

- (1) Determine prime activity of user in relation to groups in the Standard Industrial Classification Manual and assign the appropriate group number. If user is not in Divisions A, B, D, E or I, the user is non-industrial.

EXAMPLES:

| <u>ACTIVITY</u> | <u>DIVISION</u> | <u>GROUP NO.</u> |
|-----------------|-----------------|------------------|
| Restaurant | Retail Trade G | 5812 |
| Dry Cleaner | Services I | 1056 |
| Apparel Factory | Manufacturing D | 2381 |
| Food Processing | Manufacturing D | 2031 |

- (2) Determine whether the wastewater to be discharged is normal domestic wastes or process wastes. Cooking water is a process waste. As a guide, water use in excess of **ten (10) to twenty (20) gallons** per employee per day would be considered process waste. Those users which are determined to discharge only normal domestic waste even though they are classified in Divisions A, B, D, E, or I may be eliminated from the industrial user class. Normal domestic waste would contain only those waste products normally generated in the home, i.e., water used in washing, preparing food and transporting urine and feces, etc.

(B) Determination of the recovery amounts for the first year would be as follows:

- (1) Estimate the water use and waste strength in mg/l of BOD and suspended solids. For a high waste-producing industry obtain concurrence of this estimate by a consulting engineer and the industry;
- (2) Use the following equations to obtain **three (3)** population equivalents (PE):

$$PE_{BOD} = (\text{mg/l}) (BOD_5) \times (\text{estimated avg. daily water usage in gallons}) \times 8.34$$

$$PE_{SS} = \frac{(\text{mg/l suspended solids}) \times (\text{estimated avg. daily water usage in gallons}) \times 8.34}{0.20 \times 1,000,000}$$

$$PE_Q = \frac{(\text{estimated avg. daily water usage in gallons})}{100 \text{ gallons}}$$

(C) The highest of the above values is the PE discharged by the industry.

(D) The bi-monthly charge would be the highest of the above-calculated values times **Two Hundred Ten Dollars Thirty-Two Cents (\$210.32)** divided by **one hundred eighty (180) quarters** or **One Dollar Sixteen and Eight-Tenths Cents (\$1.168)** per PE bi-monthly.

(E) After the first year's records are obtained, recalculate items (B), (C) and (D) above to determine the next year's recovery amount. Depending on the monitoring frequency, this adjustment may be made more frequently.

(F) A user may be reclassified from the industrial to the non-industrial class for the following reasons:

- (1) Cooling water is no longer discharged to the sewer system.
- (2) The industry treats all wastewaters except normal domestic wastes and discharges only normal domestic waste to the sewerage system. (A user may be reclassified for the opposite occurrence.)

(Ord. No. 533; 01-14-75)

38-5-92 USER CHARGE – SURCHARGE. The following is the procedure for determining a user surcharge:

(A) Obtain representative BOD₅ and suspended solids concentrations in the waste. This may require **twenty-four (24) hour** composite sampling for **one (1)** or more days.

(B) BOD₅ surcharge equals:

$$\frac{(BOD_5 - 200)}{200} \times 0.29 \times \text{Number of 1,000 gallons used} \times \text{Base Rate}$$

(C) Suspended solids (SS) surcharge equals:

$$\frac{(SS - 250)}{250} \times 0.25 \times \text{Number of 1,000 gallons used} \times \text{Base Rate}$$

(D) The above surcharges are added bi-monthly to the base user charge.

EXAMPLE: Industry discharges **one hundred fifty thousand (150,000) gallons** of wastewater last bi-monthly with an average BOD₅ of **three hundred (300) mg/l** and an average suspended solids of **two hundred sixty (260) mg/l**.

$$\text{BOD surcharge} = \frac{300 - 200}{200} \times 0.29 \times 150 \times \$0.90 = \$19.58$$

Suspended Solids surcharge = $\frac{260 - 250}{250} \times 0.25 \times 150 \times \$0.90 = \underline{1.67}$

Total Surcharge \$21.25

Base Charge Fixed Fee 1.40

Rate \$0.90 x 150 135.00

Total base charges \$136.40

Total bi-monthly bill \$157.65

(Ord. No. 589; 01-25-77)

38-5-93

RESERVED.

DIVISION X – USE OF POTABLE WATER SUPPLY WELLS

38-5-94 USE OF GROUNDWATER AS A POTABLE WATER SUPPLY PROHIBITED. The use or attempted use of groundwater as a potable water supply from within the area shown on Exhibit A, a copy of such being attached hereto and made a part hereof, by the installation of wells or by any other method, is hereby prohibited. This prohibition expressly applies to the City of Gibson City.

38-5-95 PENALTIES. Any person violating the provisions of this Division shall be subject to a fine of not less than **Seventy-Five Dollars (\$75.00)** or more than **Seven Hundred Fifty Dollars (\$750.00)** for each violation.

38-5-96 DEFINITIONS.
"Person" is any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, or any other legal entity, or their legal representatives, agents or assigns.
"Potable water" is any water used for human or domestic consumption, including, but not limited to, water used for drinking, bathing, swimming, washing dishes, or preparing foods.

(Ord. No. 20-10; 07-27-20)

DIVISION XI - PENALTIES

38-5-97 PENALTY. Any person found to be violating any provision of this Code except **Section 38-5-65** shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

The City may revoke any permit for sewage disposal as a result of any violation of any provision of this ordinance.

38-5-98 CONTINUED VIOLATIONS. Any person who shall continue any violation beyond the time limit provided for in **Section 38-5-94** shall be, upon conviction, be fined in the amount not exceeding **Seven Hundred Fifty Dollars (\$750.00)** for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.

38-5-99 LIABILITY TO CITY. Any person violating any of the provisions of this Chapter shall become liable to the City by reason of such violation.

OBJECTIONABLE MATERIAL EFFLUENT LIMITS

| <u>Waste or Chemical</u> | <u>Concentration mg/l</u> |
|--|----------------------------------|
| Boron | 1.0 |
| Chromium (Hexavalent) | 5.0 |
| Chromium (Trivalent) | 10.0 |
| Copper | 3.0 |
| Cyanide | 0.005 |
| Iron | 15.0 |
| Lead | 0.1 |
| Mercury or its compounds | 0.005 |
| Nickel | 3.0 |
| Oil & Grease, etc. (carbon tetrachloride extraction) | 100.0 |
| Temperature not over 150°F. (65°C.) | |
| Acid iron pickling waste or concentrated plating waste | Zero |
| Free acids and alkalis pH | Between 5.5 and 9.5 |
| Zinc | 2.0 |
| Cadmium | 2.0 |
| Chlorine Demand | 30.0 |
| Phenols | 0.5 |

PRIVATE SEWAGE DISPOSAL APPLICATION

A. The undersigned, being the _____ of the property located
at _____ (owner, owner's agent)
(Number) (Street) does hereby request a permit to install sanitary sewage
disposal facilities to serve the _____ at the location.
(residence, commercial building, etc.)

1. The proposed facilities include: _____ to be constructed in complete accordance with the plans and specifications attached hereunto as **Exhibit "A"**.
2. The area of the property is [_____] square feet or [_____] square meters.
3. The name and address of the person or firm who will perform the work is _____
4. The maximum number of persons to be served by the proposed facilities is _____
5. The location and nature of all sources of private or public water supply within **two hundred feet (200')** [**61 meters**] of any boundary of said property are shown on the plat attached hereunto as **Exhibit "B"**.

IN CONSIDERATION OF THE GRANTING OF THIS PERMIT, THE UNDERSIGNED AGREES:

1. To furnish any additional information relating to the proposed work that shall be requested by the City.
2. To accept and abide by all provisions of the **City Code** and of all other pertinent codes or ordinances that may be adopted in the future.
3. To operate and maintain the wastewater disposal facilities covered by this application in a sanitary manner at all times, in compliance with all requirements of the City and at no expense to the City.
4. To notify the City **at least twenty-four (24) hours** to commencement of the work proposed, and again **at least twenty-four (24) hours** prior to the covering of any underground portions of the installation.

DATE: _____, _____ SIGNED: _____
(APPLICANT)

(ADDRESS OF APPLICANT)

-
(CERTIFICATION BY CITY TREASURER)

\$_____ (Inspection Fee Paid) DATE: _____, _____
\$_____ (Connection Fee Paid) SIGNED: _____
(CITY TREASURER)

-
(APPLICATION APPROVED AND PERMIT ISSUED)

DATE: _____, _____ SIGNED: _____
(ADMINISTRATIVE ASSISTANT)

-

RESIDENTIAL OR COMMERCIAL BUILDING SEWER APPLICATION

The undersigned, being the _____ of the property
(owner, owner's agent)
located at _____ does hereby request a permit to install and connect a building
(Number) (Street)
sewer to serve the _____ at said location.
(residence, commercial building, etc.)

1. The following indicated fixtures will be connected to the proposed building sewer:

| <u>NUMBER</u> | <u>FIXTURE</u> | <u>NUMBER</u> | <u>FIXTURE</u> |
|----------------------|-----------------------|----------------------|-----------------------|
| _____ | Kitchen Sinks | _____ | Water Closets |
| _____ | Lavatories | _____ | Bathtubs |
| _____ | Laundry Tubs | _____ | Showers |
| _____ | Urinals | _____ | Garbage Grinders |

Specify Other Fixtures: _____

2. The maximum number of persons who will use the above fixtures is _____.
3. The name and address of the person or firm who will perform the proposed work is _____
4. Plans and specifications for the proposed building sewer are attached hereunto as **Exhibit "A"**.

IN CONSIDERATION OF THE GRANTING OF THIS PERMIT, THE UNDERSIGNED AGREES:

1. To accept and abide by all provisions of the **City Code**, and of all other pertinent ordinances and codes that may be adopted in the future.
2. To maintain the building sewer at no expense to the City.
3. To notify the City when the building sewer is ready for inspection and connection to the public sewer, but before any portion of the work is covered.

DATE: _____, _____

SIGNED: _____
(APPLICANT)

(ADDRESS OF APPLICANT)

-
(CERTIFICATION BY CITY TREASURER)

\$_____ (Inspection Fee Paid)

DATE: _____, _____

\$_____ (Connection Fee Paid)

SIGNED: _____
(CITY TREASURER)

-
(APPLICATION APPROVED AND PERMIT ISSUED)

DATE: _____, _____

SIGNED: _____
(ADMINISTRATIVE ASSISTANT)

-

INDUSTRIAL SEWER CONNECTION APPLICATION

The undersigned, being the _____ of the property
(owner, owner's agent)
located at _____ does hereby request a permit to _____
(Number) (Street) (install, use)
an industrial sewer connection serving the _____. which company is engaged in
_____ at said location.

1. A plan of the property showing accurately all sewers and drains now existing is attached hereunto as **Exhibit "A"**.
2. Plans and specifications covering any work proposed to be performed under this permit is attached hereunto as **Exhibit "B"**.
3. A complete schedule of all process waters and industrial wastes produced or expected to be produced at said property, including a description of the character of each waste, the daily volume and maximum rates of discharge and representative analyses is attached hereunto as **Exhibit "C"**.
4. The name and address of the person or firm who will perform the work covered by this permit is _____

IN CONSIDERATION OF THE GRANTING OF THIS PERMIT, THE UNDERSIGNED AGREES:

1. To furnish any additional information relating to the installation or use of the industrial sewer for which this permit is sought as may be requested by the City.
2. To accept and abide by all provisions of the **City Code**, and of all other pertinent ordinances or codes that may be adopted in the future.
3. To operate and maintain a control manhole and any waste pretreatment facilities, as may be required as a condition of the acceptance into the public sewer of the industrial wastes involved in an efficient manner at all times, and at no expense to the City.
4. To cooperate at all times with the City and its representative(s) in their inspecting, sampling, and study of the industrial wastes, and any facilities provided for pretreatment.
5. To notify the City immediately in the event of any accident, negligence, or other occurrence that occasions discharge to the public sewers of any wastes or process waters not covered by this permit.

DATE: _____, _____

SIGNED: _____
(APPLICANT)

(ADDRESS OF APPLICANT)

-
(CERTIFICATION BY CITY TREASURER)

\$_____ (Inspection Fee Paid)

DATE: _____, _____

\$_____ (Connection Fee Paid)

SIGNED: _____
(CITY TREASURER)

-
(APPLICATION APPROVED AND PERMIT ISSUED)

DATE: _____, _____

SIGNED: _____
(ADMINISTRATIVE ASSISTANT)

APPLICATION FOR WATER SYSTEM SERVICE CONNECTION

The undersigned, representing himself as owner of the property located at _____, hereby makes application for connection to the Water System of the City for said property, and in consideration of the furnishing of said service covenants and agrees as follows:

1. I agree to abide by all rules and regulations as specified in and by the ordinances of the City now in effect or enacted and passed from time to time providing for the regulation of service furnished by the City, it is further acknowledged and agreed that the undersigned, his heirs, executors, administrators, successors and assigns shall pay all charges for connection fees and water usage which shall become due as the result of the connecting of the water mains and the furnishing of water service to the above property, and that all such charges and fees for water service rendered to the property, together with penalties, if any, and the costs of collection are to be considered and become a charge against the property, the lien so created to be enforced in accordance with the ordinances of the City.
2. All bills for the aforesaid charges are payable within **fifteen (15) days** following the receipt of said bill and if not paid, are subject to a **ten percent (10%)** penalty.
3. Each and all of the agreements and covenants herein contained shall run with the real estate above described whose present owner is signatory to this application.
4. I understand that after making this application, I am to await installation permit and instructions therewith.
5. SERVICE CONNECTION FEE: \$ _____ is enclosed herewith, payable to the City.
6. Permission is hereby granted to the City and its authorized representatives at any reasonable time to enter the premises of the applicant and any portion thereof for the purposes of inspecting all connections appurtenant to the Water System.

CONNECTION MUST BE INSPECTED BEFORE BACKFILLING:

SIGNATURE: _____

(STREET NUMBER AND NAME OF STREET)

(CITY, STATE AND ZIP CODE)

(TELEPHONE NUMBER) (DATE)

Do not fill in the
spaces to the right
if the information
is the same as the
applicant above.

MAIL BILLS TO:

(
(
(NAME)
(
(STREET NUMBER AND NAME OF STREET)
(
(
(CITY, STATE AND ZIP CODE)

APPLICATION FOR SANITARY SEWER SERVICE CONNECTION

The undersigned, representing himself as owner of the property located at _____, hereby makes application for Sanitary Sewerage Service for said property, and in consideration of the furnishing of said service covenants and agrees as follows:

1. I agree to abide by all rules and regulations as specified in and by the ordinances of the City now in effect or ordinances enacted and passed from time to time providing for the regulation of the sanitary sewer system or specifying fees and rates to be charged for connection and sanitary sewer service furnished by the City. It is further acknowledged and agreed that the undersigned, his heirs, executors, administrators, successors and assigns shall pay all charges for connection fees and sewer usage which shall become due as the result of the connecting of the sewerage mains and the furnishing of sanitary sewerage service to the above property, and that all such charges and fees for sanitary sewerage service rendered to the property, together with penalties, if any, and the costs of collection are to be considered and become a charge against the property, the lien so created to be enforced in accordance with the ordinances of the City.
2. All bills for the aforesaid charges are payable within **ten (10) days** following the receipt of said bill and if not paid, are subject to a **ten percent (10%)** penalty.
3. Each and all of the agreements and covenants herein contained shall run with the real estate above described whose present owner is signatory to this application.
4. I understand that after making this application, I am to await installation permit and instructions therewith.
5. SERVICE CONNECTION FEE: \$ _____ is enclosed herewith, payable to the City.
6. Permission is hereby granted to the City and its authorized representatives at any reasonable time to enter the premises of the applicant and any portion thereof for the purposes of inspecting all connections appurtenant to the sewerage outlets, pipes and mains.

(APPLICANT'S SIGNATURE)

(STREET NUMBER AND NAME OF STREET)

(OWNER'S SIGNATURE, IF NOT APPLICANT)

(CITY, STATE AND ZIP CODE)

(TELEPHONE NUMBER) (DATE)

Do not fill in the spaces to the right if the information is the same as the applicant above.

MAIL BILLS TO:

(
(
(NAME)
(
(STREET NUMBER AND NAME OF STREET)
(
(
(CITY, STATE AND ZIP CODE)

--

R E C E I P T

Receipt is hereby acknowledged of the executed Application for Sanitary Sewer Service Connection from the person and for the property indicated below.

This receipt does not authorize service connection is made, inspection and approval of the customer service line by an authorized representative of the City is required, and approval of such connection and issuance of a Certificate of Inspection and Approval and Permit is conditioned upon compliance with all the Ordinances, Codes, Rules and Regulations of the **City**.

NOTE:

1. In the event the location of the sewer service connection is unknown, the Superintendent is to be contacted.
2. This office is to be notified the day before the work is to be done so that inspection may be arranged in accordance with specifications furnished. For example, if you desire inspection on Tuesday, contact us on Monday. If you desire inspection on Monday, contact us on Friday, etc.
3. The wastes from the basement as well as the other floor(s) of the property must go into the sanitary sewers. Downspout and surface drainage are prohibited inasmuch as this is not a storm sewer system.

WARNING! In order to coordinate our inspections, we must be advised a day in advance before the work is done. The inspection must be made before the trench is backfilled. If trench is backfilled before the inspection is made, it will have to be reopened to permit inspection.

NO. _____

DATE: _____

ADDRESS: _____

OWNER(S): _____

**CITY OF GIBSON CITY
COUNTY OF FORD**

CERTIFICATE OF INSPECTION, APPROVAL AND PERMIT

IT IS HEREBY CERTIFIED THAT inspection has been made of the individually-owned sewer mains and sanitary service connection for the property described below, and said installation is hereby approved as in compliance with the Specifications, Rules and Regulations established by the Revised Code (Ch. 38) of this Municipality.

Permission is hereby granted to complete the construction of said individually-owned sewer main to the City Sanitary Sewerage System and to utilize the same for waste disposal in compliance at all times, with the Revised Code of this City.

NO. _____

ADDRESS: _____

TYPE OF CONNECTION:

| | |
|-------|------------------------------------|
| _____ | Single-Family Residence |
| _____ | Multiple dwelling or trailer court |
| _____ | Commercial |
| _____ | Industrial |
| _____ | Institutional |
| _____ | Governmental |

INSTALLATION BY: _____

THE SERVICE IS IN OPERATION AS OF THIS _____ DAY OF _____, ____.

**CITY OF GIBSON CITY
COUNTY OF FORD**

SIGNED: _____

UTILITY MAIN EXTENSION CONTRACT

AGREEMENT made and entered into this _____ day of _____, by and between the Utility System of the **City of Gibson City, Illinois**, hereinafter called the "Utility Department" and _____, hereinafter called the "Depositor".

FIRST: That the Utility Department contracts and agrees to have installed by contract in accordance with its rules, utility mains as shown on the plat thereof, and the specifications are attached hereto and made a part hereof.

SECOND: Bids having been taken and the lowest responsible bid having been in the amount of \$_____, the Depositor agrees to deposit and does deposit herewith the cost thereof.

- (A) The lowest responsible bid \$_____.
- (B) Engineering and Inspection Charge \$_____.
- (C) TOTAL: \$_____.

THIRD: Final costs to be adjusted up or down according to completed job cost.

FOURTH: The ownership of the utility mains laid herein shall be at all times in the Utility Department, its successors and assigns.

FIFTH: This Agreement shall be valid and binding on the Utility Department only when signed by the Mayor and Administrative Assistant.

SIXTH: This Agreement shall be binding upon the heirs, executors, administrators, successors or assigns of the respective parties.

EXECUTED in duplicate by the parties hereto on the date first above written.

**UTILITY DEPARTMENT
CITY OF GIBSON CITY, ILLINOIS**

BY: _____

ATTEST:

MAYOR

ADMINISTRATIVE ASSISTANT

APPLICANT/DEPOSITOR

WITNESSES:

UTILITY SHUTOFF HEARING NOTICE

This notice is being sent to you pursuant to the provisions of **CHAPTER 38 OF THE REVISED CODE OF ORDINANCES** as adopted by the corporate authorities.

CUSTOMER'S NAME: _____

ADDRESS: _____

TOTAL AMOUNT OF BILL: \$_____ WATER

 \$_____ SEWER

 \$_____ OTHER

SUB-TOTAL: \$_____

PENALTY: \$_____

TOTAL DUE: \$_____

DATE OF HEARING _____

TIME OF HEARING _____

LOCATION OF HEARING _____

PHONE: _____

If the consumer/customer fails to appear at the hearing, the applicable utility services shall be **terminated** [shut off] without further proceedings.

If payment for the charges and fees is received prior to the date of the hearing, you may disregard this hearing notice.

The Mayor and Administrative Assistant, or their designated representative(s), shall preside at the hearing.

ADMINISTRATIVE ASSISTANT

DATED THIS _____ DAY OF _____, ____.

NOTE: **After services have been shut off there will be a reconnection fee of**
 \$_____.

CHAPTER 40
ZONING CODE

ARTICLE I - GENERALLY

40-1-1 TITLE. This Chapter shall be known and may be cited as the **Zoning Code of the City of Gibson City, Illinois.**

40-1-2 PURPOSE. The purposes of this Code are:

- (A) To promote and protect the public health, safety, morals, comfort, and general welfare of the people;
- (B) To divide the City into zones or districts restricting and regulating therein the location, erection, construction, reconstruction, alteration and use of buildings, structures and land for residence, business and manufacturing and other specified uses;
- (C) To protect the character and stability of the residential, business and manufacturing areas within the City and to promote the orderly and beneficial development of such areas;
- (D) To provide adequate light, air, privacy and convenience of access to property;
- (E) To regulate the intensity of use of lot areas, and to determine the area of open spaces surrounding buildings, necessary to provide adequate light and air and to protect the public health;
- (F) To establish building lines and the location of buildings designed for residential, business, manufacturing, or other uses within such areas;
- (G) To fix reasonable standards to which buildings or structures shall conform therein;
- (H) To prohibit uses, buildings or structures incompatible with the character of development or intended uses within specified zoning districts;
- (I) To prevent additions to, or alterations or remodeling of, existing buildings or structures in such a way as to avoid the restrictions and limitations imposed hereunder;
- (J) To limit congestion in the public streets and protect the public health, safety, convenience, and general welfare by providing for the off-street parking of motor vehicles and the loading and unloading of commercial vehicles;
- (K) To protect against fire, explosion, noxious fumes and other hazards in the interest of the public health, safety, comfort, and general welfare;
- (L) To prevent the overcrowding of land and undue concentration of structures, so far as is possible and appropriate in each district, by regulating the use and bulk of buildings in relation to the land surrounding them;

- (M) To conserve the taxable value of land and buildings throughout the City;
- (N) To provide for the elimination of non-conforming uses of land, buildings and structures which are adversely affecting the character and value of desirable development in each district; and
- (O) To define and limit the powers and duties of the administrative officers and bodies as provided herein.

40-1-3 DEFINITIONS.

Accessory Building or Use: A subordinate building or use which is located on the same lot on which the principal building or use is situated and which is reasonably necessary and incidental to the conduct of the primary use of such building or main use, when permitted by district regulations.

Acreage: Any tract or parcel of land having an area of **one (1) acre** or more which has not been subdivided by metes and bounds or platted.

Agriculture: shall include the growing, harvesting and storing of crops including legume, hay, grain, fruit and truck or vegetable crops, floriculture, horticulture, mushroom growing, orchards, forestry; the keeping, raising and feeding of livestock or poultry, including dairying, poultry, swine, sheep, beef cattle, pony and horse production, and fish and wildlife farms; farm buildings used for growing, harvesting and preparing crop products for market, or for use of the farm; farm buildings for storing and protecting farm machinery and equipment from the elements, for housing livestock or poultry and for preparing livestock or poultry products for market; farm dwellings occupied by farm owners, operators, tenants or seasonal or year-round hired farm workers.

Airport or Aircraft Landing Field: Any landing area, runway or other facility (including heliports), designed, used or intended to be used either publicly or privately by any person or persons for the landing and taking off of aircraft, including all necessary taxiways, aircraft storage and tiedown areas, hangars, and other necessary buildings and open spaces.

Alley: A public way, not more than **thirty (30) feet** wide, which affords only a secondary means of access to abutting property.

Apartment: A room or suite of rooms in a multiple-family structure which is arranged, designed, used or intended to be used as a single housekeeping unit.

Automobile Laundry: A building or portion thereof where automobiles are washed with the use of a chain conveyor and blower or steam-cleaning device.

Automobile Repair, Major: Engine rebuilding or major reconditioning of worn or damaged motor vehicles or trailers; collision service, including body, frame or fender straightening or repair; and over-all painting of vehicles.

Automobile Repair, Minor: Incidental repairs, replacement of parts, and motor service to automobiles, but not including any operation specified under "Automobile Repair, Major".

Automobile Service Station: A place where gasoline, stored only in underground tanks, kerosene, lubricating oil or grease, for operation of automobiles, are offered for sale directly to the public on the premises and including minor accessories and services for automobiles; but not including major automobile repairs; and including washing of automobiles where no chain conveyor, blower or steam cleaning device is employed. When the dispensing, sale or offering for sale of motor fuels or oil is incidental to the conduct of a public garage, the premises shall be classified as a public garage. Automobile service stations shall not include sale or storage of junkers or junk yards, as defined herein.

Automobile Wrecking Yard: Any place where **two (2)** or more motor vehicles not in running condition, or parts thereof, are stored in the open and are not being restored to operation, or any land, building or structure used for wrecking or storing of such motor vehicle or parts thereof, and including any used farm vehicles or farm machinery, or parts thereof, stored in the open and not being restored to operating condition; and including the commercial salvaging of any other goods, articles or merchandise.

Awning: A rooflike cover, temporary in nature, which projects from the wall of a building or overhangs the public way.

Basement: A story partly or wholly underground. Where more than **one-half (1/2)** of its height is above the established curb level or above the average level of the adjoining ground where curb level has not been established, a basement shall be counted as a story for purposes of height measurement.

Billboard: Any structure or portion thereof upon which are signs or advertisements used as an outdoor display. This definition does not include any bulletin boards used to announce church services, or to display court or other public office notices, or signs offering the sale or lease of the premises on which the sign is located.

Block: A tract of land bounded by streets or, in lieu of a street or streets, by public parks, cemeteries, railroad rights-of-way, bulkhead lines, or shore lines of waterways or a corporate boundary line of the City.

Boarding House: A building other than a hotel or restaurant where meals are provided for compensation to **four (4)** or more persons, but not more than **twelve (12)**, who are not members of the keeper's family.

Buildable Area: The space remaining on a zoning lot after the minimum open space requirements have been complied with.

Building: Any structure with substantial walls and roof securely affixed to the land and entirely separated on all sides from any other structure by space or by walls in which there are no communicating doors, windows or openings; and which is designed or intended for the shelter, enclosure or protection of persons, animals or chattels. Any structure with interior areas not normally accessible for human use, such as gas holders, oil tanks, water tanks, grain elevators, coal bunkers, oil cracking towers, and other similar structures, are not considered as buildings.

Building, Completely Enclosed: A building separated on all sides from adjacent open space, or from other buildings or other structures, by a permanent roof and by exterior walls or party walls, pierced only by windows and normal exist or entrance doors.

Building Height: The vertical distance measured from the sidewalk level or its equivalent established grade opposite the middle of the front of the building to the highest point of the roof in the case of a flat roof; to the deck line of a mansard roof; and to the mean height level between eaves and ridge of a gable, hip or gambrel roof; provided that where buildings are set back from the street line the height of the building may be measured from the average elevation of the finished lot grade at the front of the building.

Building, Non-Conforming: Any building which does not conform to the regulations herein prescribing the maximum floor area ratio, required yards, coverage, height and setbacks, minimum required spacing between buildings on a single lot, and minimum required usable open space for the district in which such building is located.

Building, Principal: A building in which is conducted the main use of the zoning lot on which it is situated.

Building Setback Line: A line parallel to the street line at a distance from it, regulated by the front yard requirements set forth herein.

Bulk: The term used to describe the size and mutual relationships of buildings and other structures, as to size; height; coverage; shape; location of exterior walls in relation to lot lines, to the center line of streets, and to other walls of the same building, and to other buildings or structures; and to all open spaces relating to the building or structure.

Bus Lot: Any lot or land area used for the storage or layover of passenger buses or motor coaches.

Cellar: A cellar is a story having more than **one-half (1/2)** of its height below the curb level or below the highest level of the adjoining ground. A cellar shall not be counted as a story for the purposes of height measurement.

Clinic or Medical Health Center: An establishment where patients are admitted for special study and treatment by **two (2)** or more licensed physicians and their professional associates, practicing medicine together.

Club or Lodge, Private: A non-profit association of persons who are bona fide members paying annual dues, which owns, hires or leases a building or portion thereof.

Curb Level: The level of the established curb in front of the building, measured at the center of such front. Where a building faces on more than **one (1) street**, the "curb level" shall be the average of the levels of the curbs at the center of the front of each street. Where no curb elevation has been established, the mean level of the land immediately adjacent to the building shall be considered the "curb level".

Dwelling: A building or portion thereof, but not including a house trailer or mobile home, designed or used exclusively for residential occupancy, including one-family dwelling units, two-family dwelling units and multiple-family dwelling units, but not including hotels, boarding or lodging houses.

Dwelling Unit: **One (1)** or more rooms in a residential structure or apartment-hotel, designed for occupancy by **one (1) family**, plus not more than **four (4) lodgers**, for living and sleeping purposes.

Dwelling, One-Family: A building designed exclusively for use and occupancy by **one (1) family**, and entirely separated from any other dwelling by space.

Dwelling, Two-Family: A building designed or altered to provide dwelling units for occupancy by **two (2) families**.

Dwelling, Multiple-Family: A building or portion thereof, designed or altered for occupancy by **three (3)** or more families living independently of each other.

Dwelling, Row (Party-Wall): A row of **two (2)** to **eight (8)** attached, one-family, party-wall dwellings, not more than **two and one-half (2 ½) stories** in height, nor more than **two (2) rooms** in depth measured from the building line.

Dwelling Group: **Two (2)** or more one-family, two-family or multiple-family dwellings, or boarding or lodging houses, located on one zoning lot, but not including tourist courts or motels.

Family: **One (1)** or more persons related by blood, marriage or adoption or a group of not more than **five (5) persons** (excluding servants) who need not be related by blood, marriage or adoption, living together and maintaining a common household, but not including sororities, fraternities or other similar organizations.

Fuel Bulk Station: A place where crude petroleum, gasoline, naphtha, benzene, benzyl, kerosene, or other flammable liquid which has a flash point at or below **two hundred (200) degrees Fahrenheit** is stored for wholesale purposes, where the aggregate capacity of all storage tanks is more than **six thousand (6,000) gallons**, regardless of whether the fuel is stored above ground, underground, or in mobile tank cars or trucks.

Garage, Bus: Any building used or intended to be used for the storage of **three (3)** or more passenger motor buses, or motor coaches used in public transportation, including school buses.

Garage, Private: A detached accessory building or portion of the principal building, designed, arranged, used or intended to be used for the storage of automobiles of the occupants of the premises.

Garage, Public: Any building other than a private garage, used for the care, incidental servicing, and sale of automobile supplies, or where motor vehicles are parked or stored for remuneration, hire, or sale within the structure, but not including trucks, tractors, truck trailers, and commercial vehicles exceeding **one and one-half (1 ½) tons** capacity.

Garage, Bus or Truck: A building which is used or intended to be used for the storage of motor trucks, truck trailers, tractors and commercial vehicles exceeding **one and one-half (1 ½) tons** capacity.

Guest House: Living quarters within a detached accessory building located on the same premises with the principal building, for use by temporary guests of the occupants of the premises. Such quarters shall have no kitchen facilities nor be rented or otherwise used as a separate dwelling unit.

Home Occupation: Any gainful operation or profession engaged in by an occupant of a dwelling unit as a use which is clearly incidental to the use of the dwelling unit for residential purposes. The "home occupation" shall be carried on wholly within the principal building or within a building accessory thereto, and only by members of the family occupying the premises. No article shall be sold or offered for sale on the premises except such as is produced by the occupation on the premises and no mechanical or electrical equipment shall be installed or maintained other than such as is customarily incidental to domestic use. There shall be no exterior display, no exterior sign except as allowed by the sign regulations for the district in which such "home occupation" is located, no exterior storage of materials, no other exterior indication of the "home occupation" or variation from the residential character of the principal building, and no offensive noise, vibration, smoke, dust, odors, heat, or glare shall be produced. Offices, clinics, doctor's offices, hospitals, barber shops, beauty parlors, dress shops, millinery shops, tearooms, restaurants, tourist homes, animals hospitals and kennels, among others, shall not be deemed to be "home occupations".

Hospital or Sanitarium: An institution devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment or care for not less than **twenty-four (24) hours** in any week of **three (3)** or more non-related individuals suffering from illness, disease, injury, deformity, or other abnormal physical conditions. The term "hospital", as used herein, does not apply to institutions operating solely for the treatment of insane persons, drug addicts, liquor addicts, or other types of cases necessitating restraint of patients, and the term "hospital" shall not be used for convalescent, nursing, shelter or boarding homes.

Hotel, Apartment: A building containing dwelling units or individual guest rooms, the majority of which are for permanent guests. Maid and janitor service may be provided but kitchen facilities are not necessarily included.

Hotel or Motel: A building in which more than **five (5) rooms** or suites are reserved to provide living and sleeping accommodations for temporary guests, with no provisions in said rooms for cooking in any individual room or suite.

Householder: The occupant of a dwelling unit who is either the owner or lessee thereof.

Junk Yard: The use of any lot, or portion thereof, for waste, scrap metal, paper, rags, or similar materials which are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including auto and building wrecking yards, but excluding similar uses taking place entirely within a completely enclosed building.

Kennel, Commercial: Any lot or premises or portion thereof on which more than **four (4) dogs**, cats, or other household domestic animals, over **four (4) months** of age, are kept or are boarded for compensation or kept for sale.

Laboratory, Commercial: A place devoted to experimental study such as testing and analyzing. Manufacturing, assembly, or packaging of products is not included within this definition.

Line of Building (For Measuring Yards): A line parallel to the nearest lot line drawn through the point of a building or group of buildings nearest to such lot line, exclusive of such features specified as being permitted to extend into a yard.

Loading and Unloading Space, Off-Street: An open hard-surfaced area of land other than a street or public way, the principal use of which is for the standing, loading and unloading of motor trucks, tractors and trailers, to void undue interference with the public use of streets and alleys. Such space shall be not less than **ten (10) feet** in width, **forty-five (45) feet** in length, and **fourteen (14) feet** in height, exclusive of access aisles and maneuvering space.

Lodging or Rooming House: A building with not more than **five (5)** guest rooms where lodging is provided for compensation pursuant to previous arrangement, but not open to the public or to overnight guests.

Lot: The word "lot" when used alone shall mean a zoning lot, unless the context clearly indicates otherwise.

Lot, Corner: A parcel of land situated at the intersection of **two (2)** or more streets or adjoining a curved street at the end of a block.

Lot Coverage: The area of a zoning lot occupied by the principal building or buildings and accessory buildings.

Lot Depth: The horizontal distance between the front and rear lot lines measured in the mean direction of the side lot lines.

Lot Frontage: The front of a lot shall be that boundary of a lot along a public street; for a corner lot the owner may elect either street line as the front lot line.

Lot, Interior: A lot other than a corner lot or reversed corner lot.

Lot Line, Front: The front property line of a zoning lot.

Lot Line, Interior: A side lot line common with another lot.

Lot Line, Rear: The rear lot line is the lot line or lot lines most nearly parallel to and most remote from the front lot line. Lot lines other than front or rear lot lines are side lot lines.

Lot, Reversed Corner: A corner lot, the rear of which abuts upon the side of another lot, whether across an alley or not.

Lot, Through: A lot having frontage on **two (2)** parallel or approximately parallel streets, and which is not a corner lot.

Lot Width: The horizontal distance between the side lot lines measured at right angles to the lot depth at the established front building line.

Lot, Zoning: See Zoning Lot.

Marquee or Canopy: A rooflike structure of a permanent nature which projects from the wall of a building and may overhang the public way.

Motor Freight Terminal, Private: A building in which freight, brought to said building by motor truck, is assembled and sorted for routing in intrastate and interstate shipment by motor truck.

Non-Conforming Use: Any building, structure, or land lawfully occupied by a use or lawfully established at the time of the adoption of the Zoning Code or amendments thereto, which does not conform after passage of the Code or amendments thereto, with the use regulations of the Code.

Nursing Home or Rest Home: A private home for the care of children or the aged or infirm, or a place of rest for those suffering bodily disorders, but not including facilities for the treatment of sickness or injuries or for surgical care.

Octave Band: A means of dividing the range of sound frequencies into octaves in order to classify sound according to pitch.

Octave Band Filter: An electrical frequency analyzer, designed according to standards formulated by the American Standards Association and used in conjunction with a sound level meter to take measurements in specific octave intervals. (American Standard for Sound Level Meters, A.S.A. No. 224.3-1944).

Ordinance: Reference to "ordinance" herein shall be construed as the Zoning Code.

Parking Area, Private: An open, hard-surfaced area of land, other than a street or public way, designed, arranged, and made available for the storage of private passenger automobiles only, of occupants of the building or buildings for which the parking area is developed and is accessory.

Parking Area, Public: An open, hard-surfaced area, other than a street or public way, intended to be used for the storage of passenger automobiles and commercial vehicles under **one and one-half (1 ½) tons** capacity, and available to the public, whether for compensation, free or as an accommodation to clients or customers.

Parking Space, Automobile: Space within a public or private parking area of not less than **one hundred sixty-two (162) square feet (eight and one-half feet by nineteen feet [8 ½' x 19']**), exclusive of access drives or aisles, ramps, columns, or office and work areas, for the storage of **one (1)** passenger automobile or commercial vehicle under **one and one-half (1 ½) tons** capacity.

Planned Development: A tract of land which is developed as a unit under single ownership or control, which includes **two (2)** or more principal buildings and which is at least **four (4) acres** in area, except for planned developments operated by a municipal corporation which shall be at least **two (2) acres** in area, and manufacturing planned developments which shall be at least **ten (10) acres** in area.

Porch: A roofed-over structure projecting out from the wall or walls of a main structure and commonly open to the weather in part.

Public Utility: Any person, firm, corporation or municipal department, duly authorized to furnish under public regulation to the public, electricity, gas, steam, telephone, telegraph, transportation or water.

Railroad Right-of-Way: A strip of land with tracks and auxiliary facilities for track operation, but not including depots, loading platforms, stations, train sheds, warehouses, car shops, car yards, locomotive shops, or water towers.

Ringelmann Chart: A chart which is described in the U.S. Bureau of Mines Information Circular 6888, and on which are illustrated graduated shades of grey for use in estimating the light-obscuring capacity of smoke.

Ringelmann Number: The number of the area of the Ringelmann Chart that coincides most nearly with the visual density of emission.

Setback Line, Building: See Building Setback Line.

Sign: A name, identification, description, display, or illustration which is affixed to, or painted or represented directly or indirectly upon a building, structure, or piece of land, and which directs attention to an object, product, place, activity, person, institution, organization or business.

Smoke Units: The number obtained by multiplying the smoke density in Ringelmann numbers by the time of emission in minutes. For the purpose of this chart, Ringelmann density reading is made at least once every minute during the period of observation; each reading is then multiplied by the time in minutes during which it is observed; and the various products are added together to give the total number of "smoke units" observed during the total period under observation.

Special Use: Any use of land or buildings, or both, described and permitted herein, subject to the provisions of the Administrative Section.

Stable, Livery: Any building, other than a private stable, designed, arranged, used or intended to be used for the storage of horses or horse-drawn vehicles, or both.

Story: That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling next above it. Any portion of a story exceeding **fourteen (14) feet** in height shall be considered as an additional story for each **fourteen (14) feet** or fraction thereof.

Story, Half: A half story is that portion of a building under a gable, hip or mansard roof, the wall plates of which on at least **two (2)** opposite exterior walls, are not more than **four and one-half (4 ½) feet** above the finished floor of such story. In the case of one-family dwellings, two-family dwellings and multiple-family dwellings less than **three (3) stories** in height, a half story

in a sloping roof shall not be counted as a story for the purposes of this report. In the case of multiple-family dwellings **three (3)** or more stories in height, a half story shall be counted as a story.

Street: A public way other than an alley.

Street Line: The line separating an abutting lot, piece or parcel of land from a street.

Structure: Anything constructed or erected which requires location on the ground or is attached to something having location on the ground.

Structural Alterations: Any change other than incidental repairs which would prolong the life of the supporting members of a building or structure, such as bearing walls, columns, beams or girders.

Tavern or Lounge: A building where liquors are sold to be consumed on the premises, but not including restaurants where the principal business is serving food.

Terrace, Open: A level and rather narrow plane or platform, which is located adjacent to **one (1)** or more faces of the principal structure and which is constructed not more than **four (4) feet** in height above the average level of the adjoining ground.

Tourist Courts, Motor Lodges, Motels: A group of attached or detached buildings containing individual sleeping or living units, designed for or used temporarily by automobile tourists or transients, with garage attached or parking space conveniently located to each unit, including auto courts, motels, motor lodges or other similar type uses.

Tourist Home: A dwelling in which accommodations are provided or offered for transient guests.

Toxic Material: A substance (liquid, solid or gaseous) which, by reason of an inherent deleterious property, tends to destroy life or impair health.

Trailer House or Mobile Home: Any structure used for living, sleeping, business or storage purposes, having no foundation other than wheels, blocks, skids, jacks, horses or skirting, and which has been or reasonably may be equipped with wheels or other devices for transporting the structure from place to place, whether by motive power or other means. The term "trailer" shall include camp car and house car.

Truck Parking Area, or Yard: Any land used or intended to be used for the storage or parking of trucks, tractors, truck trailers, and including commercial vehicles, while not loading or unloading, and which exceeds **one and one-half (1 ½) tons** in capacity.

Use: The purpose for which land or a building thereon is designed, arranged, or intended, or for which it is occupied or maintained, let or leased.

Used Car Lot: A zoning lot on which used or new cars, trailers, or trucks are displayed for sale or trade.

Yard: An open space on the same zoning lot with a principal building or group of buildings, which is unoccupied and unobstructed from its lowest level upward, except as otherwise permitted herein, and which extends along a lot line and at right angles thereto to a depth or width specified in the yard regulations for the district in which the zoning lot is located.

Yard, Front: A yard extending across the full width of the zoning lot and lying between the front line of the lot and the nearest line of a building.

Yard, Rear: A yard extending across the full width of the zoning lot and lying between the rear line of the lot and the nearest line of the principal building.

Yard, Side: That part of the yard lying between the nearest line of the principal building and a side lot line, and extending from the required front yard (or from the front lot line, if there is no required front yard) to the required rear yard.

Zoning Maps: The map or maps incorporated herein as a part hereof, designating zoning districts.

Zoning Lot: A plot of ground, made up of **one (1)** or more parcels, which is or may be occupied by a use, building or buildings including the open spaces required herein.

ARTICLE II – USE DISTRICTS AND REGULATIONS

40-2-1 DISTRICTS ESTABLISHED. In order to carry out the purposes and provisions herein, the City is hereby divided into the following districts:

RESIDENTIAL DISTRICTS

| | |
|-----|---------------------------------|
| A | Agriculture District |
| R-1 | Single-Family Dwelling District |
| R-2 | General Residence District |

BUSINESS DISTRICTS

| | |
|-----|---|
| B-1 | Business District, General Retail and Limited Service |
| B-2 | Business District, General Service and Wholesale |
| B-3 | Highway Business District |

MANUFACTURING DISTRICTS

| | |
|-----|---------------------------------|
| M-1 | Manufacturing District, Limited |
| M-2 | Manufacturing District, General |

40-2-2 ZONING MAPS. The location and boundaries of the districts established herein are shown on the Zoning Map which is hereby incorporated herein. The zoning map, together with all notations, references and other information shown thereon, and all amendments thereto, shall be a part hereof and shall have the same force and effect as if the zoning map, together with all notations, references and other information shown thereon were fully set forth and described herein.

[ED. NOTE: The Zoning Map shall be published by March 31st of each year following any map revisions from the previous year.]

40-2-3 ZONING OF ANNEXED LAND. Prior to annexation of any territory to the City, a plan of zoning the area to be annexed shall be forwarded to the City Council by the Plan Commission. Upon approval of such plan for zoning the area to be annexed, the City Council shall direct the Plan Commission to hold a public hearing in accordance with the regulations of the Administration section.

40-2-4 ZONING OF STREETS, ALLEYS, PUBLIC WAYS AND RAILROAD RIGHTS-OF-WAY. All streets, alleys, public ways and railroad rights-of-way, if not otherwise specifically designated, shall be deemed to be in the same zone as the property immediately abutting upon such streets, alleys, public ways and railroad rights-of-way. Where the center line of a street, alley, public way or railroad right-of-way serves as a district boundary, the zoning of such areas, unless otherwise specifically designated shall be deemed to be the same as that of the abutting property up to such center line.

40-2-5 BOUNDARY LINES. Wherever any uncertainty exists as to the boundary of any use district as shown on the zoning map incorporated herein, the following rules shall apply:

(A) Where district boundary lines are indicated as following streets, alleys or similar rights-of-way, they shall be construed as following the center lines thereof.

(B) Where district boundary lines are indicated as approximately following lot lines, such lot lines shall be construed to be such boundaries.

(C) Where a lot held in one ownership and of record at the effective date of the Zoning Code is divided by a district boundary line, the entire lot shall be construed to be within the less restricted district; provided that this construction shall not apply if it increases the area of the less restricted portion of the lot by more than **twenty percent (20%)**.

ARTICLE III – GENERAL PROVISIONS

40-3-1 SCOPE OF REGULATIONS. No building or structure shall be erected, converted, enlarged, reconstructed or structurally altered, nor shall any building or land be used for any purpose other than is permitted in the district in which the building or land is located.

40-3-2 PERMITS. No application for a building permit or other permit or license, or for a certificate of occupancy, shall be approved by the administrative officer and no permit or license shall be issued by any other City department, which would authorize the use or change in use of any land or building contrary to the provisions hereof, or the erection, moving, alteration, enlargement or occupancy of any building designed or intended to be used for a purpose or in a manner contrary to the provisions hereof.

(A) No person, company, or corporation shall erect or cause to be erected within the City limits or within the City any building or structure of any kind or enlarge or add to the dimensions of or relocate or move any building or structure without first having obtained a permit therefor, which permit shall be issued through the office of the City Clerk who shall charge a fee therefor in accordance with the following: For Residential Construction, **Fifty Dollars (\$50.00)** for the first **One Thousand Dollars (\$1,000.00)** of the cost of construction, alteration or addition, which is a minimum, non-refundable fee, which minimum fee shall accompany the application. At the time of the issuance of the permit an additional **One Dollar (\$1.00)** per **One Thousand Dollars (\$1,000.00)** in excess of **One Thousand Dollars (\$1,000.00)** cost of construction, alteration or addition shall be paid. For Commercial Construction, **One Hundred Dollars (\$100.00)** for the first **One Thousand Dollars (\$1,000.00)** of the cost of construction, alteration or addition, which is a minimum, non-refundable fee, which minimum fee shall accompany the application. At the time of the issuance of the permit an additional **One Dollar (\$1.00)** per **One Thousand Dollars (\$1,000.00)** in excess of **One Thousand Dollars (\$1,000.00)** cost of construction, alteration or addition shall be paid. **(Ord. No. 08-16; 08-11-08)**

(B) All permits issued pursuant to this Code shall be effective for **one (1) year** from the date of issuance. In the event the construction, alteration or addition has not been completed within **one (1) year** from the date of the issuance of the permit, there shall be paid an additional **ten percent (10%)** of the original permit price for each **thirty (30) days** that the building permit must be extended to complete the construction, alteration or addition. **(Ord. No. 1925)**

40-3-3 BUILDING HEIGHT, BULK AND LOT COVERAGE.

(A) No building shall be erected, reconstructed, relocated or structurally altered so as to have a greater height, a higher ratio of lot coverage, or smaller open space about it than permissible under the limitations set forth herein for the district in which such building is located, except that parapet walls, chimneys, cooling towers, elevator bulkheads, fire towers, stacks, stage towers, or scenery lofts, and necessary mechanical appurtenances, shall be permitted to exceed the maximum height provisions when erected in accordance with all other ordinances of the City.

(B) No space allocated to a building or dwelling group for the purpose of complying with the side, rear or front yard, or court or other open space or lot area requirements herein, shall thereafter, by reason of change in ownership or for any other reason, be used to satisfy the yard, court, open space or lot area requirements of any other building or dwelling group.

(C) An open terrace, but not including a roofed-over porch or terrace, may occupy a front yard, provided the unoccupied portion of the front yard has a depth of not less than **fifteen (15) feet**. A one-story bay window may project into a front yard not more than **three (3) feet**. Overhanging eaves, including gutters, may project over the minimum required side yard not more than **eighteen (18) inches**.

(D) No usable open space or off-street parking space or loading space existing or provided hereafter for any building shall be reduced below the minimum requirements hereinafter set forth for such usable open space, parking space, or loading space, nor further reduced if already less than said minimum requirements.

(E) Any Accessory Building (excluding portable buildings) shall not exceed eighteen (18) feet in height, shall include customary gutters with downspouts, and shall be constructed to match and blend in with the primary structure. **(Ord. No. 08-15; 08-11-08)**

40-3-4 LOT AREA AND DIMENSION.

(A) When **two (2)** or more parcels of land, each of which lacks adequate area and dimension to qualify for a permitted use under the requirements of the use district in which they are located, are contiguous and are held in one ownership, they shall be used as one zoning lot for such use.

(B) Any single lot or parcel of land, held in one ownership, which was of record at the time of adoption of the Zoning Code, that does not meet the requirements for minimum lot width and area, may be utilized for a permitted use, provided that yards, courts or usable open space are not less than **seventy-five percent (75%)** of the minimum required dimensions or areas.

40-3-5 LOCATION OF BUILDINGS. Except as otherwise provided for herein, every building shall be constructed or erected on a lot or parcel of land which abuts upon a public street or permanent easement of access to a public street, which easement shall have a minimum width of **twenty-five (25) feet**, unless an easement of lesser width was of record prior to the adoption of the Zoning Code.

40-3-6 BUILDINGS UNDER CONSTRUCTION. Nothing herein shall be deemed to require any change in the plans, construction or designated use of any building upon which actual construction was lawfully begun prior to the adoption of the Zoning Code and upon which building actual construction has been diligently carried on, and provided further that such building shall be completed within **one (1) year** from the date of passage and publication of the Code.

40-3-7 BUILDINGS ON A ZONING LOT. Every building hereafter erected or structurally altered to provide dwelling units shall be located on a zoning lot as herein defined and in no case shall there be more than **one (1)** such building on one zoning lot, except as hereinafter provided in **Section 40-9-16(B)**.

40-3-8 REZONING OF PUBLIC AND SEMI-PUBLIC AREAS. An area indicated on the zoning map as a public park, recreation area, public school site, cemetery, or other similar open space, shall not be used for any other purpose than that designated; and when the use of the area is discontinued, it shall automatically be zoned to the most restricted adjoining district until appropriate zoning is authorized by the City Council within **three (3) months** after the date of application filed for rezoning.

40-3-9 FLOOR AREA. Every building hereafter erected, altered, or occupied for dwelling purposes shall have a floor area of not less than **eight hundred (800) square feet** for each family occupying the same, and no shed, barn, garage or other structure, not originally designed for dwelling purposes, shall be occupied or used for dwelling purposes.

ARTICLE IV – NON-CONFORMING USES

40-4-1 CONTINUANCE OF USE.

(A) Any lawfully established use of a building or land at the effective date of the Zoning Code, or of amendments thereto, that does not conform to the use regulations for the district in which it is located, shall be deemed to be a legal non-conforming use and may be continued, except as otherwise provided herein.

(B) Any legal non-conforming building or structure may be continued in use provided there is not physical change other than necessary maintenance and repair, except as otherwise permitted herein.

(C) Any building for which a permit has been lawfully granted prior to the effective date of the Zoning Code or of amendments thereto, may be completed in accordance with the approved plans; provided construction is started within **six (6) months** and diligently prosecuted to completion. Such building shall thereafter be deemed a lawfully established building.

40-4-2 DISCONTINUANCE OF USE.

(A) Whenever any part of a building, structure or land occupied by a non-conforming use is changed to or replaced by a use conforming to the provisions of the Zoning Code such premises shall not thereafter be used or occupied by any non-conforming use, even though the building may have been originally designed and constructed for the prior non-conforming use.

(B) Whenever a non-conforming use of a building or structure, or part thereof, has been discontinued for a period of **six (6) consecutive months**, or for a continuous period of **twelve (12) months** if the building was originally designed and constructed for a non-residential use, or whenever there is evident a clear intent on the part of the owner to abandon a non-conforming use, such use shall not after being discontinued or abandoned, be re-established, and the use of the premises thereafter shall be in conformity with the regulations of the district.

(C) Where no enclosed building is involved, discontinuance of a non-conforming use for a period of **six (6) months** shall constitute abandonment.

40-4-3 CHANGE OF USE.

(A) A non-conforming use of a building or structure, or part thereof, may be changed to a use of the same or of a more restricted character, but may not thereafter be changed to any less restricted use.

(B) Any part of a building, structure or land occupied by a non-conforming use which is changed to or replaced by a use conforming to the provisions of the Zoning Code shall not thereafter be used or occupied by a non-conforming use.

40-4-4 TERMINATION AND REMOVAL OF NON-CONFORMING USES.

The period of time during which the following non-conforming uses of buildings, structures, or land may continue or remain shall be limited to the following periods from the effective date of the Code or of any amendments thereto which causes the use to be non-conforming. Every such non-conforming use shall be completely removed from the premises at the expiration of the period signified, or shall be made to conform to the regulations of the Code.

(A) Any non-conforming building or structure having an assessed valuation not in excess of **Seven Hundred Fifty Dollars (\$750.00)** on the effective date of this Code - **two (2) years**.

(B) All non-conforming signs, billboards and outdoor advertising structures - **ten (10) years**.

(C) Any non-conforming use of land where no enclosed building is involved or where the only buildings employed are accessory or incidental to such use, or where such use is maintained in connection with a conforming building - **two (2) years**.

(D) House trailers or mobile homes - **three (3) years**.

40-4-5 REPAIRS AND ALTERATIONS.

(A) Normal maintenance of a building or other structure containing a non-conforming use is permitted, including necessary non-structural repairs and incidental alterations which do not extend or intensify the non-conforming use.

(B) No structural alterations shall be made in a building or other structure containing a non-conforming use, except in the following situations:

- (1) When the alteration is required by law.
- (2) When the alteration will actually result in eliminating the non-conforming use.
- (3) When a building containing residential non-conforming uses may be altered in any way to improve livability, provided no structural alteration shall be made which would increase the number of dwelling units or the bulk of the building.

40-4-6 DAMAGE AND DESTRUCTION. If a building or other structure containing a non-conforming use is damaged or destroyed by any means to the extent of **fifty percent (50%)** or more of its replacement value at the time, the building or other structure can be rebuilt or used thereafter only for a conforming use and in compliance with the provisions of the district. In the event the damage or destruction is less than **fifty percent (50%)** of its replacement value, based upon prevailing costs, the building may then be restored to its original condition and the occupancy or use of such building may be continued which existed at the time of such partial destruction.

40-4-7 ADDITIONS AND ENLARGEMENTS.

(A) A non-conforming building may be enlarged or extended only if the entire building is thereafter devoted to a conforming use, and is made to conform to all the regulations of the district in which it is located.

(B) No building partially occupied by a non-conforming use shall be altered in such a way as to permit the enlargement or expansion of the space occupied by such non-conforming use.

(C) No non-conforming building in any residential district shall be so altered as to increase the number of dwelling units therein.

(D) No non-conforming use may be enlarged or extended in such a way as to occupy any required usable open space, or any land beyond the boundaries of the zoning lot as it existed at the effective date of the Code or to displace any conforming use in the same building or on the same premises.

40-4-8 EXCEPTIONS. Wherever a lawfully existing building or other structure otherwise conforms to the use regulations of the Code, but is non-conforming only in the particular manner hereinafter specified, the building and use thereof shall be exempt from the requirements of **Sections 40-4-4** and **40-4-5**.

(A) In any residential district where a dwelling is non-conforming only as to the number of dwelling units it contains, provided no such building shall be altered in any way so as to increase the number of dwelling units therein.

(B) In any R-2 District, where a use permitted in the B-1 District occupies ground floor space within a multiple-family dwelling located on a corner lot.

(C) In a business or manufacturing district where the use is less distant from a residential district than that specified in the regulations for the district in which it is located.

ARTICLE V – ACCESSORY BUILDINGS

40-5-1 ATTACHED ACCESSORY. Where a substantial part of the wall of an accessory building is a part of the wall of the main building or where an accessory building is attached to the main building in a substantial manner as by a roof, such accessory building shall be counted as part of the main building.

40-5-2 LOCATION OF STRUCTURE. An accessory building may not be located nearer to any interior lot line than that permitted for the main building, when any part of this accessory building is on line with the main building, if extended. However, when an accessory building is located in the rear yard, it may then be located within **three (3) feet** of the interior lot line, but not nearer than **five (5) feet** of the rear lot line.

40-5-3 ERECTION PRIOR TO PRINCIPAL BUILDING. An accessory building shall not be erected prior to the establishment or construction of the main building to which it is accessory.

40-5-4 REVERSED CORNER LOT. No accessory building shall be located on a reversed corner lot beyond the front yard required on the adjacent lot to the rear, nor be located nearer than **five (5) feet** to the side lot line of the adjacent building on the lot to the rear.

40-5-5 PERMITTED ACCESSORY USES. An accessory use includes, but is not limited to, the following:

- (A) A children's playhouse, garden house and private greenhouse.
- (B) A garage, shed or building for domestic storage.
- (C) Incinerators incidental to residential use.
- (D) Storage of merchandise normally carried in stock on the same lot with any retail service or business use, unless such storage is excluded by the district regulations.
- (E) Storage of goods used in or produced by manufacturing activities, on the same lot or parcel of ground with such activities, unless such storage is excluded by the district regulations.
- (F) Off-street motor vehicle parking areas, and loading and unloading facilities.
- (G) Signs, as permitted and regulated in each district incorporated herein.
- (H) Swimming pools, in all residential districts shall be located not less than **twenty (20) feet** from any principal building on an adjacent lot and the pool or yard shall be fenced to a height of not less than **five (5) feet** with the type and location of the fence approved by the City Superintendent. "Swimming pool" within the meaning of this subparagraph, shall be a depression in the ground, either temporary or permanent, or a container of water either temporary or permanent and either above or below the ground in which water of more than **twenty-four (24) inches** is contained and which is used primarily for the purposes of swimming. **(Ord. No. 06-15; 04-24-06)**

(I) No more than **one (1)** not permanently attached or movable building shall be allowed per property.

ARTICLE VI – OFF-STREET PARKING AND LOADING

40-6-1 PURPOSE. The purpose of this Section is to alleviate or prevent congestion of the public streets, and so promote the safety and welfare of the public by establishing minimum requirements for the off-street parking and loading and unloading of motor vehicles in accordance with the use to which property is put.

40-6-2 GENERAL PROVISIONS – PARKING AND LOADING.

(A) **Procedure.** An application for a building permit for a new or enlarged building, structure or use shall include therewith a plot plan, drawn to scale, and fully dimensioned, showing any parking or loading facilities to be provided in compliance with the requirements of the Code.

(B) **Extent of Control.** The off-street parking and loading requirements shall apply as follows:

- (1) All buildings and structures erected and land uses initiated after the effective date of the Code shall provide accessory off-street parking or loading facilities as required hereinafter for the use thereof, except that a building or structure for which a building permit has been issued prior to the effective date of the Code shall not be required to furnish parking or loading facilities if construction is begun thereon within **six (6) months** of the effective date of the Code and diligently prosecuted to completion.
- (2) When a building or structure erected prior to or after the effective date of the Code shall undergo any decrease in number of dwelling units, gross floor area, seating capacity, number of employees, or other unit of measurement specified hereinafter for the required parking or loading facilities, and further, when said decrease would result in a requirement for fewer total parking or loading spaces through application of the provisions of the Code thereto, parking and loading facilities may be reduced accordingly, provided that existing parking or loading facilities shall be so decreased only when the facilities remaining would at least equal or exceed the parking or loading requirements resulting from application of the provisions of the Code to the entire building or structure as modified.
- (3) When a building or structure shall undergo any increase in the number of dwelling units, gross floor area, seating capacity or other unit of measurement specified hereinafter for required parking or loading facilities, and further, when said increase would result in a requirement for additional total parking or loading spaces through application of the provisions of the Code to the entire building or structure as modified, the building or structure shall be required to provide the additional parking or loading facilities.

thereto, parking and loading facilities shall be increased accordingly, provided that existing parking or loading facilities shall be so increased that the facilities would at least equal or exceed the parking or loading requirements resulting from application of the provisions of the Code to the entire building or structure as modified.

(C) **Existing Parking and Loading Spaces.** Accessory off-street parking and loading space in existence on the effective date of the Zoning Code may not be reduced in number unless already exceeding the requirements of this Section for equivalent new construction; in which event said spaces shall not be reduced below the number required herein for such equivalent new construction.

(D) **Permissive Parking and Loading Spaces.** Nothing in this Section shall prevent the establishment of off-street automobile parking or loading facilities to serve any existing use of land or buildings, subject to full compliance with the provisions of this Section, except that off-street parking areas accessory to existing multiple-family structures cannot be located off the premises containing the main use, unless on a lot adjacent thereto, without authorization by the City Council.

(E) **Damage or Destruction.** Any building, structure or use which is in existence and is a conforming use on the effective date of this Code and which subsequently shall be damaged or destroyed by fire, collapse, explosion or other cause may be reconstructed, re-established or repaired with or without off-street parking or loading facilities, except that parking or loading facilities equivalent to any maintained at the time of such damage or destruction shall be restored or continued in operation. However, in no case shall it be necessary to restore or maintain parking or loading facilities in excess of those required herein for equivalent new construction.

(F) **Schedule of Requirements.**

(1) **Tables for Required Parking and Loading.** Requirements governing the number and location of off-street parking and off-street loading facilities in relation to the use of property are established herein. The parking and loading requirements for any use not specified herein shall be the same as for a similar specified use, as determined by **Section 40-6-6.**

(2) **Floor Area.** The term "floor area" as employed in this parking and loading section in the case of office, merchandising or service types of use shall mean the gross floor area of a building or structure used or intended to be used for service to the public as customers, patrons, clients, patients, or tenants, including areas occupied by fixtures and equipment used for display or sale of merchandise. "Floor areas" for the purposes of this Section shall not include any area used for:

- (a) Storage accessory to the principal use of a building;
- (b) Incidental repairs;
- (c) Processing or packaging of merchandise;

- (d) Show windows, or offices incidental to the management or maintenance of a store or a building;
- (e) Rest rooms;
- (f) Utilities;
- (g) Dressing, fitting or alteration rooms.

40-6-3 ADDITIONAL REGULATIONS – PARKING.

(A) **Use of Parking Facilities.** Off-street parking facilities accessory to residential use and developed in any residential district in accordance with the requirements of this Section shall be used solely for the parking of passenger automobiles owned by occupants of the dwelling structures to which such facilities are accessory or by guests of said occupants. Under no circumstances shall required parking facilities accessory to residential structures be used for the storage of commercial vehicles or for the parking of automobiles belonging to the employees, owners, tenants, visitors, or customers of business or manufacturing establishments, except as permitted in **Section 40-6-3(E).**

(B) **Joint Parking Facilities.** Off-street parking facilities for different buildings, structures or uses, or for mixed uses, may be provided collectively in any zoning district in which separate parking facilities for each constituent use would be permitted, provided that the total number of spaces so located together shall not be less than the sum of the separate requirements for each use.

(C) **Control of Off-Site Facilities.** When required accessory off-street parking facilities are provided elsewhere than on the lot on which the principal use served is located, they shall be in the same possession, either by deed or long-term lease, as the property occupied by such principal use, and the owner shall be bound by covenants filed of record in the office of the Recorder of Deeds of Ford County, requiring the owner and his or her said heirs and assigns to maintain the required number of parking spaces during the existence of said principal use.

(D) **Permitted Districts for Accessory Parking.** Accessory parking facilities provided elsewhere than on the same zoning lot with the principal use served in accordance with **Section 40-6-3(C)** may be located in any zoning district except as follows:

- (1) No parking facilities accessory to an apartment use shall be located in an R-1 District.
- (2) No parking facilities accessory to any business or manufacturing use shall be located in a residential district, except when authorized by the City Council as prescribed hereinafter.
- (3) No parking facilities accessory to a manufacturing use shall be permitted in a B-1 or B-2 District.

(E) **Non-Residential Parking in Residential Districts.** Accessory off-street parking facilities serving non-residential uses of property may be permitted in an R-2 District when authorized by the City Council, subject to the following requirements in addition to all other relevant requirements of this Section:

(1) The parking lot shall be accessory to and for use in connection with, **one (1)** or more residential establishments located in adjoining districts or in connection with **one (1)** or more existing professional or institutional office buildings or institutions.

- (2) Said parking lot shall be used solely for the parking of passenger automobiles.
- (3) No commercial repair work, sales or service of any kind shall be conducted on said parking lot.
- (4) No sign of any kind other than signs designating entrances, exits and conditions of use, shall be maintained on said parking lot.
- (5) The parking lot may be open from **7:00 A.M.** to **9:00 P.M.** and shall be closed at all other times, provided, however, that when supervised by **one (1)** or more full-time attendants, the parking lot may be kept open until **12:00 Midnight**.
- (6) Each entrance to and exit from said parking lot shall be at least **twenty (20) feet** distant from any adjacent property located in any residential district, except where ingress and egress to the parking lot is provided from a public way or public alley separating the residential areas from the proposed parking lot.
- (7) In addition to the foregoing requirements, such parking lots shall conform to any further requirements and conditions as may be prescribed by the City Council for the protection of properties adjacent to and in the vicinity of the proposed parking lot.

(F)

Design and Maintenance.

- (1) **Parking Space – Description.** A required off-street parking space shall be an area of not less than **one hundred sixty-two (162) square feet** nor less than **eight and one-half (8 ½) feet** wide by **nineteen (19) feet** long, exclusive of access drives and aisles, ramps, columns, or office and work areas, accessible from streets or alleys or from private driveways or aisles leading to streets or alleys and to be used for the storage or parking of passenger automobiles or commercial vehicles under **one and one-half (1 ½) tons** capacity. Aisles between vehicular parking spaces shall be not less than **twelve (12) feet** in width when serving automobiles parked at a **forty-five degree (45°)** angle in one direction nor less than **twenty (20) feet** in width when serving automobiles parked perpendicular to the aisles and accommodating two-way traffic.
- (2) **Measurement of Space.** When determination of the number of required off-street parking spaces results in a requirement of a fractional space, any fraction up to and including **one-half (1/2)** shall be interpreted as **one (1)** parking space.

- (3) **Open and Enclosed Spaces.** Parking areas may be open or enclosed except that when parking facilities accessory to a multiple dwelling are located in a residential or B-1 or B-2 District elsewhere than on the same zoning lot with the principal use served, such parking facilities shall be open to the sky.
- (4) **Access.** Parking facilities shall be designed with appropriate means of vehicular access to a street or alley in such a manner as will least interfere with the movement of traffic. No driveway or curb cut in any district shall exceed **twenty-five (25) feet** in width.
- (5) **Signs.** No signs shall be displayed in any parking area within any residential district, except such as may be necessary for the orderly use of the parking facilities.
- (6) **Required Setbacks.** No parking space or portion thereof established on the same zoning lot with a building shall be located within a required front yard. No parking space or portion thereof established on a zoning lot without a building shall be located closer to any street line than the established building line on adjacent properties nor closer than the front yard setback required for the district in which the parking lot is located. Further, any wall, fence or hedge developed around any parking area shall be subject to the front yard setback requirements herein in the same manner as a building or structure.
- (7) **Surfacing.** All open off-street parking areas, except those accessory to single-family dwellings, shall be improved with a compacted macadam base, not less than **four (4) inches** thick, surfaced with asphaltic concrete or some comparable all-weather dustless material.
- (8) **Screening and Landscaping.** All open off-street parking areas for **six (6)** or more cars shall be effectively screened by a wall, a solid fence or a densely planted compact hedge along any side which adjoins or is directly across a street or alley from a property in a residential district or an institutional property. Such wall, fence or hedge shall be at least **four (4) feet**, but not more than **seven (7) feet**, in height and shall be maintained in good condition.
- (9) **Lighting.** Any lighting used to illuminate an off-street parking area shall be so arranged as to reflect the light away from adjoining properties.

(G) **"Special Use" Public Parking Areas.** Any automobile parking area developed for transient trade, and not accessory to specific main uses or groups of uses for which parking is required herein, shall be treated as a "special use" as defined herein and as allowed by the City Council.

40-6-4 ADDITIONAL REGULATIONS – LOADING – DESIGN.

(A) **Loading Berth – Description.** An off-street loading berth shall be a hard-surfaced area of land, open or enclosed, other than a street or a public way, used principally for the standing, loading or unloading of motor trucks, tractors and trailers so as to avoid undue interference with the public use of streets and alleys. A required loading space shall be not less than **ten (10) feet** in width, **forty-five (45) feet** in length, and **fourteen (14) feet** in height, exclusive of access aisles and maneuvering space, except as otherwise specifically dimensioned hereafter.

(B) **Location.** No permitted or required loading berth shall be closer than **fifty (50) feet** to any property in a residential district unless completely enclosed by building walls or a uniformly painted solid fence or wall, or any combination thereof not less than **six (6) feet** in height. No permitted or required loading berth shall be located within **twenty-five (25) feet** of the nearest point of intersection of any **two (2) streets**. Loading berths open to the sky may be located in any required yard.

(C) **Measurement of Berth.** When determination of the number of required off-street loading berths results in a requirement of a fractional berth, any fraction up to and including **one-half (1/2)** shall be disregarded, and fractions over **one-half (1/2)** shall be interpreted as **one (1)** loading berth.

(D) **Surfacing.** All open off-street loading berths shall be improved with a compacted macadam base not less than **seven (7) inches** thick, surfaced with not less than **two (2) inches** of asphaltic concrete or some comparable material which is dustless and all-weather.

40-6-5 LOCATION OF PARKING AREAS – EXTENT OF CONTROL.

Off-street automobile parking facilities shall be located as hereinafter specified; where a distance is specified, such distance shall be walking distance measured from the nearest point of the parking area to the nearest entrance of the building that said parking area is required to serve.

(A) For one- and two-family dwellings, on the same lot with the buildings they are required to serve.

(B) For three- and four-family dwellings not over **two (2) stories** in height, on the same lot or parcel of land as the building they are required to serve. For the purposes of this requirement, a group of such uses constructed and maintained under single ownership or management shall be assumed to be on a single lot or parcel of land.

(C) For apartment houses containing **four (4)** or more dwelling units, on the same lot or parcel of land as the building they are required to serve, or on a separate lot or parcel of land not more than **three hundred (300) feet** from the nearest entrance to the main building being served, provided the lot or parcel of land selected for the parking facilities is located in an apartment district or a less restricted district.

(D) For rooming houses, lodging houses, clubs, hospitals, sanitariums, orphanages, homes for the aged, convalescent homes, dormitories, sorority and fraternity houses, and for the other similar uses, the off-street parking facilities required shall be on the same lot or parcel of land as the main building or buildings being served, or upon properties contiguous to the zoning lot upon which is located the building or buildings they are intended to serve.

(E) For uses other than those specified above, off-street parking facilities shall be provided on the same lot or parcel of land as the main building being served, or on a separate lot or parcel of land not over **one thousand (1,000) feet** of the entrance of the main building, measured from the nearest point on the parking area, provided the separate lot or parcel of land intended for the parking facilities is located in the same district as the principal use or in a less restricted district.

40-6-6 SCHEDULE OF PARKING REQUIREMENTS.

(A) For one and two-family dwelling, **one (1)** parking space for each family dwelling unit.

(B) For three or more family dwelling, **one (1)** parking space for each family dwelling unit.

(C) For hotels and clubs, **one (1)** parking space for each **four (4)** guests or **one (1)** parking space for each sleeping room or suite, plus **one (1)** additional space as shall be deemed necessary by the Zoning Administrator because of any supplementary parking-generative activities such as bars, ballrooms, dining rooms, nightclub facilities, and the like.

(D) For tourist homes, cabins, motels, **one (1)** parking space for each guest or sleeping room or suite, plus **one (1)** additional space for the owner or manager on the premises.

(E) For lodging, rooming and boarding houses, **one (1)** parking space for each **four (4) guests**, plus **one (1)** additional space for the owner or manager thereof, if resident on the premises.

(F) For private clubs or lodges (without sleeping rooms), **one (1)** parking space equal in number to **twenty-five percent (25%)** of the total membership.

(G) For fraternities, sororities, and dormitories, **one (1)** parking space for each **five (5)** active members, plus **one (1)** additional space for the housemother or manager.

(H) For hospitals, **one (1)** parking space for each **three (3)** hospital beds, plus **one (1)** parking space for each **one thousand five hundred (1,500) square feet** of gross floor area in residents' quarters, plus **one (1)** additional space for each staff or visiting doctor.

(I) For sanitariums, convalescent homes, or homes for the aged, **one (1)** space for each **six (6)** patient beds, plus **one (1)** additional space for each staff or visiting doctor.

(J) For medical or dental clinics, **five (5)** parking spaces per doctor engaged at clinic.

(K) For mortuaries or funeral parlors, **ten (10)** parking spaces for each room used as a chapel or parlor, plus **one (1)** space for each funeral vehicle maintained on the premises, plus **one (1)** space for each family residing on the premises.

(L) For bowling alleys, **two (2)** parking spaces for each alley, plus **one (1)** parking space for each **three hundred (300) feet** of floor area devoted to affiliated uses such as bars, restaurants and the like.

(M) For convention halls, dance halls, skating rinks, assembly halls, exhibition halls, or other places of assembly, **one (1)** parking space for each **one hundred (100) square feet** of floor area used for assembly.

(N) Stadia, sports arena, auditorium and gymnasium (other than incidental to a school), **one (1)** parking space for each **eight (8) seats**.

- (O) For theaters:
- (1) **Indoor.** One (1) parking space for each **ten (10) seats** up to **five hundred (500)**, plus **one (1)** parking space for each **five (5) seats** above **five hundred (500)**.
 - (2) **Outdoor.** Reservoir space equal to **ten percent (10%)** of the capacity.
- (P) For automobile laundries, **twenty (20)** parking spaces for each wash rack shall be provided, plus **one (1)** additional space for each **four (4) employees**.
- (Q) For church, high school, college and university auditoriums, **one (1)** parking space for each **twelve (12) seats** provided in said buildings or structures.
- (R) For airports, railroad passenger stations, bus depots, or other passenger terminal facilities (special uses), such parking space as the City Council, subject to the recommendations of the Plan Commission, shall deem to be adequate for employees, passengers, spectators, visitors and others.
- (S) For banks, business or professional offices, or public administration buildings, **one (1)** parking space for the first **two thousand (2,000) square feet** of floor area, and **one (1)** parking space for each additional **four hundred (400) square feet** of floor area.
- (T) For establishments handling the sale and consumption on the premises of alcoholic beverages, food or refreshments, **one (1)** parking space for the first **two thousand (2,000) square feet** of floor area and **one (1)** parking space for each additional **three hundred (300) square feet** of floor area.
- (U) For retail stores and service shops (individual or in groups) under **one (1) roof**, **one (1)** parking space for the first **two thousand (2,000) square feet** of floor area and **one (1)** parking space for each additional **three hundred (300) square feet** of retail floor area.
- (V) For furniture and appliance shops, motor vehicle sales, wholesale stores, household equipment or furniture repair shops, or machinery sales, **one (1)** parking space for the first **two thousand (2,000) square feet** of floor area and **one (1)** parking space for each additional **six hundred (600) square feet** of floor area.
- (W) For manufacturing and industrial uses; research and testing laboratories; laundry and dry-cleaning plants; printing, binding, publishing and issuing of newspapers, periodicals, books, and other reading matter; warehouses and storage buildings; engraving shops; assembly of materials and products; and other similar uses, **one (1)** parking space for each **four (4) employees**, based upon the maximum number of persons to be employed at any one work period during the day or night, plus such additional parking facilities as shall be required for all vehicles used in the conduct of the enterprise.

40-6-7 OFF-STREET LOADING AND UNLOADING FACILITIES. In all districts where property uses include the loading and unloading of materials or merchandise from vehicles, off-street loading and unloading facilities shall be provided in accordance with the following requirements:

(A) For hotels or apartment hotels wherein there are contained exhibition halls, convention halls, auditoriums, office facilities or retail shops, **one (1)** off-street loading and unloading space for the first **forty thousand (40,000) square feet** of gross floor area, plus **one (1)** additional off-street loading space for each **one hundred fifty thousand (150,000) square feet** of gross floor area or fraction thereof of gross floor area in excess of **forty thousand (40,000) square feet**.

(B) For hospitals or sanitariums containing **forty thousand (40,000)** to **one hundred thousand (100,000) square feet** of gross floor area, **one (1)** off-street loading and unloading space plus **one (1)** additional such space for each additional **one hundred thousand (100,000) square feet** of gross floor area or fraction thereof in excess of **one hundred thousand (100,000) square feet**.

(C) For buildings containing bowling alleys, taverns, restaurants, or any retail shops and having **ten thousand (10,000)** to **one hundred thousand (100,000) square feet** of gross floor area, **one (1)** off-street loading and unloading space, plus **one (1)** additional such space for each additional **one hundred thousand (100,000) square feet** of gross floor area or fraction thereof in excess of **one hundred thousand (100,000) square feet**.

(D) For banks, business or professional offices or public administration buildings containing **forty thousand (40,000)** to **one hundred thousand (100,000) square feet** of gross floor area, **one (1)** off-street loading and unloading space, plus **one (1)** additional such space for each additional **one hundred thousand (100,000) square feet** of gross floor area or fraction thereof in excess of **one hundred thousand (100,000) square feet**.

(E) For buildings containing furniture and appliance stores, motor vehicle sales, wholesale stores, household equipment or machinery sales, and having **eight thousand (8,000)** to **twenty-five thousand (25,000) square feet** of gross floor area, **one (1)** off-street loading and unloading space, plus **one (1)** additional such space for each additional **twenty-five thousand (25,000) square feet** of gross floor area or fraction thereof in excess of **twenty-five thousand (25,000) square feet**.

(F) For buildings containing manufacturing uses; research and testing laboratories; laundry and dry-cleaning establishments; printing, binding, publishing and issuing of newspapers, periodicals, books and other reading matter; warehouses and storage facilities; engraving shops; assembly of materials and products; processing and distribution of materials and products; and other similar uses having more than **ten thousand (10,000) square feet** of gross floor area, exclusive of basement area, and less than **forty thousand (40,000) square feet** of gross floor area, **one (1)** off-street loading and unloading space, plus **one (1)** additional such space for each additional **sixty thousand (60,000) square feet** of gross floor area in excess of **forty thousand (40,000) square feet**.

ARTICLE VII – SIGNS

40-7-1 PERMITTED SIGNS – ALL DISTRICTS. The following signs are permitted in all zoning districts:

Highway Directional Signs and Markers which shall be made and installed in accordance with the specifications of the City announcing the location of, or directing traffic to, given locations which include, but are not limited to, the following:

- (A) Service areas – automobile, food, lodging.
- (B) Business or business districts.

Traffic or Directional Signs designating entrances, exits and conditions of use of parking facilities accessory to the main use of the premises may be maintained provided they are located within the property lines of the subject lot.

40-7-2 PERMITTED SIGNS – RESIDENTIAL DISTRICTS. In all residential districts the following classes of signs are permitted in accordance with the regulations set forth hereinafter:

(A) **Non-Flashing, Non-Illuminated Accessory Signs.**

(1) **Nameplates and Identification Signs,** subject to the following:

- (a) For one and two-family dwellings, there shall be not more than **one (1) nameplate**, not exceeding **one (1) square foot** in area, for each dwelling unit, indicating the name or address of the occupant or a permitted occupation.
- (b) For multiple-family dwellings, for apartment hotels and for buildings other than dwellings, a single identification sign not exceeding **twelve (12) square feet** in area and indicating only the name and address of the building and the name of the management thereof may be displayed.
- (c) **Height.** No sign shall project higher than **one (1) story** or **fifteen (15) feet** above curb level, whichever is lower.

(2) **"For Sale" and "To Rent" Signs,** subject to the following:

- (a) There shall be not more than **one (1) such sign** per lot except that on a corner lot **two (2) signs**, one facing each street, shall be permitted. No sign shall exceed **eight (8) square feet** in area nor closer than **eight (8) feet** to any other zoning lot.
- (b) **Projection.** No sign shall project beyond the property line into the public way.
- (c) **Height.** No sign shall project higher than **one (1) story** or **fifteen (15) feet** above curb level, whichever is lower.

(3) **Signs Accessory to Parking Areas**, subject to the following:

- (a) Signs designating entrances or exits to or from a parking area and limited to **one (1) sign** for each such exit or entrance and to a maximum size of **three (3) square feet** each shall be permitted. **One (1) sign** per parking area designating the conditions of use or identity of such parking area and limited to a maximum size of **eight (8) square feet** shall be permitted provided that on a corner lot **two (2)** such signs, one facing each street, shall be permitted.
- (b) **Height.** No sign shall project higher than **seven (7) feet** above curb level.

(B) **Non-Flashing Accessory Signs**, as follows:

(1) **Church Bulletins**, subject to the following:

- (a) There shall be not more than **one (1) sign** per lot except that on a corner lot **two (2)** signs – one facing each street – shall be permitted. No sign shall exceed **eighteen (18) square feet** in area nor be closer than **eight (8) feet** to any other zoning lot.
- (b) **Projection.** No sign shall project beyond the property line into the public way.
- (c) **Height.** No sign shall project higher than **one (1) story** or **fifteen (15) feet** above curb level, whichever is lower.

40-7-3 PERMITTED SIGNS – AGRICULTURAL DISTRICTS. The same signs permitted in the residential districts shall be permitted in the agricultural districts, and in addition thereto, the following:

(A) **Signs Advertising the Sale or Rental of the Property** on which the sign is located or the sale of agricultural products grown or produced on such property, provided that no such sign shall exceed **twenty (20) square feet** in gross area each.

40-7-4 PERMITTED SIGNS – BUSINESS DISTRICTS. In all Business Districts the following signs are permitted, subject to the requirements set forth hereinafter:

(A) All signs and nameplates permitted in the residential districts.

(B) **Signs on Marquees, Canopies and Awnings.** Restrictions imposed hereinafter on the projections of signs across property lines into the public way shall not apply – except in residential districts – to signs located on marquees or canopies, provided that any sign located on a marquee or canopy shall be affixed flat to the surface thereof and, further, that no sign shall extend **twenty-four (24) inches** vertically or **twelve (12) inches** horizontally beyond the limits of said marquee or canopy/awning.

Restrictions imposed herein on the projection of signs across property lines into the public way shall not apply except in residential districts, to signs located on awnings, provided that any sign located on an awning shall be affixed flat to the surface thereof and shall be non-flashing, and shall indicate only the name and address of the establishment on the premises.

(C) **Signs on Pylons, Standards, Clocks and Supports.** Signs, clocks, or other advertising devices erected upon standards or separate supports shall be placed so as to be entirely within the property lines of the premises upon which it is located and no part of the sign or standard shall have a total height greater than **thirty-five (35) feet** above the level of the street upon which the sign faces or above the adjoining ground level if such ground level is above the street level, nor shall the surface of any such sign exceed an area of **one hundred (100) square feet**.

(D) **Signs on Masonry Pylons.** Signs may be placed on the face of a masonry pylon when the pylon is constructed as an integral part of the building and such pylon does not project above the roof line more than **twelve (12) feet** and the type, design and construction of the pylon complies with all of the requirements herein and in the Building Code.

- (E) In all business districts, the permitted signs are subject to the following:
- (1) **Location.** The sign or signs shall front the principal street, a parking area, or in the case of a corner building, on that portion of the side street wall within **fifty (50) feet** of the principal street.
 - (2) **Projection.** Signs suspended from any building shall not project more than **sixty (60) inches** beyond the building line and the bottom of such signs shall not be less than **eight (8) feet** above the finished grade of the sidewalk.
Any sign projecting or suspended from a building shall not exceed **five (5) feet** in height and its location and arrangement shall be subject to approval by the Zoning Administrator. No sign except those suspended from buildings shall be erected or placed between the street line and the building line.
 - (3) **Height.** No sign shall project higher than **thirty (30) feet** above curb level, and in no case shall a sign project above the roof line. **(Ord. No. 98-02; 01-26-98)**

40-7-5 **PERMITTED SIGNS – MANUFACTURING DISTRICTS.** The following signs are permitted:

(A) All signs permitted in the Business Districts shall be permitted in the Manufacturing Districts.

(B) Billboards and poster panels having a sign area not exceeding **two hundred seventy-five (275) feet**, provided the locations of their sites and the limitations of the time of their use, and all other terms and conditions thereof, are first approved by the Zoning Administrator. **(Ord. No. 98-02; 01-26-98)**

40-7-6 **FLASHING SIGNS.** Flashing signs are only permitted in Highway Business Districts and B-3. They are not permitted in the Manufacturing District. **(Ord. No. 98-02; 01-26-98)**

ARTICLE VIII – ZONE DISTRICTS

DIVISION I – AGRICULTURAL DISTRICT

40-8-1 PERMITTED USES. The following uses are permitted:

Accessory uses.

Active Solar Energy Systems, Building integrated Solar Energy Systems, Gird-intertie Solar Energy Systems, off-grid Solar Energy System, Passive Solar Energy System, Photovoltaic Systems, Solar Collectors, Solar Energy System, Solar Energy System additions, Solar Farms, Solar gardens, Solar Heat Exchangers, Solar Hot Air Systems, and/or Solar Hot Water Systems, installed in compliance with this ordinance and in compliance with applicable local, state and federal law shall be an allowable use, in addition to all others, in the Agricultural District except that Solar Farms shall require a Special Use Permit. **(Ord. No. 2019-11; 05-28-19)**

Churches, rectories and parish houses.

Golf courses, regulation size, but not including “par 3” golf courses, commercially operated driving ranges or miniature golf courses; and provided that no club house or accessory building shall be located nearer than **five hundred (500) feet** to any dwelling on another zoning lot.

Home occupations.

Land and buildings used for agricultural purposes.

One-family detached dwellings, subject to the requirements of **Section 40-8-3.**

Parks, forest preserves and recreational areas, when publicly owned and operated.

Roadside stands for the display, sale or offering for sale of agricultural products grown or produced on the property, provided no structure is located less than **ten (10) feet** from the highway right-of-way.

Schools, elementary and high, and including playgrounds, school bus garage, and athletic fields auxiliary thereto.

Seminaries, convents, monasteries and similar religious institutions including dormitories and other accessory uses required for operation.

Temporary buildings for construction purposes for a period not to exceed such construction.

40-8-2 SPECIAL USES. The following uses may be allowed by special use permit in accordance with the provisions of the administrative section:

Agricultural implement and machinery sales, service and repair.

Animal feed, storage, preparation, grinding and mixing—wholesale and retail, provided that this shall not prohibit, restrict or limit a farmer from preparing, grinding, or mixing feed for use on his farm.

Blacksmith or welding shop.

Cemeteries, including crematories and mausoleums in conjunction therewith if not located within **five hundred (500) feet** of any dwellings.

Colleges and universities, including dormitories, fraternities, sororities and other accessory buildings and structures or trade schools.

Commercial feeding of poultry and livestock.

Dog kennels.

Fertilizer sales, including bulk storage and mixing.

Filling of holes, pits, quarries or lowland with non-combustible material free from refuse and food wastes.

Fur-bearing animal farms.

Grain elevators and storage.

Greenhouses, wholesale and retail.

Gun clubs, if located not nearer than **one thousand (1,000) feet** to any residence other than that of the owner or lessee of the site and if not so operated as to withdraw the land from its primary agricultural use.

Livestock depots and sales yards.

Milk depots.

Milk processing and distribution, including pasteurizing and manufacture of ice cream but not including the processing or manufacture of cheese.

Mining, loading and hauling of sand, gravel, topsoil or other aggregate or minerals, including equipment, buildings or structures for screening, crushing, mixing, washing or storage, provided that: (1) no open pit or shaft is less than **five hundred (500) feet** from an existing residence or residential district established herein; and (2) all buildings or structures for screening, crushing, washing, mixing or storage are located not less than **one thousand (1,000) feet** from an existing residence or residential district established herein.

Philanthropic and eleemosynary institutions.

Penal and correctional institutions.

Private clubs or lodges, except those the chief activity of which is a service customarily carried on as a business.

Private recreational areas or camps.

Public service uses, such as filtration plant, pumping station and water reservoir; sewage treatment plant; police and fire stations; and other governmental uses.

Radio and television towers—commercial.

Railroad rights-of-way and trackage, but not including classification yards, terminal facilities or maintenance facilities.

Rest homes, nursing homes, hospitals and sanitariums, institutions for the aged and for children, for human beings only.

Sales yards, wholesale or retail, for agricultural products including, but not necessarily limited to, fruits, vegetables, flowers, plants, etc.

Sanitary land fill.

Transportation facilities: Airports, or aircraft landing fields, bus turnarounds (off-street); passenger depots; railroad classification yards.

Truck parking areas, the prime purpose of which is the loading and shipping of farm products, livestock, poultry, fertilizer, etc.

Wind Energy Conversion System as defined, provided, and restricted pursuant to **Article X** of this Code. (**Ord. No. 10-01; 01-11-10**)

40-8-3 LOT SIZES.

(A) Every one-family detached dwelling hereafter erected shall be located on a zoning lot having an area of not less than **one (1) acre**, all or part of which may be devoted to permitted agricultural uses. There shall only be **one (1)** such dwelling to a zoning lot.

(B) Every church, convent, monastery, rectory or other religious institution hereafter erected shall be on a tract of land having an area of not less than **two (2) acres**.

40-8-4 FRONT BUILDING LINE. No building or structure, other than a permitted sign, hereafter erected shall be placed closer than **fifty (50) feet** to the nearest right-of-way line of any public street, road, or highway upon which the subject property abuts, or closer than **fifty (50) feet** to the nearest right-of-way line of any proposed public street, road or highway set forth in officially adopted plans and upon which the subject property would abut.

40-8-5 RESERVED.

DIVISION II – RESIDENTIAL DISTRICTS

40-8-6 PURPOSE. The residential districts set forth herein are established in order to protect public health, and promote public safety, convenience, comfort, morals, prosperity and welfare. These general goals include, among others, the following specific purposes:

- (A) To protect residential areas against fire, explosion, noxious fumes, offensive odors, noise, smoke, vibrations, dust, heat, glare, and other objectionable factors.
- (B) To protect residential areas to the extent possible and appropriate in each area against unduly heavy motor vehicle traffic, especially through-traffic, and to alleviate congestion by promoting off-street parking.
- (C) To protect residential areas against undue congestion of public streets and other public facilities by controlling the density of population through regulation of the bulk of buildings.
- (D) To protect and promote the public health and comfort by providing for ample light and air to buildings and the windows thereof.
- (E) To promote public comfort and welfare by providing for usable open space on the same zoning lot with residential development.
- (F) To provide sufficient space in appropriate locations to meet the probable need for future residential expansion and to meet the need for necessary and desirable services in the vicinity of residences, which increase safety and amenity for residents and which do not exert objectionable influences.
- (G) To promote the best use and development of residential land in accordance with a comprehensive land use plan, to promote stability of residential development and protect the character and desirable development and protect the value of land and improvements and so strengthen the economic base of the City.

40-8-7

R-1 ONE-FAMILY DWELLING DISTRICT.

(A)

Permitted Uses.

- (1) One-family detached dwellings.
- (2) Home occupations, as defined herein.
- (3) Truck gardening and other horticultural uses where no building is involved and when no sale or products is conducted on the premises.
- (4) Churches.
- (5) Convents, monasteries, rectories and parish houses.
- (6) Temporary buildings and uses for construction purposes for a period not to exceed **one (1) year**.
- (7) Accessory buildings, as defined herein and as regulated by **Article V**.
- (8) Signs, as regulated by **Article VII**.
- (9) Off-street parking facilities, as required or permitted by **Article VI**.
- (10) Active Solar Energy Systems, Building integrated Solar Energy Systems, Grid-Intertie Solar Energy Systems, Off-grid Solar Energy Systems, Passive Solar Energy System, Photovoltaic Systems, Solar Collectors, Solar Energy System, Solar Energy System, additions, Solar Heat Exchangers, Solar Hot Air Systems, and/or Solar Hot Water Systems of 10 Kilowatts or less, installed in compliance with this ordinance and in compliance with applicable local, state and federal law shall be an allowable use, in addition to all others, in R-1 One Family Dwelling and R-2 General Residence Districts. **(Ord. No. 2019-11; 05-28-19)**

(B) **Special Uses.** The following uses may be allowed by special use permit in accordance with the provisions of the administrative section:

- (1) Airport, heliport, landing field or landing strip, subject to the Federal Aviation Agency certifying that a new or reoriented runway will not interfere with the flight pattern of any established airport, landing field or landing strip.
- (2) Bus terminal, railroad passenger station, freight terminal, or any other public transportation terminal facilities.
- (3) Cemeteries, crematories or mausoleums.
- (4) Golf courses, public or private.
- (5) Hospitals or sanitariums, public or private.
- (6) Municipal or privately owned recreation building or community center.
- (7) Penal or correctional institutions.

- (8) Planned residential developments, as defined in **Section 40-1-3**.
- (9) Police station or fire station.
- (10) Public or private park or playground.
- (11) Public utility facilities, i.e., filtration plant, water reservoir or pumping station, heat or power plant, transformer station, and other similar facilities.
- (12) Railroad rights-of-way.
- (13) Schools, elementary, high or college, public or private.
- (14) Institutions or hospitals for the care of the insane or feeble-minded, public or private.

(Ord. No. 15-08; 07-13-15)

(C) **Height of Buildings.** The maximum height of buildings permitted shall be as follows:

- (1) **One-Family Detached Dwellings. Twenty-five (25) feet** and not over **two and one-half (2 ½) stories**.
- (2) **Church. Seventy-five (75) feet** for towers or steeples but not more than **forty-five (45) feet** for the main structure.

(D) **Lot Size.** Any lot platted prior to **May, 1996** shall not be subject to the **eight thousand (8,000) square foot** requirement. These lots shall be subject to the maximum **thirty-five percent (35%)** lot coverage. **(Ord. No. 96-06; 06-24-96)**

- (1) Every one-family dwelling hereafter erected or structurally altered shall be on a lot having an area of not less than **eight thousand (8,000) square feet** and a width at the established building line of not less than **fifty (50) feet**, except as provided in **Section 40-3-4(B)**.
- (2) Churches, convents and monasteries hereafter erected or structurally altered shall be on a lot having an area of not less than **ten thousand (10,000) square feet** and a width at the established building line of not less than **eighty (80) feet**.

(E) **Yard Areas.** No building shall be erected or enlarged unless the following yards are provided and maintained in connection with such building, structure or enlargement.

- (1) **Front Yard.** Each lot upon which a dwelling or permitted non-residential use is constructed shall have a front yard of not less than **twenty-five (25) feet**. Where lots comprising **forty percent (40%)** or more of the frontage between **two (2)** intersecting streets are developed with buildings having front yards with a variation of more than **fifteen (15) feet** in depth, the average of such front yards shall establish the minimum front yard depth for the entire frontage. In no case shall a front yard of more than **forty (40) feet** be required.
- (2) **Side Yard.** On each lot upon which a dwelling is constructed, there shall be a side yard on each side equal to not less than **ten percent (10%)** of the width of the lot, the combined total of the side yards on interior lots shall not be less than **twelve (12) feet**. On corner lots there shall be maintained a side yard of not less than **fifteen (15) feet** on the side adjacent to the street which intersects the street upon which the building or structure maintains frontage, and in the case of a reversed corner lot, there shall be maintained a setback from the side street of not less than **fifty percent (50%)** of the front yard required on the lots in the rear of such corner lots, but such setback need not exceed **fifteen (15) feet**. No accessory building on said reversed corner lot shall project beyond the front yard required on the adjacent lot to the rear, nor be located nearer than **five (5) feet** to the side lot line of said adjacent lot.
On lots upon which a church is constructed or extensions made to an existing church, there shall be a side yard of not less than **ten (10) feet** on each side of the main structure and a combined total of side yards of not less than **twenty-five (25) feet**.

- (3) **Rear Yard.** Every lot or parcel of land upon which a building is constructed shall have a rear yard of not less than **twenty-five (25) feet**.
- (4) **Lot Coverage.** Not more than **thirty-five percent (35%)** of any lot may be occupied by buildings or structures, including accessory buildings.
- (5) **Floor Area.** Each dwelling shall have a ground floor area of not less than **eight hundred (800) square feet**.
- (6) **Permitted Obstructions.** The following shall not be considered as obstructions when located within or over required yards:
 - (a) Terraces.
 - (b) Awnings and canopies.
 - (c) Chimneys, not exceeding **two percent (2%)** of the width of the yard.
 - (d) Steps not over **four (4) feet** in height.
 - (e) Arbors and trellises.
 - (f) Fences or walls not over **seven (7) feet** in height (rear yards only; not to extend beyond front edge of structure). **(Ord. No. 96-06; 06-24-96)**
 - (g) Breezeways and open porches (rear yards only).
 - (h) Open parking areas.

40-8-8
(A)

R-2 GENERAL RESIDENCE DISTRICT.

Permitted Uses.

- (1) Any permitted use in the R-1 One-Family Dwelling District.
- (2) Two-family dwellings.
- (3) One-family row dwellings (party-wall type) with not more than **six (6)** dwelling units in a building.
- (4) Multiple-family dwellings and apartments.
- (5) Boarding and lodging houses.
- (6) Tourist homes having not more than **five (5) rooms** for transient guests.
- (7) Active Solar Energy Systems, Building integrated Solar Energy Systems, Grid-Intertie Solar Energy Systems, Off-grid Solar Energy Systems, Passive Solar Energy System, Photovoltaic Systems, Solar Collectors, Solar Energy System, Solar Energy System, additions, Solar Heat Exchangers, Solar Hot Air Systems, and/or Solar Hot Water Systems of 10 Kilowatts or less, installed in compliance with this ordinance and in compliance with applicable local, state and federal law shall be an allowable use, in addition to all others, in R-1 One Family Dwelling and R-2 General Residence Districts. **(Ord. No. 2019-11; 05-28-19)**
- (8) Transitional uses—principal offices of physicians, dentists, lawyers, architects, real estate brokers, and other professional occupations when conducted in a residential structure used primarily as a home and when located on lots having a side line adjoining a lot in a business or manufacturing district, or adjacent to a railroad right-of-way, or when facing a business or manufacturing district or a railroad right-of-way directly across a street or alley, provided that:
 - (a) The lot on which the transitional use is located does not extend more than **seventy-five (75) feet** from the adjoining business or manufacturing district, or more than **one hundred twenty (120) feet** in depth from the street line in cases where the lot does not adjoin but faces a business or manufacturing district.
 - (b) The occupations are conducted in conjunction with the use of a dwelling unit as a home by the occupant thereof, with not more than **two (2) employees**, other than members of the related family, and that the residential character of the exterior of the

dwelling is not changed. Medical clinics are not included or permitted.

(B) **Special Uses.** The following uses may be allowed by special use permit in accordance with the provisions of the administrative section:

- (1) Off-street parking areas and garages, provided there is a need for this facility and that no appropriate site is available in nearby business or manufacturing districts.
- (2) Public buildings, including art gallery, library, museum, or similar structures.
- (3) Rest homes and nursing homes.
- (4) Telephone exchanges, antenna towers and other outdoor equipment essential to the operation of the exchange.
- (5) Undertaking establishments.
- (6) Wind Energy Conversion System as defined, provided, and restricted pursuant to **Article X** of this Code. **(Ord. No. 10-01; 01-11-10)**

(C) **Height of Buildings.** No building shall hereafter be erected or structurally altered to exceed **three (3) stories** nor shall it exceed **thirty-five (35) feet** in height.

(D) **Lot Size.**

- (1) **One-Family Dwellings.** The same regulations shall apply as required or permitted in the R-1 One-Family Dwelling District.
- (2) **Two-Family Dwellings.** Every two-family dwelling hereafter erected or structurally altered shall be on a lot having an area of not less than **eight thousand (8,000) square feet** and a width at the building line of not less than **fifty (50) feet**, except as provided in **Section 40-3-4(B)**.
- (3) **Converted Dwellings.** An existing one-family dwelling located on a lot of less area than required in this Section may be converted to a two-family dwelling without increasing the lot size, provided that the building is not enlarged beyond its present outside dimensions and that all other regulations herein are complied with. Additions may be made to an existing building only when lot size and yard requirements of this Section are complied with.
- (4) **Multiple-Family Dwellings.** Every building hereafter erected or structurally altered as a multiple-family dwelling, apartment, or row dwelling of more than **two (2)** dwelling units shall provide a lot area per dwelling unit of not less than **two thousand five hundred (2,500) square feet**. Buildings hereafter erected or structurally altered in the R-2 District shall have a total lot area of not less than **eight thousand (8,000) square feet** nor a lot width at the established building line of not less than **fifty (50) feet**.
- (5) **Churches, Convents and Monasteries.** The same regulations shall apply as required or permitted in the R-1 District.

(E) **Yard Areas.** No buildings shall be erected or enlarged unless the following yards are provided and maintained in connection with such building, structure or enlargement.

- (1) **Front Yard.** There shall be a front yard of not less than **twenty (20) feet**.
- (2) **Side Yard.** On interior lots there shall be a side yard on each side of a main building of not less than **five (5) feet** and a combined total of side yards of not be less than **fifteen (15) feet** for all multiple-family dwellings of not more than **two (2) stories** in height. For each additional story added above the **two (2) stories** the side yard on each side of the main building shall be increased **two (2) feet** in width. On corner lots the side yard on the intersecting street side shall be not less than **ten (10) feet**, except in the case of a reversed corner lot, where there shall be a side yard on the street side of the corner lot of not less than **fifty percent**

(50%) of the front yard required in the lots in the rear of such corner lot. No accessory building on said reversed corner lot shall project beyond the front yard line required on the key lot in the rear, not be located nearer than **five (5) feet** to the side lot line of such key lot.

- (3) **Rear Yard.** There shall be a rear yard of not less than **twenty (20) feet** for interior lots nor less than **fifteen (15) feet** on corner lots.
- (4) **Lot Coverage.** Not more than **thirty-five percent (35%)** of the area of a lot may be covered by buildings or structures.
- (5) **Courts.** No inner court or courts completely surrounded on all sides by a building shall be permitted. Outer courts are permitted provided the depth of the court is no greater than the width of the court.

40-8-9 - 40-8-12 RESERVED.

TWO FAMILY DWELLING REQUIREMENTS

| | | |
|---|---|---|
| Min. Lot Area | - | 8,000 sq. ft., per dwelling unit, 2,500 sq. ft. |
| Min. Lot Frontage | - | 50 ft. at the established building line |
| Min. Front Yard | - | 20 ft. |
| Min. Side Yard | - | 5 ft., total both sides 15 ft. |
| Min. Rear Yard | - | 20 ft. |
| Min. Ground Floor Area, One Story Dwelling | - | 800 sq. ft. per dwelling unit |
| Min. Total Floor Area, Dwelling Over One Story | - | sq. ft. |
| Max. Building Height | - | 2 stories |
| Max. Lot Coverage | - | 35% |
| Min. Off-Street Parking | - | 1 space per dwelling unit |

MULTIPLE FAMILY DWELLINGS

| | | |
|-----------------------------------|---|--|
| Min. Lot Area | - | 8,000 sq. ft., per dwelling unit, 2,500 sq. ft. |
| Min. Lot Frontage | - | 50 ft. at the established building line |
| Min. Front Yard | - | 20 ft. |
| Min. Side Yard | - | 5 ft., total both sides 15 ft. |
| Min. Rear Yard | - | 20 ft. for interior lots, and 15 ft. for corner lots |
| Min. Floor Area Per Dwelling Unit | - | 800 sq. ft. |
| Max. Building Height | - | 3 stories – 35 ft. |
| Max. Lot Coverage | - | 35% of lot area |
| Min. Off-Street Parking | - | 1 space per dwelling unit |

Interior Courts Completely Surrounded by Buildings – Not Permitted

Outer Courts Permitted Provided Depth is not Greater than the Width

DIVISION III – BUSINESS DISTRICTS

40-8-13 **PURPOSE.** The Business Districts set forth herein are established to protect public health, to promote public safety, comfort, convenience, and the general welfare, and to protect the economic base of the City and the value of property. These general purposes include, among others, the following specific objectives:

(A) To promote the most desirable use of land in accordance with a well considered plan so that adequate space is provided in appropriate locations for the various types of business uses, thereby protecting and strengthening the economic base of the City.

(B) To place in separate districts those businesses which may create noise, odors, hazards, unsightliness or which may generate excessive traffic.

(C) To permit selected business uses in districts where adjacency to or inclusion in a residential area has sufficient elements of service or convenience to such areas to offset the disadvantage.

(D) To encourage the grouping in appropriate locations of compatible business uses which will tend to draw trade that is mutually interchangeable and so promote public convenience and business prosperity and contribute to the alleviation of traffic and pedestrian congestion.

(E) To provide for the establishment of off-street parking facilities, permitted and required, so as to alleviate traffic congestion and so promote shopping convenience and business prosperity.

40-8-14 **B-1 BUSINESS DISTRICT, GENERAL RETAIL AND LIMITED SERVICE.**

(A) Permitted Uses.

(1) Active Solar Energy Systems, Building integrated Solar Energy Systems, Grid-Intertie Solar Energy Systems, Off-grid Solar Energy Systems, Passive Solar Energy System, Photovoltaic Systems, Solar Collectors, Solar Energy System, Solar Energy System additions, Solar Heat Exchangers, Solar Hot Air Systems, and/or Solar Hot Water Systems, installed in compliance with this ordinance and in compliance with applicable local, state and federal law shall be an allowable use, in addition to all others in B-1 Business, B-2 Business, General and Wholesale, and B-3 Highway Business Districts.

(Ord. No. 2019-11; 05-28-19)

(2) Art and school supply stores.

(3) Auto accessory stores, where there is no driveway entrance across the sidewalk into the main building.

(4) Bakery shop, including the baking and processing of food products, when prepared for retail use on the premises only.

(5) Banks and financial institutions.

(6) Barber shop, beauty parlor, chiropody, massage or similar personal service shop.

(7) Book and stationery stores.

(8) Candy and ice cream shops.

(9) Camera and photographic supply shops for retail sale.

(10) Coin and philatelic stores.

(11) Custom dressmaking, millinery, tailoring, or shoe repair when conducted for retail sales on the premises only.

(12) Currency exchanges.

(13) Department stores.

(14) Drug stores.

(15) Dry-cleaning and pressing establishments, when employing facilities for the cleaning and pressing of not more than **one thousand five hundred (1,500) pounds** of dry goods per day and when using perchlorethylene or other non-inflammable non-toxic solvents approved by the Fire Department.

(16) Dry goods stores.

- (17) Electrical appliance store and repair, but not including appliance assembly or manufacture.
- (18) Florist shop and conservatory for retail trade.
- (19) Food and fruit stores.
- (20) Frozen food stores.
- (21) Furniture stores, and upholstery when conducted as part of the retail operations and secondary to the main use.
- (22) Furrier, when conducted for retail trade on the premises only.
- (23) Garden supplies and seed stores.
- (24) Gift shops.
- (25) Hardware stores.
- (26) Haberdashery.
- (27) Hobby stores.
- (28) Hotel or motel.
- (29) Household appliance store.
- (30) Interior decorating shops, including upholstery and making of draperies, slip covers and other similar articles, when conducted as part of the retail operations and secondary to the main use.
- (31) Jewelry stores and watch repair.
- (32) Launderette and laundromat.
- (33) Leather goods and luggage stores.
- (34) Liquor stores, package goods only.
- (35) Loan offices, when located above the first floor and above a business use permitted in this Section.
- (36) Meat markets.
- (37) Musical instrument sales and repair, retail trade only.
- (38) News stand.
- (39) Notions stores.
- (40) Offices, business and professional, including medical clinics.
- (41) Office supplies and stationery.
- (42) Optician, optometrist.
- (43) Paint and wallpaper store.
- (44) Photography studio including the developing of film and pictures when conducted as a part of the retail business on the premises.
- (45) Postal substations (finance stations and contract stations).
- (46) Public utility collection offices.
- (47) Restaurant, tearoom or café, when the establishment is not of the drive-in type where food is served to occupants remaining in motor vehicles.
- (48) Savings and loan associations.
- (49) Sewing machine sales and service.
- (50) Shoe stores.
- (51) Signs, as defined and regulated in **Article VII**.
- (52) Sporting goods stores.
- (53) Stationery stores.
- (54) Telephone exchange, repeater stations, microwave relay towers and stations, mobile transmitting towers and stations, antenna towers and other outdoor equipment essential to the operation of the exchange in the interest of public convenience and necessity.
- (55) Telephone booth, outdoor.
- (56) Theater, indoor.
- (57) Tobacco shop.
- (58) Toy store.
- (59) Typewriter and adding machine sales and service.
- (60) Variety store.
- (61) Wearing apparel shop.

- (62) Any other similar type retail store or personal service not specifically listed herein, and which has compatibility with the permitted uses in this District.
- (63) All activities, except for automobile off-street parking facilities, as permitted or required in this B-1 District shall be conducted wholly within an enclosed building.

(B) **Special Uses.** The following uses may be allowed by special use permit in accordance with the provisions of the administrative section:

- (1) Auditorium, stadium, arena, armory, gymnasium, and other similar places of public events.
- (2) Clubs and lodges (non-profit), fraternal or religious institutions.
- (3) Meeting halls.
- (4) Radio and television broadcasting stations.
- (5) Electric substations.
- (6) Municipal police or fire stations and public libraries.
- (7) Planned business developments as defined in **Section 40-1-3**.
- (8) Wind Energy Conversion System as defined, provided, and restricted pursuant to **Article X** of this Code. (**Ord. No. 10-01; 01-11-10**)

(C) **Height of Buildings.** No building or structure shall be erected or structurally altered to exceed a height of **three (3) stories** nor shall it exceed **thirty-five (35) feet** in height. Parapet walls, chimneys, cooling towers, elevator bulkheads, stacks, and necessary mechanical appurtenances may be erected over and above the maximum height of **thirty-five (35) feet**, provided they are constructed in accordance with all other ordinances of the City.

(D) **Yard Areas.** No building shall be constructed or enlarged unless the following yards are provided and maintained in connection with such building.

- (1) **Front Yard.** No front yard shall be required when all frontage between **two (2)** intersecting streets lies within this District. However, when lots within this District are adjacent to and adjoining lots in a residential district, all of which front upon the same street between **two (2)** intersecting streets, there shall be established the same front yard setback for all of the frontage as has been established in the residential districts.
- (2) **Exception.** When existing buildings located in this District have already established a building line at the street line at a depth less than required above, then all new buildings may conform to the same building line, except for the first **fifty (50) feet** of the B-1 District frontage adjacent to the residential district, whereupon there shall be provided a front setback of not less than **ten (10) feet**.
- (3) **Side Yard.** No side yard is required, except for a corner lot which abuts upon a residential district or upon an alley separating this District from a residential district. There shall then be provided a side yard equal to **one-half (1/2)** the front yard required in the abutting residential district, but in no case more than **ten (10) feet**. The setback shall also apply if the business building front the intersecting street, commonly referred to as the side street.
- (4) **Rear Yard.** There shall be a rear yard of not less than **twenty (20) feet** provided, however, a one-story accessory building may be located thereon, except for the **five (5) feet** adjacent and parallel to the rear lot line or alley line for the storage of motor vehicles and the unloading and loading of vehicles under roof, as provided in **Article VI**.

40-8-15

(A)

B-2 BUSINESS DISTRICT, GENERAL SERVICE AND WHOLESALE.

Permitted Uses.

- (1) Any permitted use in the B-1 District.

- (2) Active Solar Energy Systems, Building integrated Solar Energy Systems, Grid-intertie Solar Energy Systems, Off-grid Solar Energy Systems, Passive

Solar Energy System, Photovoltaic Systems, Solar Collectors, Solar Energy System, Solar Energy System additions, Solar Heat Exchangers, Solar Hot Air Systems, and/or Solar Hot Water Systems, installed in compliance with this ordinance and in compliance with applicable local, state and federal law shall be an allowable use, in addition to all others in B-1 Business, B-2 Business, General and Wholesale, and B-3 Highway Business Districts.

(Ord. No. 2019-11; 05-28-19)

- (3) Dwelling units, provided they are located above the first floor and above a permitted business use. Dwelling units shall not be permitted on the ground floor of business buildings or in the rear of business establishments on the ground floor.
- (4) Auction rooms.
- (5) Amusement and recreation establishments including but not limited to bowling alleys, skating rinks, dance halls, etc.
- (6) Automobile sales and service, including repair and painting and including used automobiles.
- (7) Automobile service stations.
- (8) Bicycle sales and repair.
- (9) Billiard and pool rooms.
- (10) Boat showroom, sales and service.
- (11) Building supplies, including lumber and other building materials when contained within a completely enclosed building or fenced enclosure.
- (12) Clubs and fraternal organizations.
- (13) Feed and seed stores.
- (14) Hotels, including dining and meeting rooms.
- (15) Laundries and dry cleaning establishments.
- (16) Lockers, frozen foods.
- (17) Locksmiths.
- (18) Orthopedic and medical appliance stores, but not including the assembly or manufacture of such articles.
- (19) Parking and loading facilities, off-street.
- (20) Picture framing, when conducted on the premises for retail trade only.
- (21) Physical culture and health services.
- (22) Printing, lithograph, letterpress, newspaper, blueprinting and other similar uses.
- (23) Radio and television broadcasting stations.
- (24) Schools: music, dance, business, commercial or trade.
- (25) Signs, as defined and regulated in **Article VII**.
- (26) Second-hand stores and rummage shops.
- (27) Taverns.
- (28) Telephone booths, outdoor.
- (29) Undertaking establishments.
- (30) Wholesale establishments.
- (31) Any other similar type of use not specifically permitted herein and which has compatibility with the permitted uses in this District.
- (32) Metallurgical Testing Facility. **(Ord. No. 04-07; 02-23-04)**

(B) **Special Uses.** The following uses may be allowed by special use permit in accordance with the provisions of the administrative section:

- (1) Any use which may be allowed as a special use in the B-1 District.
- (2) Planned business developments, as defined in **Section 40-1-3**.
- (3) Public utilities and public service uses, including electric substations; fire stations; police stations; public libraries; water pumping stations; water reservoir or other similar uses.
- (4) Wind Energy Conversion System as defined, provided, and restricted pursuant to **Article X** of this Code. **(Ord. No. 10-01; 01-11-10)**

(C)
B-1 Business District.

Height of Buildings. Same regulations shall apply as required or permitted in the

(D)
yards are provided and maintained in connection with such building.

Yard Areas. No building shall be constructed or enlarged unless the following

- (1) **Front Yard.** No front yard shall be required when all frontage between **two (2)** intersecting streets lies within this District. However, when lots within this District are adjacent to and adjoining lots in a residential district, all of which front upon the same street between **two (2)** intersecting streets, there shall be established the same front yard setback for all of the frontage as has been established in the residential districts.
- (2) **Exception.** When existing buildings located in this District have already established a building line at the street line or at a lesser depth than required above, then all new buildings may conform to the same building line, except for the first **fifty (50) feet** of the B-2 District frontage adjacent to the residential district, whereupon there shall be provided a front setback of not less than **ten (10) feet**.
- (3) **Side Yard.** No side yard is required, except for a corner lot which abuts upon a residential district or upon an alley separating this District from a residential district. There shall then be provided a side yard equal to **one-half (1/2)** the front yard required in the abutting residential district, but in no case more than **ten (10) feet**. The same setback shall apply also if business buildings front the intersecting street, commonly referred to as the side street.
- (4) **Rear Yard.** There shall be a rear yard of not less than **twenty (20) feet** provided, however, that a one-story accessory building may be located thereon, except for the **ten (10) feet** adjacent and parallel to the rear lot line or alley line, for the storage of motor vehicles and the unloading and loading of vehicles under roof, as provided in **Article VI**.

40-8-16

(A)

B-3 HIGHWAY BUSINESS DISTRICT.

Permitted Uses.

- (1) Any permitted use in the B-2 District.
- (2) Active Solar Energy Systems, Building integrated Solar Energy Systems, Grid-intertie Solar Energy Systems, Off-grid Solar Energy Systems, Passive Solar Energy System, Photovoltaic Systems, Solar Collectors, Solar Energy System, Solar Energy System additions, Solar Heat Exchangers, Solar Hot Air Systems, and/or Solar Hot Water Systems, installed in compliance with this ordinance and in compliance with applicable local, state and federal law shall be an allowable use, in addition to all others in B-1 Business, B-2 Business, General and Wholesale, and B-3 Highway Business Districts. **(Ord. No. 2019-11; 05-28-19)**
- (3) Agricultural implement sales and services, on an open lot or within an enclosed building.
- (4) Air conditioning and heating sales and service.
- (5) Automobile and truck sales, motor repair and service shop, including body repair and rebuilding or painting.
- (6) Automobile laundries, including the use of mechanical conveyors, blowers and steam-cleaning.
- (7) Battery and tire service stations.
- (8) Beverage, non-alcoholic, bottling and distributing.
- (9) Blueprinting and photostatting establishments.
- (10) Bicycle and motorcycle sales and repair.
- (11) Boat showroom.
- (12) Building materials sales, when conducted wholly within a building.

- (13) Book binding.
- (14) Catering establishments.
- (15) Contractors' offices and shops, where no fabricating is done on the premises and where all storage of material is done within a building.
- (16) Exterminating shop.
- (17) Feed and seed store, retail and wholesale.
- (18) Garages, for storage of motor vehicles.
- (19) Glass-cutting and glazing establishments.
- (20) Greenhouses, wholesale growers.
- (21) Household appliance repair shop.
- (22) Laboratories, commercial (medical, dental, research, experimental and testing), provided no production or manufacturing of products takes place.
- (23) Motels.
- (24) Parcel delivery stations.
- (25) Plumbing, heating, and roofing supply shops.
- (26) Printing, publishing, and issuing of newspapers, periodicals, books, stationery and other reading matter.
- (27) Pet shop, kennel, or animal hospital when conducted wholly within an enclosed building.
- (28) Plumbing shop.
- (29) Photograph developing and processing.
- (30) Poultry and rabbit-killing for retail sale on the premises only.
- (31) Processing or assembly, provided that space occupied in a building does not exceed **ten thousand (10,000) square feet** of total floor space plus basement space, not including stairwells or elevator shafts; and provided such processing or assembly can be conducted without noise, vibration, odor, dust, or any other condition which might be disturbing to occupants of adjacent buildings. When manufacturing operations demand space exceeding **ten thousand (10,000) square feet**, they shall be located in the M-1 Manufacturing District.
- (32) Radio and television broadcasting stations.
- (33) Recreation places, including bowling alleys, dance halls, gymnasium, skating rink, archery range, golf-practicing range, miniature golf course, or other similar places of amusement or entertainment when operated for pecuniary profit.
- (34) Restaurants, drive-ins, car service.
- (35) Riding academies.
- (36) Sheet metal shop, provided floor area occupied does not exceed **six thousand (6,000) square feet**.
- (37) Signs, as defined and regulated in **Article VII**.
- (38) Trailer sales or rental (house trailers or mobile homes) on an open lot or within a building.
- (39) Used passenger automobile sales (used car lot) on an open lot or within a building.
- (40) Uses customarily incidental to any of the above uses and accessory buildings when located on the same premises.
- (41) Wholesale business, excluding a building, the principal use of which is for a storage warehouse.

(B) **Special Uses.** The following uses may be allowed by special use permit in accordance with the provisions of the administrative section:

- (1) Trailer court or mobile home park in which each trailer parking space contains **two thousand (2,000) square feet**, not including access drives.
- (2) Any use which may be allowed as a special use in the B-2 General Business District.

- (3) Planned business developments, as defined in **Section 40-1-3**.
- (4) Wind Energy Conversion System as defined, provided, and restricted pursuant to **Article X** of this Code. **(Ord. No. 10-01; 01-11-10)**

(C) **Height of Buildings.** Same regulations shall apply as required or permitted in the B-1 Business District.

(D) **Yard Areas.** No building shall be constructed or enlarged unless the following yards are provided and maintained in connection with such building:

- (1) **Front Yard.** There shall be provided on every lot a front yard not less than **fifty (50) feet** in depth, except that when existing buildings located in this District have already established a building line at a depth less than required above, then all new buildings may conform to the same building line, except for the first **fifty (50) feet** of the Highway Business District frontage adjacent to a residential district, whereupon there shall be provided a front yard of not less than **twenty-five (25) feet**.
- (2) **Side Yard.** No side yard is required, except for a corner lot or a lot which abuts upon a residential district, or upon an alley separating this District from a residential district. There shall then be provided a side yard of not less than **fifty (50) feet**. The side yard setback shall also apply if the business building fronts the intersecting street, commonly referred to as the "side street".
- (3) **Rear Yard.** There shall be a rear yard of not less than **twenty (20) feet** provided.

40-8-17 - 40-8-20 RESERVED.

BUSINESS DISTRICTS REQUIREMENTS

| | | |
|-------------------------------|---|---|
| Min. Lot Frontage | - | ft. at the established building line |
| Min. Front Yard | - | See Section 40-8-14(D) of Zoning Code |
| Min. Side Yard | - | Where a business lot abuts upon an "R" District, or upon an alley separating business from an "R" District, provide a side yard equal to one-half the front yard required in the abutting "R" District (Max. ft.). In all other cases no side yard is required. |
| Min. Rear Yard | - | 20 ft. |
| Max. Height for all Buildings | - | 3 stories, 35 ft. |
| Min. Off-Street Parking | - | For retail stores under one roof having a total floor area of 2,000 sq. ft., one parking space for each 300 sq. ft. of floor area. Over and above 2,000 sq. ft. For parking requirements of other retail establishments, See Zoning Code. |

DIVISION IV – MANUFACTURING DISTRICTS

40-8-21 **PURPOSE.** The Manufacturing Districts set forth herein are established to protect public health, safety, comfort, convenience, and the general welfare and to protect the economic base of the City as well as the value of real estate, by regulating manufacturing developments in appropriate locations. These general objectives include, among others, the following specific objectives:

(A) To protect established residential areas, and the health of families living therein, by restricting those nearby manufacturing activities which may create offensive noise, vibration, smoke, dust, odors, heat, glare, fire hazards, and other objectionable influences to those areas which are appropriate therefor.

(B) To provide adequate space in appropriate locations for most types of manufacturing and related activities so that the economic structure of the community may be strengthened and that employment opportunities may be found in the interest of public prosperity and welfare.

(C) To provide more space for manufacturing activities in locations accessible to rail and highways, so that the movement of raw materials, finished products and employees can be carried on efficiently and with a minimum danger to public life and property.

(D) To establish proper standards of performance which will restrict obnoxious manufacturing activities, while at the same time encourage and permit the manufacturing activities which have adopted facilities for the process of finished products without adversely affecting the health, happiness, safety, convenience and welfare of the people living and working in nearby areas.

(E) To protect manufacturing districts from incompatible uses of land by prohibiting the use of such space for new residential development, thereby preserving the land for a more appropriate use in accordance with the plans for City improvement and development.

(F) To promote the most desirable use of land in accordance with a well considered plan of land use for all of the City, to conserve the use of property, to promote stability of manufacturing activities and related development, and to protect the character and established development in each area of the community, to enhance and stabilize the value of land and to protect the tax base of the City.

40-8-22 **M-1 MANUFACTURING DISTRICT, LIMITED.**

(A) **Permitted Uses.** Since most uses permitted in this District will be in proximity to residential districts, it is hereby declared that performance standards shall be high, and that all manufacturing, processing, or assembly of materials and products must be carried on in a manner not injurious or offensive to the occupants of adjacent premises by reason of the emission of odors, fumes or gases, dust, smoke, noise, vibrations, or fire hazards. Therefore, the following uses may be permitted provided there is compliance with the performance standards established herein:

- (1) Any use permitted in a business district, but not including residences or apartments, except such dwelling accommodations as may be needed to house a caretaker or watchman employed on the premises, and his family.
- (2) Active Solar Energy Systems, Building integrated Solar Energy Systems, Grid-intertie Solar Energy Systems, off-grid Solar Energy System, Passive Solar Energy System, Photovoltaic Systems, Solar Collectors, Solar Energy System, Solar Energy System additions, Solar Farms, Solar gardens, Solar Heat Exchangers, Solar Hot Air Systems, and/or Solar Hot Water Systems, installed in compliance with this ordinance and in compliance with applicable local, state and federal law shall be an allowable use, in addition to all others, in the M-1 and M-2 Manufacturing Districts. **(Ord. No. 2019-11; 05-28-19)**
- (3) Artificial limb manufacture.
- (4) Apparel and other products manufactured from textiles.
- (5) Batteries, manufacture and rebuilding.
- (6) Bedspring and mattress manufacture.
- (7) Belting.
- (8) Bicycle manufacture.

- (9) Brooms and brushes.
- (10) Boat building and repair.
- (11) Building equipment, building materials, lumber, coal, sand and gravel yards, and yards for contracting equipment, maintenance or operating equipment of public agencies, or public utilities or materials or equipment of similar nature.
- (12) Bus line shops and garages.
- (13) Canning and preserving.
- (14) Canvas and canvas products.
- (15) Carpet and rug cleaning.
- (16) Carpet manufacturing.
- (17) Cement block manufacture.
- (18) Ceramic products, pottery, and glazed tile.
- (19) Chick hatcheries.
- (20) Cleaning and dyeing establishments when employing facilities for handling more than **one thousand (1,000) pounds** of dry goods per day.
- (21) Cigarettes and cigars.
- (22) Coated fabrics, except rubberized.
- (23) Cork and cork products.
- (24) Creameries and dairies.
- (25) Draperies and bedding manufacture.
- (26) Drugs and pharmaceutical products.
- (27) Electric motors and generators.
- (28) Engraving.
- (29) Felt manufacture.
- (30) Fur goods, not including tanning and dyeing.
- (31) Glass products, from previously manufactured glass.
- (32) Heating appliances and sheet metal products, including stoves and ranges.
- (33) Hosiery manufacture.
- (34) Ice cream and ice manufacture.
- (35) Laundries, more than **one thousand (1,000) pounds** daily capacity.
- (36) Machine shops and metal products manufacture, when not equipped with heavy (exceeding **fifty (50) ton** pressure) punch presses, drop forges, riveting and grinding machines, or any other equipment which may create noise, vibration, smoke, or odors, heat, glare or fire hazards exceeding the performance standards made a part of this Section.
- (37) Metal polishing and plating.
- (38) Musical instruments.
- (39) Pianos and organs.
- (40) Perfumes and cosmetics.
- (41) Plastic products, but not including the processing of the raw materials.
- (42) Public utility electric substations and distribution centers, gas regulation centers and underground gas holder stations.
- (43) Rubber products (small) such as washers, gloves, footwear and bathing caps, but excluding rubber and synthetic rubber processing.
- (44) Shoes and boots.
- (45) Signs, as defined and regulated in **Article VII**.
- (46) Storage of household goods.
- (47) Storage and sale of trailers, farm implements and other similar products on an open lot.
- (48) Sporting and athletic equipment.
- (49) Storage of flammable liquids, fats or oils in tanks, each of **fifty thousand (50,000) gallons** or less capacity, but only after the location and protective measures have been approved by local governing authorities.
- (50) Stone, marble, and granite grinding and cutting.

- (51) Textiles—spinning, weaving, dyeing and printing.
- (52) Tools and hardware, such as hand tools, bolts, nuts, screws, cutlery, house hardware, locks and plumbing appliances.
- (53) Tool and die shops.
- (54) Truck, tractor, trailer or bus storage yard, but not including a truck terminal.
- (55) Toys and children's vehicles.
- (56) Wire brush manufacture.
- (57) Any other manufacturing establishment that can be operated in compliance with the requirements of this Section, without creating objectionable noise, odors, dust, gas, smoke, fumes or vapor and that is a use compatible with the use and occupancy of adjoining properties.

(B) **Special Uses.** The following uses may be allowed by special use permit in accordance with the provisions of the administrative section:

- (1) Any use which may be allowed in the B-2 or B-3 Districts.
- (2) Planned developments, industrial.
- (3) Airport and aircraft landing fields.
- (4) Stadiums, auditoriums and arenas.
- (5) Outdoor theaters.
- (6) Public or privately owned and operated fairgrounds, permanent carnivals, "kiddie parks" or other similar amusement centers.
- (7) Wind Energy Conversion System as defined, provided, and restricted pursuant to **Article X** of this Code. **(Ord. No. 10-01; 01-11-10)**

(C) **Height of Buildings.** No building or structure shall be erected or structurally altered to exceed a height of **three (3) stories** nor shall it exceed **forty-five (45) feet** in height, except as provided in **Article III.**

(D) **Yard Areas.**

- (1) **Side Yards.** There shall be a minimum side yard of not less than **fifteen (15) feet** on both sides of the building or buildings, but where the property is adjacent to a residential district, there shall be a side yard of not less than **twenty-five (25) feet** on the side nearest to residential lots. The parking of private automobiles may be permitted within the side yard areas, but not closer than **five (5) feet** to any lot zoned for residential use.
- (2) **Rear Yard.** A rear yard is not required except where a lot abuts upon a residential district, in which case there shall be a rear yard of not less than **thirty (30) feet**, and no storage of materials or equipment, or the parking of automobiles shall take place within the **ten (10) feet** closest to any residential lot or lots.

(E) **Performance Standards.** The following requirements shall apply:

(1) **Noise.**

(a) **Definitions.**

Background Sound Level: The A-weighted sound level, measured in accordance with the procedures specified in Section 900.103 of the Illinois Code for Noise, Title 35, Subtitle B, which is exceeded **ninety percent (90%)** of the time during the period of observation, during which sounds from motor racing facilities are inaudible. The period of observation need not necessarily be contiguous; however, the period of observation must be at least of **ten (10) minutes** duration.

Daytime Hours: 7:00 A.M. to 10:00 P.M., local time.

Nighttime Hours: 10:00 P.M. to 7:00 A.M., local time.

Decibel: (dB)

Impulsive Sound: Either a single pressure peak or a single burst (multiple pressure peaks) for a duration usually less than **one (1) second**.

LeB: Equivalent continuous sound pressure level in decibels.

Noise Pollution: The emission of sound that unreasonably interferes with the enjoyment of life or with any lawful business or activity.

Property-Line-Noise-Source: Any equipment or facility, or combination thereof, which operates within any land used as specified by 35 Ill. Adm. Code 901.101. Such equipment or facility, or combination thereof, must be capable of emitting sound beyond the property line of the land on which operated.

Residential Dwelling Unit: All land used as specified by Standard Land Use Coding Manual (SLUCM) Codes 110 through 190 and those portions of land used as specified by SLUCM Code 6741 used for sleeping.

- (b) **Prohibition of Noise Pollution.** No person shall cause or allow the emission of sound beyond the boundaries of his property, as property is defined in Section 25 of the Illinois Environmental Protection Act, so as to cause noise pollution in Illinois, or so as to violate any provision of that Chapter.

Note: Classification of Land According to Use is specified by SLUCM Codes. Generic land classifications include:

Class R land – residential

Class B and C land – business and commercial

- (c) **Sound Emitted to Class R Land.** No person shall cause or allow the emission of sound during daytime or nighttime hours from any property-line-noise-source which exceeds any allowable octave band sound pressure level specified, when measured at any point within such receiving Class R land, provided, however, that no measurement of sound pressure levels shall be made less than **twenty-five (25) feet** from such property-line-noise-source.

| Octave Band Center Frequency (Hertz) | Allowable Octave Band Sound Pressure Levels (dB) of Sound Emitted to any Receiving Class R Land from Class C and B Land (daytime hours) | Allowable Octave Band Sound Pressure Levels (dB) of Sound Emitted to any Receiving Class R Land from Class C and B Land (nighttime hours) |
|---|---|--|
| 31.5 | 75 | 69 |
| 63 | 74 | 67 |
| 125 | 69 | 62 |
| 250 | 64 | 54 |
| 500 | 58 | 47 |
| 1000 | 52 | 41 |
| 2000 | 47 | 36 |
| 4000 | 43 | 32 |
| 8000 | 40 | 32 |

(d) **Impulsive Sound.**

| Classification of Land On which Property-Line- Noise-source is Located | Allowable A-weighted Sound Levels in Decibels of Impulsive Sounds Emitted to Receiving Class R or B Land | | |
|--|---|--------------|-----------|
| | Class B Land | Class R Land | |
| | | Daytime | Nighttime |
| Class R Land | 50 | 50 | 45 |
| Class B Land | 57 | 50 | 45 |
| Class C Land | 61 | 56 | 46 |

(NOTE: 35 Ill. Adm. Code 900.102, and as adopted by this Code by reference, prohibits noise that unreasonably interferes with the enjoyment of life or with any lawful business or activity.)

(Ord. No. 99-02; 04-12-99)

- (2) **Smoke and Particulate Matter.** The emission of smoke or dusts by manufacturing plants in an amount sufficient to create a general nuisance to adjoining properties shall be prohibited. Total emission of smoke and particulate matter shall be limited to the following:
Ringelmann Requirements. All smoke and the emission of all other particulate matter in quantities sufficient to produce an opacity at any point greater than Ringelmann 3 is prohibited. The only exception shall be a plume consisting entirely of condensed steam. A Ringelmann 1 unit is defined as **twenty percent (20%)** density for **one (1) minute**. No more than **fifteen (15) units** of Ringelmann smoke shall be permitted per hour and no smoke more intense than Ringelmann 2, except that during **one (1) hour** of a **twenty-four (24) hour** day, **thirty (30) units** of smoke may be emitted but with no smoke more intense than Ringelmann 3.
The total quantity of emitted solids shall not exceed **one (1) pound** per hour, per acre of lot area.
- (3) **Odors.** No odor shall be emitted by any use permitted in this District in such quantities as to be readily detectable by an average observer at any point on the boundary line of the premises or beyond.
- (4) **Noxious Gases.** Processes and operations of permitted uses capable of dispersing gases or toxic particulates into the atmosphere must be hooded or otherwise suitably enclosed. The emission of such toxic gases or particulate matter shall be from a stack.
- (5) **Glare and Heat.** Operations producing intense light or heat shall be performed within an enclosed building and not be visible beyond any lot line bounding the property whereon the use is conducted.
- (6) **Vibrations.** There shall be no uses which create heavy earth-shaking vibrations which are noticeable at the property line of the subject premises.

40-8-23

(A)

M-2 MANUFACTURING DISTRICT, GENERAL.

Permitted Uses. The uses permitted in this District generally include those manufacturing and industrial activities which cannot be operated economically without creating some conditions which may be objectionable or obnoxious to the occupants of adjoining properties and for that reason must be grouped in areas where similar industrial uses are not located or where the permitted uses will be best located in accordance with the comprehensive land use plan of the City, which is designed to protect the welfare of the community:

- (1) Any use permitted in the M-1 District.
- (2) Active Solar Energy Systems, Building integrated Solar Energy Systems, Grid-intertie Solar Energy Systems, off-grid Solar Energy System, Passive Solar Energy System, Photovoltaic Systems, Solar Collectors, Solar Energy System, Solar Energy System additions, Solar Farms, Solar gardens, Solar Heat Exchangers, Solar Hot Air Systems, and/or Solar Hot Water Systems, installed in compliance with this ordinance and in compliance with applicable local, state and federal law shall be an allowable use, in addition to all others, in the M-1 and M-2 Manufacturing Districts. **(Ord. No. 2019-11; 05-28-19)**
- (3) Aircraft, assembly and testing of fuselage and motors.
- (4) Automobiles, truck and trailers.
- (5) Blacksmith shops.
- (6) Box and crate manufacture.
- (7) Brass foundry.
- (8) Brick, tile, and terra cotta manufacture.
- (9) Building materials—such as prefabricated houses, composition wallboards, partitions and panels.
- (10) Cement products.
- (11) Chemicals, not including those which may be inflammable or explosive.
- (12) Coffin manufacture.
- (13) Cooperage works.
- (14) Corrugated metal products.
- (15) Dyes, aniline, ink pigments and others.
- (16) Feed milling and processing.
- (17) Grain elevators.
- (18) Glass blowing and manufacture.
- (19) Graphite and graphite products.
- (20) Hemp products.
- (21) Ink from primary raw materials, including colors and pigment.
- (22) Linoleum.
- (23) Lumber, preserving treatment, processing, sawmills and planing mills.
- (24) Metal stamping and extrusion of metal products.
- (25) Metal foundries, and casting.
- (26) Machinery, heavy manufacturing and repair—including electrical, construction, mining and agriculture.
- (27) Meat and fish products, packing and processing of, but not including slaughtering and glue and size manufacturing.
- (28) Motor freight terminal.
- (29) Motor testing of internal combustion motors.
- (30) Porcelain products—such as bathroom and kitchen equipment.
- (31) Railroad equipment—such as railroad car and locomotive manufacture.
- (32) Rubber products, including tires and tubes and tire recapping.
- (33) Wax products, manufacture from paraffin.
- (34) Wool scouring and pulling.

(B) **Special Uses.** The following uses may be allowed by special use permit in accordance with the provisions of the administrative section:

- (1) Any use which may be allowed as a special use in the M-1 District, unless already permitted under **Section 40-8-23(A)**.
- (2) Areas for the dumping or disposal of garbage, refuse or trash, provided the sanitary landfill method is used.
- (3) Extraction of gravel, sand or other raw materials.
- (4) Wind Energy Conversion System as defined, provided, and restricted pursuant to **Article X** of this Code. **(Ord. No. 10-01; 01-11-10)**

(C) **Height of Buildings.** No building or structure shall hereafter be erected or structurally altered to exceed a height of **four (4) stories** or **sixty (60) feet**, except as provided in **Article III.**

(D) **Yard Areas.** The same regulations shall apply as required or permitted in the M-1 District.

(E) **Performance Standards.** The following requirements shall apply:

- (1) **Noise.** The sound pressure levels shall be the same as those permitted in the M-1 Manufacturing District.
- (2) **Smoke and Particulate Matter.** The emission of smoke or dusts in an amount sufficient to create a general nuisance to occupants of adjoining properties or to the occupants in the general area wherein the use is located shall be prohibited.
- (3) **Odors.** No odor shall be emitted by any use permitted in this District in such quantities as to be readily detectable by an average observer at any point on the boundary line of the nearest residential or business district.
- (4) **Noxious Gases.** Processes and operations of permitted uses capable of dispersing gases or toxic particulates into the atmosphere must be hooded or otherwise suitably enclosed. The emission of such toxic gases or particulate matter shall be from a stack not less than **twenty-five (25) feet** in height.
- (5) **Glare and Heat.** Operations producing intense light or heat, when adjacent to a residential or business district, shall be performed within an enclosed building and not be visible beyond the boundary separating the subject premises from any adjoining residential or business district.
- (6) **Vibrations.** There shall be no uses which create heavy earth-shaking vibrations which are noticeable at any district boundary separating residential and business uses from an M-2 Manufacturing District.

MANUFACTURING DISTRICTS

| | |
|--------------------|--|
| Height | - 4 stories and not to exceed 60' in height |
| Side Yard | - Not less than 15 ft. on both sides of the building and not less than 25 ft. where adjacent to an "R" District. |
| Rear Yard | - Not less than 30 ft.—required only where lot abuts upon an "R" District. |
| Off-Street Parking | - Provide 1 space for each 4 employees |

ARTICLE IX – ADMINISTRATION AND PROCEDURES

DIVISION I - GENERALLY

40-9-1 ENFORCING OFFICER. The Building Commissioner is designated as the Zoning Administrator of said City to be responsible for enforcing this Zoning Code. The Building Commissioner shall have the power and shall see that the provisions herein are properly enforced.

40-9-2 BUILDING PERMITS, CERTIFICATE OF COMPLIANCE AND USE PERMITS.
(A) **Building Permit.** No building or structure shall hereafter be erected or structurally altered until a building permit shall be issued by the Building Commissioner stating that the building or structure and use of land, comply with the regulations of this Code and all building and health laws and ordinances of the City.

All applications for building permits shall be accompanied by a plat in duplicate, drawn to scale, showing the actual dimensions of the lot or lots to be built upon, the size of the building or structure to be erected or structurally altered, its location on the lot or lots, and such other information as may be necessary to provide for the enforcement of these regulations. A careful record of such applications and plats shall be kept in the office of the Building Commissioner. Provided that on an application for a building permit for a building to be used for agricultural purposes, the name and address of the person proposing to construct the building, the use to which the building is to be put, and the distance that the front of the building will be from the street or highway is all the information that shall be required.

(B) **Certificate of Compliance.** No building or structure hereafter erected or structurally altered shall be occupied and used until a certificate of compliance has been issued by the Building Commissioner. The certificate of compliance shall be issued only after the Building Commissioner makes a finding that the building or structure has been erected or structurally altered in conformance with the provisions of this Code and other health and building laws and in accordance with a building permit.

Certificates of compliance shall be applied for coincident with the application for a building permit and shall be issued within **ten (10) days** after the erection and alterations of such building shall have been satisfactorily completed. A record of all certificates shall be kept on file in the office of the Building Commissioner and copies shall be furnished, on request, to any persons having a proprietary or tenancy interest in the building affected.

Certificates for the continued occupancy of non-conforming uses existing at the time of the passage of this Code shall be issued by the Building Commissioner and the certificate shall state that the use is a non-conforming one and does not conform with the provisions herein. The Building Commissioner shall notify the owners of property being used as non-conforming use and shall furnish said owner with a certificate of occupancy for such non-conforming use.

A certificate of occupancy shall not be required for buildings to be used for agricultural purposes.

(C) **Use Permit.** No change shall be made in the use of a building or part thereof now or hereafter erected or structurally altered, or in the use of land now or hereafter occupied, without a use permit having first been issued by the Building Commissioner. No such permit shall be issued to make such change unless it is in conformity with the provisions of this Code and amendments hereto hereafter duly enacted.

(D) **Continuance of Existing Uses.** Nothing in this Section shall prevent the continuance of the present occupancy or lawful use of any existing building or zoning lot, except as may be necessary for the safety of life and property, and except as provided in **Article III**.

40-9-3 RESERVED.

DIVISION II – ZONING BOARD OF APPEALS

40-9-4 CREATION OF MEMBERSHIP. There is hereby established a Zoning Board of Appeals. The Board of Appeals shall consist of **seven (7) members** appointed by the Mayor and confirmed by the City Council. At least **two (2) members** shall be residents of the unincorporated area subject to the provisions of this Code. The members of the Board of Appeals shall serve respectively for the following terms: **one (1) for one (1) year; one (1) for two (2) years; one (1) for three (3) years; one (1) for four (4) years; one (1) for five (5) years; one (1) for six (6) years; one (1) for seven (7) years.**

The successor of each member so appointed shall serve for a term of **five (5) years**. Vacancies shall be filled by the Mayor, subject to the confirmation of the City Council for the unexpired term. Members may be removed by the Mayor for cause after written charges have been filed and after a public hearing has been held, if demanded by the member so charged.

One of the members of the Board shall be designated by the Mayor, with the consent of the City Council, as Chairman of the Board and shall hold such office as Chairman until a successor is appointed. Such Chairman, or in his absence the Acting Chairman, may administer oaths and compel the attendance of witnesses.

The City Clerk shall act as clerk for the Board and shall make and keep a record of all its meetings and official acts.

40-9-5 JURISDICTION, AUTHORITY AND PROCEEDINGS.

(A) **Appeals and Review.** Any person aggrieved by a request of the Building Commissioner charged with the enforcement of the Code or by any officer, department, board or bureau of the City concerning the interpretation of the Code, may take an appeal to the Zoning Board of Appeals.

Such appeal shall be taken within such time as shall be prescribed by the Zoning Board of Appeals by general rules adopted by it, and shall be taken by filing with the City Clerk and with the Zoning Board of Appeals, a notice of appeal specifying the grounds thereof, together with such plats and exhibits as are reasonably necessary. Such appeal shall be taken upon forms provided by the Zoning Board of Appeals. The City Clerk shall forthwith transmit to the Board all of the papers constituting the record upon which the action appealed was taken.

The Board may reverse or affirm, wholly or partly, or may modify or amend the order, requirements, decisions or determination appealed from to the extent and in the manner that the Board may decide to be fitting and proper in the premises, and to that end, the Board shall also have all the powers of the officer from whom the appeal is taken.

The Board shall also hear and decide all matters referred to it or upon which it is required to pass under the Code.

The concurring vote of **four (4) members** of the Board shall be necessary to reverse any order, requirement, decision or determination of the Building Commissioner or to decide in favor of the applicant any matter upon which it is authorized by the Code to render decisions.

The Zoning Board of Appeals shall fix a reasonable time and place for the hearing of such appeals and shall give notice thereof to the persons appealing and to the officer from whom the appeal is taken. It shall hear and decide the appeal within a reasonable time. At the hearing, parties of interest may appear in person or by agent or attorney.

(B) **Stay of Proceedings.** The appeal shall stay all proceedings and furtherance of action appealed from, unless the Building Commissioner certifies to the Zoning Board of Appeals, after notice of appeal has been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion cause imminent peril to life or property; in which case the proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Zoning Board of Appeals or by court of record on application, with notice to the officer from whom the appeal is taken, and all due causes shown.

(C) **Variations.** When a property owner or his agent shows that a strict application of the terms of this Code relating to the use, construction or alteration of buildings or structures or the use of land, imposes upon him practical difficulties or particular hardship, then the Board may recommend such variations of the strict application of the terms of this Code as are in harmony with its general purpose and

intent when the Board is satisfied, under the evidence heard before it, that such a variation will not merely serve as a convenience to the applicant, but is necessary to alleviate some demonstrable hardship or difficulty so great as to warrant a variation from the provisions of this Code, or in the following instances:

- (1) To permit the extension of a district where the boundary line of a district divides a lot in single ownership as shown on record prior to the date of passage of the Code.
- (2) To permit a front yard, a side yard, or a rear yard less than that required by the Code, but such variation shall not exceed **twenty-five percent (25%)** of the depth of the front yard, or the depth of the rear yard, or the width of the side yard, as required herein.
- (3) To permit a building to exceed the height limit by not more than **ten percent (10%)** of the height limit established by the Code.
- (4) To permit the use of a lot less in area by not more than **ten percent (10%)** of the lot area required herein.
- (5) To permit the use of a lot less in width by not more than **fifteen percent (15%)** of the lot width as required by this Code.
- (6) To interpret the provisions of this Code where the street layout actually on the ground varies from the street layout as shown on the map fixing the several districts, which map is attached to and made a part of this Zoning Code.

In considering all proposed variations to this Code, the Board shall, before recommending any variation from this Code in a specific case, first determine and make a finding of fact that: (1) the property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in that zone; (2) the plight of the owner is due to unique circumstances; and (3) the variation, if granted, will not alter the essential character of the locality. A variation shall be permitted only if the evidence, in the judgment of the Board of Appeals, sustains each of the three conditions enumerated; and further, the proposed variation will not: (a) impair an adequate supply of light and air to adjacent property; (b) unreasonably increase the congestion in public streets; (c) increase the danger of fire or endanger the public safety; (d) unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals and welfare of the inhabitants of the City.

No variation shall be made except in a specific case and after a public hearing before the Board of Appeals of which there shall be a notice of the time and place of the hearing published at least once, not more than **thirty (30) days** nor less than **fifteen (15) days** before the hearing, in **one (1)** or more newspapers published in the City. This notice shall contain the particular location for which the variation is requested as well as a statement of what the proposed variation consists.

The Board shall report its findings and recommendations to the City Council within **fifteen (15) days** after the public hearing.

(D) **City Council Action.** No variation in any specific case shall be made by the City Council without a hearing by the Zoning Board as required herein nor without a report thereof having been made by the Board to the City Council, and every such report shall be accompanied by a finding of fact specifying the reasons for the report.

Upon the report of the Zoning Board of Appeals, the City Council may, without further public hearing, adopt or deny any proposed variation or may refer the report back to the Board for further consideration. Any proposed variation which fails to receive the approval of **four (4) members** of the Zoning Board of Appeals shall not be passed except by the favorable vote of **three-fourths (3/4)** of all elected members of the City Council. In making any variations, the City Council shall be governed by the same considerations and restrictions as the variations in particular instances under the paragraph headed "Jurisdiction".

(E) **Rules and Procedure.** All meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine. The Board shall keep minutes of its proceedings, showing the vote of each member upon every question or, if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official actions. Findings of fact shall be included in the minutes on each case and the reasons for granting or denying each application

shall be specified. Every rule, regulation, and every order, requirement, decision or determination of the Board shall immediately be filed in the office of the City Clerk and shall be a public record.

The Board shall adopt its own rules of procedure, a copy of which and all recommendations thereto, shall be filed in the office of the City Clerk.

All meetings of the Board shall be open to the public, and all minutes of the Board shall be open to public examination at reasonable hours.

(F) **Change of Zoning.** Nothing herein contained shall be construed to give or grant to the Zoning Board the power or authority to alter or change the Zoning Code or any use district made a part of the Zoning Map; such power and authority being reserved to the City Council, and the Board shall not have any power or authority with respect to any alterations or change of the Zoning Code except to make recommendations to the City Council in such specific cases as may properly come before the Zoning Board of Appeals.

(G) **Miscellaneous.** No order for a variance permitting the erection or alteration of a building shall be valid for a period longer than **six (6) months**, unless such use is established within such period, provided, however, that where such use permitted is dependent upon the erection or alteration of a building, such order shall continue in force and effect if a building permit for said erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.

No order for a variance permitting a use of a building or premises shall be valid for a period longer than **six (6) months**, unless such use is established within such period, provided, however, that where such use permitted is dependent upon the erection or alteration of a building, such order shall continue in force and effect if a building permit for said erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.

40-9-6 RESERVED.

DIVISION III – AMENDMENTS

40-9-7 PETITION FOR AMENDMENT. The City Council, the Plan Commission, and other governmental bodies, and any private petitioner may apply for an amendment in the text of this Code, and in the accompanying zoning maps made a part of this Code. Any petition for an amendment by a private party shall be accompanied by a filing fee as established by the City Council, which fee shall be deposited with the City Clerk within **fifteen (15) days** after the receipt thereof and no part shall be returnable to the petitioner.

40-9-8 REVIEW OF PETITION. The regulations imposed and the zoning districts created under this Code may be amended by ordinance, but no such amendment shall be made by the City Council without public notice and without a public hearing before the Plan Commission. The Plan Commission shall hold the public hearing and forward its recommendations to the City Council within **forty-five (45) days** of the date the petition was submitted to the Plan Commission, unless it is withdrawn by the petitioner.

40-9-9 NOTICE OF PUBLIC HEARING. The Plan Commission shall cause notice of public hearing of petitioner's application to be given in the following manner: (1) by publishing notice of the time and place of such hearing in a paper of general circulation in the City at least **fifteen (15) days** prior to the hearing; (2) by causing said notice to contain the particular location for which the amendment is requested, as well as a brief statement describing the proposed amendment; and (3) by notifying such property owners, groups or organizations as it deems desirable of the proposal.

40-9-10 **WRITTEN PROTEST.** In the event of written protest against the proposed amendment signed and acknowledged by the owners of **twenty percent (20%)** of the frontage proposed to be altered, or by the owners of **twenty percent (20%)** of the frontage immediately adjoining or across the alley or rear line therefrom, or by the owners of **twenty percent (20%)** of the frontage directly opposite the frontage proposed to be altered as to such regulations or zoning district, and filed with the City Clerk, such amendment shall not be passed except by the favorable vote of **three-fourths (3/4)** of all of the members of the City Council.

40-9-11 **FINAL DECISION.** The City Council, without further public hearing, may adopt or deny the report of the Plan Commission for any proposed amendment, or may refer the petition back to the Plan Commission for further consideration.

Any proposed amendment which fails to receive the approval of a majority of the Plan Commission members, and is so reported shall not be passed by the City Council except by the favorable vote of **three-fourths (3/4)** of all the elected members of the City Council.

40-9-12 **RESERVED.**

DIVISION IV – SPECIAL USES

40-9-13 **PURPOSE.** The principal objective of this Zoning Code is to provide for an orderly arrangement of compatible building and land uses, and for the proper location of all types of uses required for the social and economic welfare of the City. To accomplish this objective, each type and kind of use is classified as permitted in one or more of the various districts established by this Code. However, in addition to those uses specifically classified and permitted in each district, there are certain additional uses which it may be necessary to allow because of their unusual characteristics or the service they provide the public. These "special uses" require particular consideration as to their proper location in relation to adjacent established or intended uses, or to the "planned development" of the community. The conditions controlling the location and operation of such "special uses" are established by the following provisions.

40-9-14 **CONDITIONS OF APPROVAL.** The Plan Commission may recommend, and the City Council may impose, such restrictions upon the height, bulk and area of occupancy of any structure so approved for "special use" as may be reasonable under the particular circumstances, provided that such restrictions and stipulations shall not be more restrictive than the requirements established for the district in which such structure is proposed to be located, or as may be required in any municipal code. Off-street parking facilities as well as off-street loading and unloading spaces may also be stipulated in the order permitting the "special use".

40-9-15 **PROCEDURE.** The procedure to be followed in considering applications for "special uses" shall be as follows:

(A) **Application.** An application verified by the owner or authorized agent of the owner of the property involved, shall be filed with the City Clerk for the attention of the Plan Commission upon a form prescribed therefor, which shall contain or be accompanied by all required information.

(B) **Public Hearing.** Upon receipt of such verified application, the City Clerk shall notify the Chairman of the Plan Commission, or in his absence, the Vice-Chairman, who shall give notice of a public hearing in the same manner as provided for hearings on the reclassifications of property, as contained above. A record of pertinent information presented at the public hearing shall be made and maintained by the Plan Commission as part of the permanent record relative to the application.

(C) **Determination.** The Plan Commission shall then make its findings and recommendations to the City Council within **thirty (30) days** following the date of public hearing on each

application. The City Council may then authorize a "special use" as defined herein by specific ordinance, provided the evidence presented is such as to establish beyond reasonable doubt:

- (1) That the proposed use at the particular location requested is necessary or desirable to provide a service or a facility which is in the interest of public convenience, and will contribute to the general welfare of the neighborhood or community;
- (2) That such use will not, under the circumstances of the particular case, be detrimental to the health, safety, morals or general welfare of persons residing or working in the vicinity or injurious to property values or improvements in the vicinity;
- (3) That the proposed use will comply with the regulations and conditions specified in this Code for such use, and with the stipulations and conditions made a part of the authorization granted by the City Council.

40-9-16 **PLANNED DEVELOPMENTS.** Planned developments, as defined herein, are of such substantially different character from other special uses that specific and additional standards and exceptions are hereby set out to govern the recommendations of the Plan Commission and the action of the City Council.

(A) **Use Exceptions.** In the case of residential, business or manufacturing planned developments, the Plan Commission may recommend and the City Council may authorize that there be in part of the area of such development and for the duration of such development, specified uses not permitted by the use regulations of the district in which said development is located, provided the Plan Commission shall find:

- (1) That the uses permitted by such exception are necessary or desirable and are appropriate with respect to the primary purpose of the development;
- (2) That the uses permitted by such exception are not of a detrimental influence on the surrounding neighborhood;
- (3) That not more than **twenty percent (20%)** of the ground area or of the gross floor area of such development shall be devoted to the uses permitted by said exceptions; and
- (4) That in a manufacturing planned development, such additional uses allowed by exception shall conform with the performance standards of the district in which the development is located.

(B) **Bulk Regulations.** In the case of any planned development, the Plan Commission may recommend, and the City Council may authorize exceptions to the applicable bulk regulations of this Code within the boundaries of such development, provided that the Plan Commission shall find:

- (1) That such exception shall be solely for the purpose of promoting an integrated site plan no less beneficial to the residents or occupants of such development as well as of neighboring properties than would obtain under the bulk regulations of this Code for buildings developed on separate zoning lots.
- (2) That the overall bulk of buildings of the development shall not exceed that prescribed in this Code for the district in which it is located.
- (3) That the minimum lot area per dwelling unit requirements of this Code shall be adhered to in any such development containing residential uses, and that there shall be available to each residential building and immediately adjacent thereto (including the land upon which it is erected), the minimum amount of land area required for such building under the lot area per dwelling unit provisions of this Code.
- (4) That spacing between principal buildings shall be at least equivalent to such spacing as would be required between buildings similarly developed under the terms of this Code on separate zoning lots, due consideration being given to the openness normally afforded by intervening streets and alleys.

- (5) That along the periphery of such planned developments, yards shall be provided as required by the regulations of the district in which said development is located.

DIVISION V – INTERPRETATION, FEES AND PENALTIES

40-9-17 PURPOSE AND CONFLICT. In interpreting and applying the provisions of this Code, they shall be held to be the minimum requirements for the promotion of the safety, health, convenience, comfort, prosperity and general welfare. It is not intended by this Code to interfere with, abrogate, annul, or repeal any ordinance, rules or regulations previously adopted and not in conflict with any of the provisions of this Code or which shall be adopted, pursuant to law relating to the use of buildings or premises, nor is it intended by this Code to interfere with or abrogate or annual any easements, covenants or other agreements between parties, except that where this Code imposes a greater restriction upon the use of buildings or premises or upon the height of buildings or requires larger open spaces than are imposed or required by such other ordinances or such easements, covenants or other agreements, the provisions of this Code shall control.

40-9-18 FEES. Fees pertaining to petitions for zoning amendments, use permits, certificates of compliance, variation, and for appeals to the Zoning Board of Appeals, shall be established by action of the City Council from time to time. Such fees shall be paid to the City Clerk, who shall give a receipt therefor and account for same at regular intervals to the City Council.

40-9-19 VIOLATIONS; PENALTY. Any person, firm, corporation who violates, disobeys, omits, neglects, or refuses to comply with or who resists the enforcement of any of the provisions of this Code shall be fined not less than **Twenty-Five Dollars (\$25.00)** nor more than **Two Hundred Dollars (\$200.00)** for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

[ED. NOTE: The general penalty for the entire City Code has been set at a maximum of Seven Hundred Fifty Dollars (\$750.00).]

(Ord. No. 04-13-65)

ARTICLE X - STANDARDS FOR WIND ENERGY CONVERSION SYSTEMS AND WIND TOWERS

40-10-1 INTRODUCTION.

(A) Title. This Article shall amend the Gibson City Zoning Code and be known, cited and referred to as "Article X Standards for Wind Energy Conversion System and Wind Towers".

(B) Purpose. This Article is adopted for the following purposes:

- (1) To assure that any development and production of wind-generated electricity in Gibson City is safe and effective;
- (2) To facilitate economic opportunities for local residents;
- (3) To promote the supply of wind energy in support of Illinois' statutory goal of increasing energy production from renewable energy sources.

40-10-2 DEFINITIONS.

(A) "Applicant" means the entity or person who submits to the City, pursuant to **Section 40-10-5** of this Article, an application for the special use permit for any WECS.

(B) "City" means the City of Gibson City corporate authority otherwise known as Gibson City.

(C) "Financial Assurance" means reasonable assurance from a credit worthy party, examples of which include a surety bond, trust instrument, cash escrow, or irrevocable letter of credit, or corporate guaranty from an entity whose credit is investment grade (reviewed on an annual basis).

(D) "Operator" means the entity responsible for the day-to-day operation and maintenance of the WECS and/or Wind Tower, including any third party subcontractors.

(E) "Owner" means the entity or entities with direct equity interest in the WECS(s) and/or Wind Tower(s), including their respective successors and assigns. Owner does not mean (i) the property owner from whom land is leased for locating the WECS and/or Wind Tower (unless the property owner has an equity interest in the WECS); or (ii) any person holding a security interest in the WECS(s) and/or Wind Tower solely to secure an extension of credit, or a person foreclosing on such security interest provided that after foreclosure, such person seeks to sell the WECS(s) and/or Wind Tower at the earliest practicable date.

(F) "Professional Engineer" means a qualified individual who is licensed as a professional engineer in the State of Illinois.

(G) "Primary Structure" means, for each property, the structure that one or more persons occupy the majority of time on that property for either business or personal reasons. Primary Structure includes structures such as residences, commercial buildings, hospitals, churches, schools and day care facilities. Primary Structure excludes structures such as hunting sheds, storage sheds, pool houses, unattached garages and barns.

(H) "Wind Energy Conversion System" ("WECS") means all necessary facilities that together convert wind energy into electricity and deliver that electricity to a utility's transmission lines, including, but not limited to, the rotor, nacelle, generator, WECS Tower, electrical components, WECS foundation, transformer, electrical cabling from the WECS Tower to the substation(s)/switchyard(s), communications facilities, transmission lines, poles, and/or towers, operations and maintenance building, and other related devices, facilities, and equipment.

(I) "WECS Project" means the collection of WECSs as specified in the special use permit application pursuant to **Section 40-10-5** of this Article.

(J) "WECS Tower" means the support structure to which the nacelle and rotor are attached.

(K) "WECS Tower Hub Height" means the distance from the center of the rotor hub to the top surface of the WECS Tower foundation.

(L) "WECS Tower Tip Height" means the distance from the rotor blade at its highest point to the top surface of the WECS foundation.

(M) "Wind Tower" shall mean any structure that converts wind energy into electricity including, but not limited to, the rotor, nacelle, generator, tower, foundation, transformer, transmission lines, and related equipment.

40-10-3 APPLICABILITY. This Article governs the special use of WECS(s) and WECS Projects that generate electricity to be sold to wholesale or retail markets, private owners of WECS(s) over 100kw who locate the WECS(s) on their own property for their own personal use, and private owners who locate a wind tower on their property regardless of output, size, or use.

40-10-4 BY RIGHT. Properties lying in residential zoning districts shall, in addition to all other uses otherwise permitted in such zoning districts, be allowed to install a maximum of one WECS subject to the following conditions:

- (A) Can only be located in rear or side yards within setbacks from rear and side yards (measured from the edge of the blades).
 - (1) Rear Yard – **five (5) feet.**
 - (2) Side Yards – **five (5) feet.**
- (B) Must be minimum **thirty-five (35) feet** from neighboring homes.
- (C) Must be less than 50db (decibels) at **one hundred percent (100%)** of rated peak performance at **ten (10) feet.**
- (D) Height not to exceed **twenty (20) feet** with a minimum of **ten (10) feet** from the ground to the bottom of the windmill blades.
- (E) Vertical Axis wind towers are the only permissible design.
- (F) Shall comply with the Design and Installation and Maintenance provisions of the within Standards for Wind Energy Conversion Systems and Wind Towers.
- (G) Comply with all applicable City ordinances, State of Illinois Statutes and regulations, and all Federal laws and regulations.

40-10-5 PROHIBITION. No WECS, WECS Project, or Wind Tower governed by **Section 40-10-3** of this Article shall be constructed, erected, installed, or located within the limits of Gibson City or areas lying within **one and one-half (1 ½) miles** of the corporate limits of the City, unless prior special use permit application has been approved for each individual WECS or WECS Project pursuant to this Article. Upon special use approval a construction permit shall be obtained from the City Superintendent prior to the commencement of construction of any WECS, WECS Project, or Wind Tower or any part thereof. No commercial WECS, WECS Project, or Wind Tower governed by **Section 40-10-3** of this Article shall be constructed, erected, installed, or located within the limits of Gibson City or areas lying within **one and one-half (1 ½) miles** of the corporate limits of the City.

40-10-6 SPECIAL USE PERMIT APPLICATION.

- (A) To obtain special use approval, the Applicant must first submit a special use permit application to the City Zoning Board of Appeals and City Council.
- (B) The special use permit application shall contain or be accompanied by the following information:
 - (1) A WECS Project summary or Wind Tower summary, including, to the extent available: (1) a general description of the project, including its approximate name plate generating capacity; the potential equipment manufacturer(s), type(s) of WECS(s), maximum number of WECSs, and approximate name plate generating capacity of each WECS; the maximum height of the WECS Tower(s) and maximum diameter of the WECS(s) rotor(s); the general location of the project; and (2) a description of the Applicant, Owner and Operator, including their respective business structures;

- (2) The name(s), address(es), and phone number(s) of the Applicant(s), Owner and Operator, and all property owner(s), if known;
- (3) A site plan for the installation of WECSs or Wind Tower showing the planned location of each WECS Tower, Wind Tower, guy lines and anchor bases (if any), Primary Structure(s), property lines (including identification of adjoining properties), setback lines, public access roads and turnout locations, Substations(s), electrical cabling from the WECS Tower and/or Wind Tower to the Substation(s), ancillary equipment, third party transmission lines, and layout of all structures within the geographical boundaries of any applicable setback;
- (4) All required studies, reports, certifications, and approvals demonstrating compliance with the provisions of this Article;
- (5) Financial assurance that the project can be developed as proposed; and
- (6) Any other information normally required by the city as part of its Zoning Code.

(C) The Applicant shall notify the City of any material changes to the information provided in **Section 40-10-5(B)** above that occur while the special use permit application is pending.

40-10-7

DESIGN AND INSTALLATION.

(A) Design Safety Certification.

- (1) WECS(s) and/or Wind Towers shall conform to applicable industry standards, including those of the American National Standards Institute ("ANSI"). Prior to the issuance of construction permits, Applicant shall submit certificates of design compliance that equipment manufacturers have obtained from Underwriters Laboratories ("UL"), Det Norske Veritas ("DNV"), Germanischer Lloyd Wind Energie ("GL"), or an equivalent third party. All turbines shall be new equipment commercially available; no used or experimental equipment shall be approved by the Building Inspector or the Zoning Board of Appeals without the issuance of a variance.
- (2) Following the granting of the special use permit under this Article, a Professional Engineer shall certify, as part of the construction permit application that the foundation and tower design of the WECS is within accepted professional standards, given local soil and climate conditions.

(B) **Controls and Brakes.** All WECS and/or Wind Towers shall be equipped with a braking system that conforms to applicable industry standards.

(C) **Electrical Components.** All electrical components of the WECS and/or Wind Towers shall conform to applicable codes and standards.

(D) **Color.** WECS towers and blades shall be painted white or gray or another non-reflective, unobtrusive color to be approved by the City Building Inspector.

(E) **Compliance with the Federal Aviation Administration.** The WECS and/or Wind Towers shall comply with all applicable FAA requirements.

(F) **Lighting.** Projects shall utilize minimal lighting. No exterior tower lighting other than normal security lighting shall be permitted except as may be required by the FAA.

(G) Warnings.

- (1) A reasonably visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.

(H) **Compliance with Additional Regulations.** Nothing in this Article is intended to preempt other applicable state and federal laws and regulations.

(I) **Term.** Notwithstanding any other provisions of the County Zoning Code, a special use permit for a WECS and/or Wind Tower shall be effective and may be relied upon so long as construction of the WECS is commenced within **thirty-six (36) months** after issuance of the special use permit, which period may be extended by the Zoning Board of Appeals without further public hearing.

40-10-8 OPERATION.

(A) **Maintenance.** Any physical modification to the WECS and/or Wind Tower that alters the mechanical load, mechanical load path, or major electrical components shall require re-certification under **Section 40-10-6(A)(1)** of this Article. Like-kind replacements shall not require re-certification. Prior to making any physical modification (other than a like-kind replacement), the Owner or Operator shall confer with a relevant third-party certifying entity identified in **Section 40-10-6(A)(1)** of this Article to determine whether the physical modification require re-certification.

(B) **Materials Handling, Storage and Disposal.**

- (1) All solid wastes related to the construction, operation and maintenance of the WECS and/or Wind Tower shall be removed from the site promptly and disposed of in accordance with all federal, state and local laws.
- (2) All hazardous materials related to the construction, operation and maintenance of the WECS and/or Wind Tower shall be handled, stored, transported and disposed of in accordance with all applicable local, state and federal laws.

40-10-9 PUBLIC PARTICIPATION. Nothing in this Article is meant to augment or diminish existing opportunities for public participation in the City's consideration of the special use application.

40-10-10 LIABILITY INSURANCE AND INDEMNIFICATION.

(A) Commencing with the issuance of construction permits, the Applicant, Owner or Operator of the WECS(s) and/or Wind Tower shall maintain a current general liability policy covering bodily injury and property damage with limits of at least \$1 million per occurrence. Such insurance may be provided, pursuant to a plan of self insurance, by a party with a net worth of \$50 million or more. The City shall be named as an additional insured on the policy to the extent the City is entitled to indemnification in accordance with **Section 40-10-11(B)**. In the case of a single Wind Tower, the Zoning Board of Appeals and City Council may elect to reduce such insurance amounts. Said liability policy shall be submitted to the Building Inspector on an annual basis.

(B) Applicant, Owner or Operators shall defend, indemnify and hold harmless the City and its officials, employees and agents (collectively and individually, the "Indemnified Parties") from and against any and all claim, demands, losses, suits, causes of action, damages, injuries, costs, expenses and liabilities whatsoever, including reasonable attorney's fees, except to the extent arising in whole or in part out of the negligence or intentional acts of such Indemnified Parties (such liabilities together known as "liability") arising out of Applicant, Owner or Operators selection, construction, operation and removal of the WECS and/or Wind Tower and affiliated equipment including, without limitation, liability for property damage or personal injury (including death), whether said liability is premised on contract or on tort (including without limitation strict liability or negligence). This general indemnification shall not be construed as limiting or qualifying the City's other indemnification rights available under the law.

40-10-11 REMEDIES.

(A) The Applicant's, Owner's, or Operator's failure to materially comply with any of the above provisions shall constitute a default under this Article. Approval of the conditional use for a WECS and/or Wind Tower shall be deemed conclusive evidence that the Applicant, Owner, or Operator has complied with the above provisions with respect to application for and approval of such special use.

(B) Prior to implementation of the existing City procedures for the resolution of such default(s), the City shall first provide written notice to the Owner and Operator, setting forth the alleged default(s). Such written notice shall provide the Owner and Operator a reasonable time period, not to exceed **sixty (60) days**, for good faith negotiations to resolve the alleged default(s).

(C) If after the **sixty (60) day** period: (i) the Applicant, Owner, or Operator has not cured the alleged default, or (ii) the City determines in its discretion, that the parties cannot resolve the alleged default(s) within the good faith negotiation period, the existing City ordinance provisions addressing the resolution of such default(s) shall govern.

(Ord. No. 2019-11; 05-28-19)

ARTICLE XI – STANDARDS FOR SOLAR ENERGY SYSTEMS

40-11-1 DEFINITIONS.

Active Solar Energy System: A solar energy system whose primary purpose is to harvest energy by transforming solar energy into another form of energy or transferring heat from a collector to another medium using mechanical, electrical, or chemical means.

Building-Integrated Solar Energy Systems: An active solar energy system that is an integral part of a principal or accessory building, rather than a separate mechanical device, replacing or substituting for an architectural or structural component of the building. Building-integrated system include but not limited to photovoltaic or hot water solar energy systems that are contained within roofing materials, windows, skylights and awnings.

Grid-Intertie Solar Energy System: A photovoltaic solar energy system that is connected to an electric circuit served by an electric utility company.

Ground Mount: A solar energy system mounted on a rack or pole that rests on or is attached to the ground.

Off-Grid Solar Energy System: A photovoltaic solar energy system in which the circuits energized by the solar energy system are not electrically connected in any way to electric circuits that are served by an electric utility company.

Passive Solar Energy System: A solar energy system that captures solar light or heat without transforming it to another form of energy or transferring the energy via a heat exchanger.

Photovoltaic System: An active solar energy system that converts solar energy directly into electricity.

Pollinator Plants: Pollinator plants shall be those plants designated on the United States Department of Agriculture Natural Resources Conservation Service pollinator plant list.

Renewable Energy Easement, Solar Energy Easement: An easement that limits the height or location, or both, of permissible development on the burdened land of a structure or vegetation, or both, for the purpose of providing access for the benefited land to wind or sunlight passing over the burdened land.

Roof-Mount: A solar energy system that is mounted on a rack that is fastened onto a building roof.

Solar Access: Unobstructed access to direct sunlight on a lot or building through the entire year, including access across adjacent parcel air rights, for the purpose of capturing direct sunlight to operate a solar energy system.

Solar Collector: An assembly, structure, and the associated equipment and housing, designed for gathering, concentrating, or absorbing direct and indirect solar energy for which the primary purpose is to convert or transform solar radiant energy into thermal, mechanical, chemical or electrical energy.

Solar Energy: Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

Solar Energy System (SES): All components required to become a complete assembly for structure that will convert solar energy into electricity for use.

Solar Energy System Addition: A private solar energy system which is structurally attached to a building or structure on a zoning lot on which said system is located. Said system shall be considered part of the building and shall comply with all provisions of this Article pertaining thereto.

Solar Energy System, Private: A collection of **one (1)** or more solar collectors designed for use by the occupant(s) of the zoning lot on which said system is located; excess power generation is limited to net metering or similar technology with regulations set by the local power utility, community, county, and state. Private solar energy system equipment shall conform to applicable industry standards, and applicants for building permits for private solar energy systems shall submit certificates from equipment manufactures that the equipment is manufactured in compliance with industry standards.

Solar Farm: A commercial facility either more than **twenty (20) acres** in size or more than **two (2)** megawatts a/c in capacity that converts sunlight into electricity, whether by photovoltaic (PV), concentrating solar thermal devices (CST), or other conversion technology, for the primary purpose of wholesale sales of generated electricity. A solar farm is the principal land use for the parcel on which it is located.

Solar Garden: A commercial solar-electric (photovoltaic) array, of no more than **twenty (20) acres** in size and **two (2)** megawatts or less a/c in capacity, that provides retail electric power (or a financial proxy for retail power) to multiple households or businesses residing in or located off-site from the location of the solar energy system. A county solar garden may be either an accessory use, when a part of existing or a proposed subdivision or a special use if it is a stand-alone garden.

Solar Heat Exchanger: A component of a solar energy device that is used to transfer heat from one substance to another.

Solar Hot Air System: An active solar energy system (also referred to as Solar Air Heat or Solar Furnace) that includes a solar collector to provide direct supplemental space heating by heating and recirculating conditioned building air.

Solar Hot Water System: A system (also referred to as Solar Thermal) that includes a solar collector and a heat exchanger that heats or preheats water for building heating systems or other hot water needs, including residential domestic hot water and hot water for commercial processes.

Solar Mounting Devices: Racking, frames, or other devices that allow the mounting of a solar collector onto a roof surface or the ground.

Solar Storage Unit: A component of a solar energy device that is used to store solar generated electricity or heat for later use.

40-11-2 BUILDING PERMIT REQUIREMENTS AND FEES. All Solar Energy Systems (SES) will be required to have a City of Gibson Building Permit before any work can be started. A written plan and a plat/drawing for the proposed Solar Energy System shall be provided with the Building Permit Application. The plat/drawing must show the location of the system on the building or on the property, (for a ground-mount system show arrangement of panels), with all property lines and setback footages indicated. Fees for processing the applications for building permits shall be submitted to and collected by the City of Gibson as follows:

| | |
|----------------------------|---|
| 0-10 kilowatts (kW) | \$150.00 |
| 11-50 kilowatts (kW) | \$300.00 |
| 51-100 kilowatts (kW) | \$600.00 |
| 101-500 kilowatts (kW) | \$1,200.00 |
| 501-1,000 kilowatts (kW) | \$2,750.00 |
| 1,001-2,000 kilowatts (kW) | \$6,000.00 |
| Over 2,000 kilowatts (kW) | \$6,000.00 + \$200.00 for each additional 0-100 kilowatts |

Any SES that construction has started before a Building Permit has been applied and paid for will be charged double the permit fee.

40-11-3 SETBACK REQUIREMENTS.

(A) Setback requirements for all Solar Energy Systems (SES) shall meet the structure minimum setback requirements when the SES is oriented at any and all positions.

(B) No solar energy system shall be allowed to be placed in the front yard of any residentially used or zoned property and such systems shall be subject to a **five (5) foot** rear yard setback and a **five (5) foot** side yard setback. Such Ground Mounted Systems shall not exceed **twelve (12) feet** in height.

(C) Roof mounted solar energy systems shall not extend beyond the exterior perimeter of the building on which the system is mounted.

40-11-4 HEIGHT REQUIREMENTS.

(A) Building or roof mounted solar energy systems shall not exceed the maximum allowed height in any Zoning District, of the City Zoning Code, except that Roof Mounted Solar Energy Systems installed in residentially zones and business district zones shall not exceed **four (4) feet** above a flat roof and shall not exceed **two (2) feet** above a sloped roof. For the purposes of this Section a flat roof shall be one that is sloped **five (5) degrees** or less and a sloped roof shall be one that is sloped more than **five (5) degrees**.

(B) In Business, Agricultural and Manufacturing Districts roof mounted SES may not exceed **six (6) feet** above the peak or highest point of the roof.

40-11-5 OTHER REQUIREMENTS.

(A) Upon request from the City Building Inspector, an owner of a commercial Solar Energy System must provide documentation, within **thirty (30) days**, that the Solar Energy System is still in use. If it is not, the owner of the System will have **one hundred eighty (180) days**, after notification from the Zoning Department, to remove.

(B) Upon request from the City Building Inspector, the owner or operator of a Solar Farm or a Solar Garden must submit, within **fourteen (14) days**, a current operation and maintenance report to the Department.

(C) For any Ground Mounted Solar System in excess of **ten (10) kilowatt**, a **six (6) foot** security fence with lockable gate(s) shall be installed around the entire perimeter, otherwise, no fencing is required. Any fence shall contain appropriate warning signage that is posted such that is clearly visible on the site.

(D) Any lighting for Solar Farms/Gardens shall be installed for security and safety purposes only. Except for lighting that is required by the FCC or FAA, all lighting shall be shielded so that no glare extends substantially beyond the boundaries of the facility.

(E) Reflection angles for solar collectors shall be oriented such that they do not project glare onto adjacent properties.

(F) Electric solar energy system components must have a UL listing and must be designed with anti-reflective coating(s).

(G) Solar Energy Systems must be in compliance with ALL State of Illinois Building, Electric, Plumbing and Energy Codes.

(H) Pollinator plants customarily utilized in the region shall be planted and properly maintained in all areas where practicable.

40-11-6 DESIGN STANDARDS. Active solar energy systems shall be designed to conform to the county comprehensive plan and to blend into the architecture of the building or may be required to be screened from routine view from public right-of-ways other than alleys. Screening may be required to the

extent it does not affect the operation of the system. The color of the solar collector is not required to be consistent with other roofing materials.

(A) **Building Integrated Photovoltaic Systems.** Building integrated photovoltaic solar energy systems shall be allowed regardless of whether the system is visible from the public right-of-way, provided the building component in which the system is integrated meets all required setback, land use or performance standards for the district in which the building is located.

(B) **Solar Energy Systems with Mounting Devices.** Solar energy systems using roof mounting devices or ground-mount solar energy systems shall not be restricted if the system is not visible from the closest edge of any public right-of-way or immediately adjacent to a residential structure.

(C) **Reflectors.** All solar energy systems using a reflector to enhance solar production shall minimize glare from the reflector affecting adjacent or nearby properties. Measures to minimize glare include selective placement of the system, screening on the north side of the solar array, modifying the orientation of the system, reducing use of the reflector system, or other remedies that limit glare.

(D) **Aviation Protection.** For solar units located within **five hundred (500) feet** of an airport or within approach zones of an airport, the applicant must complete and provide the results of the Solar Glare Hazard Analysis Tool (SGHAT) for the Airport Traffic Control Tower cab and final approach paths, consistent with the Interim Policy, FAA Review of Solar Energy Projects on Federally.

40-11-7 OBLIGATED AIRPORTS, OR MOST RECENT VERSION ADOPTED BY THE FAA.

Coverage: Roof or building mounted solar energy systems, excluding building-integrated systems, shall allow for adequate roof access for firefighting purposes to the south-facing or flat roof upon which the panels are mounted. Ground-mount private solar energy systems shall be exempt from impervious surface calculations if the soil under the collector is not compacted and maintained in vegetation. Foundations, gravel, or compacted soils are considered impervious.

Plan Approval Required: All solar energy systems shall require administrative plan approval by the City Building Inspector via the review of the application for a building permit.

(A) **Plan Applications.** Plan applications for solar energy systems shall be accompanied by horizontal and vertical (elevation) drawings. The drawings must show the location of the system on the building or on the property for a ground-mount system, including the property lines.

(1) **Pitched Roof Mounted Solar Energy Systems.** For all roof-mounted systems other than a flat roof the elevation must show the highest finished slope of the solar collector and the slope of the finished roof surface on which it is mounted.

(2) **Flat Roof Mounted Solar Energy Systems.** For flat roof applications a drawing shall be submitted showing the distance to the roof edge and any parapets on the building and shall identify the height of the building on the street frontage side, the shortest distance of the systems from the street frontage edge of the building, and the highest finished height of the solar collector above the finished surface of the roof.

(B) **Plan Approvals.** Applications that meet the design requirements of this Article, and do not require an administrative variance, shall be granted administrative approval by the Director of Community Development and shall not require Planning and Zoning Committee review. Plan approval does not indicate compliance with Building Code or Electric Code.

40-11-8 APPROVED SOLAR COMPONENTS. Electric solar energy system components must have a UL listing or approved equivalent and solar hot water systems must have an SRCC rating.

40-11-9 COMPLIANCE WITH BUILDING CODE. All active solar energy systems shall meet approval of county building code officials, consistent with the State of Illinois Building Code and solar thermal system shall comply with HVAC-related requirements of the Energy Code. Any county adopted building codes will apply and take precedence where applicable.

40-11-10 COMPLIANCE WITH STATE ELECTRIC CODE. All photovoltaic systems shall comply with the Illinois State Electric Code.

40-11-11 COMPLIANCE WITH STATE PLUMBING CODE. Solar thermal systems shall comply with applicable Illinois State Plumbing Code requirements.

40-11-12 COMPLIANCE WITH STATE ENERGY CODE. All photovoltaic systems and solar thermal systems shall comply with the Illinois State Energy Code.

40-11-13 UTILITY NOTIFICATION. All grid-intertie solar energy systems shall comply with the interconnection requirements of the electric utility. Off-grid systems are exempt from this requirement.

40-11-14 PRINCIPAL USES. Ford County encourages the development of commercial or utility scale solar energy systems where such systems present few land use conflicts with current and future development patterns. Ground-mounted solar energy systems that are the principal use on the zoning lot or lots are special uses in selected districts.

40-11-15 ROOFTOP GARDENS PERMITTED. Rooftop community systems are permitted in all zoning districts where buildings are permitted.

40-11-16 GROUND-MOUNT GARDENS. Ground-mount community solar energy gardens must be less than **twenty (20) acres** in total size. Ground-mount solar developments covering more than **twenty (20) acres** shall be considered solar farms.

40-11-17 STORMWATER. Solar gardens are subject to the City's Stormwater Management regulations, erosion and sediment control provisions.

40-11-18 INTERCONNECTION. An interconnection agreement must be completed with the electric utility in whose service territory the system is located prior to construction.

40-11-19 OTHER STANDARDS. Ground-mount systems must comply with all required standards for structures in the district in which the system is located. All solar gardens shall also be in compliance with all applicable local, state and federal regulatory codes, including the State of Illinois Uniform Building Code, as amended; and the National Electric Code, as amended. Also, Health Department requirements for wells and septic systems must be met.

(A) **Solar Farms.** Ground-mount solar energy systems that are the primary use on the lot, designed for providing energy to off-site uses or export to the wholesale market, are permitted under the following standards:

- (1) **Special Use Permit.** Solar farms are special uses in agricultural district.
- (2) **Stormwater.** Solar farms are subject to the City's Stormwater Management regulations, erosion and sediment control provisions.
- (3) **Ground Cover and Buffer Areas.** Top soils shall not be removed during development, unless part of a remediation effort. Soils shall be planted to and maintained in perennial vegetation to prevent erosion, manage run off and build soil. The City has a Noxious Weed Ordinance which is to be

followed subject to the allowance of the planting of Pollinator plants as otherwise provided under this Article. Due to potential liability under the Illinois Endangered Species Protection Act (**520 ILCS 10/11(b)**) it is required that any crops planted be in compliance with all federal and state laws protecting endangered species. This will also include pollinators such as bees.

- (4) **Foundations.** A qualified engineer shall certify that the foundation and design of the solar panels racking and support is within accepted professional standards, given local soil and climate conditions.
- (5) **Other Standards and Codes.** All solar farms shall be in compliance with all applicable local, state and federal regulatory codes, including the State of Illinois Uniform Building Code, as amended; and the National Electric Code, as amended.
- (6) **Power and Communication Lines.** Power and communication lines running between banks of solar panels and to nearby electric substations or interconnections with buildings shall be buried underground. Exemptions may be granted by the City in instances where shallow bedrock, water courses, or other elements of the natural landscape interfere with the ability to bury lines, or distance makes undergrounding infeasible, at the discretion of the City Superintendent in consultation with the Mayor. In addition, the Illinois Department of Agriculture (IDOA) has established standards and policies in the Agricultural Impact Mitigation Agreements (AIMA) regarding the construction or burial of electric transmission lines which should be agreed to and adhered to between the landowner and the developer.
- (7) **Site Plan Required.** A detailed site plan for both existing and proposed conditions must be submitted, showing location of all solar arrays, other structures, property lines, rights-of-way, service roads, floodplains, wetlands and other protected natural resources, topography, farm tile, electric equipment, fencing, and screening materials and all other characteristics requested by the City. The site plan should also show all zoning districts, and overlay districts. The City will retain the authority to suspend any requirement for any studies or plans for purposes of permit approval so long as such studies and/or plans are completed and approved by time of construction.
- (8) **Aviation Protection.** For approach zones of an airport, the applicant must complete and provide the results of the Solar Glare Hazard Analysis Tool (SGHAT) for the Airport Traffic Control Tower cab and final approach paths, consistent with the Interim Policy, FAA Review of Solar Energy Projects on Federally Obligated Airports, or most recent version adopted by the FAA.

40-11-20

LIABILITY INSURANCE AND INDEMNIFICATION.

(A) For Private/Individual SES(s), commencing with the issuance of building permits, the Applicant or Owner shall maintain a current liability policy of at least **One Million Dollars (\$1,000,000.00)** covering bodily injuries and any damage that may occur, on their home owner's policy or other applicable policy as approved by the Director of Community Development. A copy of said liability policy shall be submitted to the Building Inspector on an annual basis.

(B) Any SES(s), Applicant, Owner, or Operator, whether individual or commercial, shall defend, indemnify, and hold harmless the County and its officials, employees, and agents (collectively and individually, the "Indemnified Parties") from and against any and all claims, demands, losses, suits, causes of actions, damages, injuries, costs, expenses, and liabilities whatsoever, including reasonable attorney's fees, except to the extent arising in whole or part out of negligence or intentional acts of such Indemnified Parties (such liabilities together known as "liability") arising out of Applicant, Owner, or Operators selection,

construction, operation, and removal of the SES(s) and affiliated equipment including, without limitation, liability for property damage or personal injury (including death), whether said liability is premised on contract or on tort (including without limitation strict liability or negligence). This general indemnification shall not be construed as limited or qualifying the county's other indemnification rights available under the law.

(Ord. No. 2019-11; 05-28-19)

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