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MUNICIPAL CODE

CITY OF

ROCHELLE, ILLINOIS

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CITY OF
ROCHELLE, ILLINOIS

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PREFACE

This Code constitutes a recodification of the general and permanent ordinances of the City of Rochelle, Illinois.

Source materials used in the preparation of the Code were the 1996 Rochelle Municipal Code, as supplemented in January 2003, and ordinances subsequently adopted by the city council. The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code. By use of the comparative tables appearing in the back of this Code, the reader can locate any section of the 1996 Rochelle Municipal Code, as supplemented, and any subsequent ordinance included herein.

The chapters of the Code have been conveniently arranged in alphabetical order, and the various sections within each chapter have been catchlined to facilitate usage. Notes which tie related sections of the Code together and which refer to relevant state law have been included. A table listing the state law citations and setting forth their location within the Code is included at the back of this Code.

Chapter and Section Numbering System

The chapter and section numbering system used in this Code is the same system used in many state and local government codes. Each section number consists of two parts separated by a dash. The figure before the dash refers to the chapter number, and the figure after the dash refers to the position of the section within the chapter. Thus, the second section of chapter 1 is numbered 1-2, and the first section of chapter 6 is 6-1. Under this system, each section is identified with its chapter, and at the same time new sections can be inserted in their proper place by using the decimal system for amendments. For example, if new material consisting of one section that would logically come between sections 6-1 and 6-2 is desired to be added, such new section would be numbered 6-1.5. New articles and new divisions may be included in the same way or, in the case of articles, may be placed at the end of the chapter embracing the subject, and, in the case of divisions, may be placed at the end of the article embracing the subject. The next successive number shall be assigned to the new article or division. New chapters may be included by using one of the reserved chapter numbers. Care should be taken that the alphabetical arrangement of chapters is maintained when including new chapters.

SUPPLEMENT HISTORY TABLE

The table below allows users of this Code to quickly and accurately determine what ordinances have been considered for codification in each supplement. Ordinances that are of a general and permanent nature are codified in the Code Book and are considered "Includes." Ordinances that are not of a general and permanent nature are not codified in the Code Book and are considered "Omits."

In addition, by adding to this table with each supplement, users of this Code of Ordinances will be able to gain a more complete picture of the Code's historical evolution.

Ord. No.	Date Adopted	Included / Omitted	Supplement
10-3916	4-26-2010	Included	7
10-3946	8- 9-2010	Included	7
10-3960	10-12-2010	Included	7
10-3971	11- 8-2010	Included	7
10-3977	11-22-2010	Included	7
10-3990	12-13-2010	Included	7

10-3991	12-13-2010	Included	7
11-4006	2-14-2011	Included	7
11-4008	2-14-2011	Included	7
11-4011	2-28-2011	Included	7
11-4019	3-14-2011	Included	7
11-4032	3-28-2011	Included	7
11-4051	4-25-2011	Included	7
06-3388	2-13-2006	Included	8
11-4061	5-23-2011	Included	8
11-4066	6-13-2011	Included	8
11-4084	8-22-2011	Included	8
12-4131	1- 9-2012	Included	8
12-4136	1- 9-2012	Included	8
12-4142	1-23-2012	Included	8
12-4169	4-23-2012	Included	9
12-4171	4-23-2012	Included	9
12-4176	5-14-2012	Included	9
12-4186	5-28-2012	Included	9
12-4190	6-11-2012	Included	9
12-4191	6-11-2012	Included	9
12-4208	7-23-2012	Included	9
12-4209	7-23-2012	Included	9
12-4210	7-23-2012	Included	9
12-4228	9-10-2012	Included	9
12-4235	10-22-2012	Included	9
12-4255	11-13-2012	Included	9
12-4260	11-26-2012	Included	9
13-4283	1-28-2013	Included	9

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Chapter 1 -

GENERAL PROVISIONS

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Sec. 1-1. - HOW CODE DESIGNATED AND CITED; REFERENCES TO CODE.

This Code shall be known as the "Rochelle Municipal Code" and it shall be sufficient to refer to said Code as the "Rochelle Municipal Code" in any prosecution for the violation of any provision thereof or in any proceeding at law or equity. This Code may also be referred to as the "Municipal Code, City of Rochelle, Illinois." It shall be sufficient to designate any ordinance adding to, amending, correcting or repealing all or any part or portion thereof as an addition to, amendment to, correction or repeal of the "Rochelle Municipal Code." Further references may be had to the chapters, articles, divisions and sections and subsections of the "Rochelle Municipal Code" and such references shall apply to that numbered chapter, article, division, section or subsection as it appears in the Code.

(Code 1996, § 1.00.020)

Sec. 1-2. - CODIFICATION AUTHORITY.

This Code consists of all the regulatory and penal ordinances and certain of the administrative ordinances of the city codified pursuant to the provisions of 65 ILCS 5/1-2-3.

(Code 1996, § 1.00.030)

Sec. 1-3. - REFERENCES AND NOTES.

Cross references, state law references, editor's notes and history notes are by way of explanation only and shall not be deemed a part of the text of any section.

Sec. 1-4. - REFERENCES TO SPECIFIC ORDINANCES.

The provisions of this Code shall not in any manner affect matters of record which refer to or are otherwise connected with ordinances which are therein specifically designated by number or otherwise and which are included within the Code, but such reference shall be construed to apply to corresponding provisions contained within this Code.

(Code 1996, § 1.00.070)

Sec. 1-5. - EFFECT OF CODE ON PAST ACTIONS AND OBLIGATIONS.

Neither the adoption of this Code nor the repeal or amendment hereby of any ordinance or part or portion of any ordinance of the city shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date of this Code, nor be construed as a waiver of any license, fee, or penalty at said effective date due and unpaid under such ordinances, nor be construed as affecting any of the provisions of such ordinances relating to the collection of any license, fee, or penalty, or the penal provisions applicable to any violation thereof, nor to affect the validity of any bond or cash deposit in lieu thereof required to be posted, filed or deposited pursuant to any ordinance, and all rights and obligations thereunder appertaining shall continue in full force and effect. (Code 1996, § 1.00.080)

Sec. 1-6. - SEVERABILITY OF PARTS OF CODE.

If any section, subsection, sentence, clause or phrase of this Code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Code. The council declares that it would have passed this Code, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases had been declared invalid or unconstitutional, and if for any reason this Code should be declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect. (Code 1996, §§ 1.00.100, 1.05.030)

Sec. 1-7. - DEFINITIONS AND RULES OF CONSTRUCTION.

In the interpretation and construction of this Code, the following definitions and rules of construction shall be observed, unless they are inconsistent with the manifest intent of the city council or the context clearly requires otherwise:

Action. The term "action" includes suits, prosecutions, and all judicial proceedings.

City and this city. The terms "city" and "this city" mean the City of Rochelle, Illinois.

Code and this Code. The terms "Code" and "this Code" mean the Rochelle Municipal Code.

Computation of time. The time within which any act provided by law is to be done shall be computed by excluding the first day and including the last, unless the last day is Saturday or Sunday or is a holiday as defined or fixed in any statute now or hereafter in force in the state, and then it shall also be excluded. If the day succeeding such Saturday, Sunday or holiday is also a holiday or a Saturday or Sunday, then such succeeding day shall also be excluded.

State law reference— Similar provisions, 5 ILCS 70/1.11.

Council and the council. The terms "council" and "the council" mean the councilmembers and mayor of the city.

County and this county. The terms "county" and "this county" mean Ogle County in the State of Illinois.

Court. The term "court" includes all courts of record.

Gender. Words importing a particular gender shall include the masculine, feminine, and neuter.

State law reference— Similar provisions, 5 ILCS 70/1.04.

ILCS. The abbreviation "ILCS" means the Illinois Compiled Statutes, as amended.

In the city and within the city. The terms "in the city" and "within the city" mean and include all territory over which the city now has or shall hereafter acquire jurisdiction for the exercise of its police powers or other regulatory powers.

Joint authority. Words purporting to give a joint authority to three or more public officers or other persons shall be construed as giving such authority to a majority of such officers or persons.

State law reference— Similar provisions, 5 ILCS 70/1.09.

Month. The term "month" means a calendar month.

State law reference— Similar provisions, 5 ILCS 70/1.10.

Number. Words importing the singular number may extend and be applied to several persons or things, and words importing the plural may include the singular.

State law reference— Similar provisions, 5 ILCS 70/1.03.

Oath, sworn, affirmed. The term "oath" shall be deemed to include an affirmation, and the term "sworn" shall be construed to include the term "affirmed."

State law reference— Similar provisions, 5 ILCS 70/1.12.

Occupant and tenant. The terms "occupant" and "tenant," when applied to a building or land, mean any person who holds a written or an oral lease of or actually occupies the whole or a part of such building or land, either alone or with others.

Officer, employee, department, board, commission or agency. Whenever the title of any city officer, employee, department, board, commission or agency is used, it shall be construed as if the words "of the City of Rochelle" followed it.

Or, and. The term "or" may be read as the term "and" and the term "and" may be read as The term "or," if the sense requires it.

Owner. The term "owner," when applied to a building or land, includes any part owner, joint owner, tenant in common, tenant in partnership, joint tenant of the whole or a part, or the holder of any legal or beneficial interest of such building or land.

Person. The term "person" means any individual, partnership, limited liability company, corporation, joint stock association or any city or state, or any subdivision thereof; and includes any trustee, receiver, assignee or personal representative thereof.

Personal property. The term "personal property" includes every species of property, except real property as defined by this section.

Preceding and following. The terms "preceding" and "following" mean next before and next after, respectively.

Property. The term "property" includes real and personal property.

Real property. The term "real property" includes lands, tenements, and fixtures and shall embrace all chattels real.

Seal. The term "seal" means the seal of the city.

Shall, may. The term "shall" is mandatory; the term "may" is permissive.

Sidewalk. The term "sidewalk" means that portion of a street between the curblines or the lateral lines of a roadway and the adjacent property lines, intended for the use of pedestrians.

State and this state. The terms "state" and "this state" mean the State of Illinois.

Street. The term "street" means the entire width between property lines of every way or place, of whatever nature, when any part thereof is open to the use of the public as a matter of right for purposes of vehicular traffic.

Tense. Words in the present tense include the future.

State law reference— Similar provisions, 5 ILCS 70/1.02.

Wholesaler, wholesale dealer. In all cases where the terms "wholesaler" and "wholesale dealer" are used in this Code, unless otherwise specifically defined, they shall be understood to relate to the sale of goods, merchandise, articles or things in quantity to persons who purchase for the purpose of resale, as distinguished from a retail dealer who sells in smaller quantities direct to the consumer.

Written and in writing. The terms "written" and "in writing" may include printing, electronic, and any other mode of representing words and letters; but when the written signature of any person is required by law on any official or public writing or bond, required by law, it shall be:

- (1) The proper handwriting of such person or, in case he is unable to write, his proper mark; or
- (2) An electronic signature as defined in the Electronic Commerce Security Act, 5 ILCS 175/1-1-101 et seq., except as otherwise provided by law.

State law reference— Similar provisions, 5 ILCS 70/1.15.

Year. The term "year" means a calendar year unless otherwise expressed.

State law reference— Similar provisions, 5 ILCS 70/1.10.

(Code 1996, § 1.05.010)

Sec. 1-8. - CHAPTER, ARTICLE, DIVISION AND SECTION HEADINGS AND CATCHLINES.

(a) The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

(b) Chapter, article, division and section headings contained in this Code shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any chapter, article, division or section hereof.

(Code 1996, §§ 1.00.060, 1.05.020)

Sec. 1-9. - CONSTRUCTION OF PROVISIONS.

The provisions appearing in this Code, so far as they are substantially the same as those of previous municipal codes of the city and those of all other ordinances existing at the time of the adoption of this Code, shall be construed as a continuation thereof and not as new enactments.

(Code 1996, § 1.05.040)

Sec. 1-10. - AMENDMENTS DEEMED INCORPORATED IN CODE.

Any additions or amendments to this Code, when passed in such form as to indicate the intention of the city council to make the same a part of this Code, shall be deemed to be incorporated in this Code so that a reference to the Code shall be understood to include them.

(Code 1996, § 1.05.050)

Sec. 1-11. - SUPPLEMENTATION OF CODE.

(a) By contract or by city personnel, supplements to this Code shall be prepared and printed when directed by the city manager. A supplement to the Code shall include all substantive parts of permanent and general ordinances passed by the city council during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages that have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In preparing a supplement to this Code, all portions of the Code that have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.

(c) When preparing a supplement to this Code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

- (1) Organize the ordinance material into appropriate subdivisions;
- (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement and make changes in such catchlines, headings and titles;
- (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;
- (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ to _____" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code); and
- (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections or the alphabetical arrangement of new chapters inserted into the Code, but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

Sec. 1-12. - ORDINANCES NOT AFFECTED BY ADOPTION OF CODE.

The repeal provided for in the ordinance adopting this Code shall not affect any of the following:

- (1) Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this Code. If any penalty, forfeiture or punishment is mitigated by any provision of a new ordinance, such provision may be, by the consent of the party affected, applied to any judgment announced after the new ordinance takes effect.
- (2) Any ordinance or resolution promising or guaranteeing the payment of money for the city, or authorizing the issuance of any bonds of the city or any evidence of the city's indebtedness, or any contract or obligation assumed by the city.
- (3) Any ordinance dedicating, accepting the dedication of, naming, establishing, locating, opening, paving, widening, vacating, etc., any street, alley, public way or public park in the city.
- (4) Any appropriation or budget ordinance.
- (5) Any ordinance levying or imposing taxes or special assessments, or authorizing tax fund transfers, not inconsistent with this Code.
- (6) Any ordinance rezoning specific property, or any amendment thereto.
- (7) Any ordinance establishing or prescribing grades in the city.
- (8) Any ordinance providing for local improvements and assessing taxes therefor.
- (9) Any ordinance dedicating or accepting any plat or subdivision in the city.
- (10) Any ordinance extending or contracting the boundaries of the city.
- (11) Any ordinance prescribing personnel rules or regulations or compensation for city officers or employees, not inconsistent with this Code.
- (12) Any ordinance declaring certain property to be a public nuisance and authorizing procedures for the demolition of the property.
- (13) Any ordinance adopted by reference by any section of this Code, or any amendments to such ordinances.
- (14) Any ordinance establishing fire lanes on private property.
- (15) Any ordinance respecting conveyance or acceptance of real property or easements in real property.
- (16) Any ordinance relating to the conduct, duties, service or rates of public utilities, except as this Code may contain provisions for such matters, in which case this Code shall be considered as amending such ordinance in respect to such provisions only.
- (17) Any ordinance calling an election.

Sec. 1-13. - Court supervision of offenders.

Any person who violates a provision of this Code and court supervision is set forth as a possible disposition, the court may, in addition to other reasonable conditions relating to the nature of the offense or the rehabilitation of the offender, apply the following conditions if supervision is imposed:

- (1) The court shall order a specific period of time of not more than two years for each supervision and further proceedings or judgment will be deferred until the conclusion of that period.
- (2) The court may require the defendant to meet any or all of the following conditions of supervision as it sees fit:
 - a. Report to and participate with the court or other person or social service agency;
 - b. Pay a fine and costs;
 - c. Undergo medical, psychological or psychiatric treatment, or treatment for drug addiction or alcoholism;
 - d. Not possess a firearm or other dangerous weapon;
 - e. If a minor (in addition to any other conditions):
 1. Reside with his parents or in a foster home;
 2. Attend school;
 - f. Make restitution to the victim in an amount equal to any personal injury or property damage caused by the defendant. The court shall determine the amount and conditions of payment;
 - g. Perform public service work;
 - h. Not violate the laws of any state or municipality.
- (3) If, at the conclusion of the period of supervision, the court determines that supervision has successfully been completed, the court shall discharge the defendant and enter a judgment dismissing the charges.
- (4) If the defendant is found by the court to have violated a condition of his supervision, he may be resentenced by the court.
- (5) No person assigned to a public service employment program shall be considered an employee of the city for any purpose, nor shall the city council be obligated to provide any compensation to such person.
- (6) Neither the state, the city, any local unit of government, nor any official or employee thereof acting in the course of his official duties shall be liable for any tortious acts of any person placed on supervision who is given any public service work as a condition of supervision.

(Code 1996, § 1.10.020)

Sec. 1-14. - PROBATION.

Any person who violates a provision of this Code and probation is set forth as a possible disposition, the court may, in addition to other reasonable conditions relating to the nature of the offense or the rehabilitation of the offender, apply the following conditions if probation is imposed:

- (1) A conviction shall be imposed and the court shall order a specific period of time of not more than two years during which the defendant is to be placed on probation.
- (2) The court may require the defendant to meet any or all of the following conditions of probation as it sees fit:
 - a. Report and participate with the court or other person or social service agency;
 - b. Pay a fine and costs;
 - c. Undergo medical, psychological or psychiatric treatment, or treatment for drug addiction or alcoholism;
 - d. Not possess a firearm or other dangerous weapon;
 - e. If a minor (in addition to any other conditions):
 1. Reside with his parents or in a foster home;
 2. Attend school;
 - f. Make restitution to the victim in an amount equal to any personal injury or property damage caused by the defendant. The court shall determine the amount and conditions of payment;
 - g. Perform public service work;
 - h. Not violate the laws of any state or municipality;
 - i. Not leave the state without the consent of the court or a court officer.
- (3) If the defendant is found by the court to have violated a condition of his probation, he may be resentenced by the court.
- (4) If the offense for which the defendant is sentenced is a city misdemeanor offense, the probation may include continuous or periodic incarceration in the city or county jail, up to six months.
- (5) No person assigned to a public service employment program shall be considered an employee of the city for any purpose, nor shall the city council be obligated to provide any compensation to such person.
- (6) Neither the state, the city, any local unit of government, nor any official or employee thereof acting in the course of his official duties shall be liable for any tortious acts of any person placed on supervision who is given any public service work as a condition of supervision.

(Code 1996, § 1.10.030)

Sec. 1-15. - GENERAL PENALTY; CONTINUING VIOLATIONS.

(a) Unless a specific penalty is provided, a violation of any of the provisions contained or incorporated into this Code shall be punishable by a fine of not less than \$50.00, nor more than \$750.00. Unless otherwise provided in this Code, each day any violation of any provision of this Code or of any ordinance shall continue shall constitute a separate offense.

(b) The provisions set forth in section 1-13 relating to supervision and section 1-14 regarding probation shall also apply to city misdemeanor offenses.

(Code 1996, § 1.10.040; Ord. No. 03-3190, 10-14-2003)

Sec. 1-16. - RESTITUTION.

Pursuant to 730 ILCS 5/5-5-6, the restitution provisions contained in 730 ILCS 5/5-6-2, and any amendments thereto, are incorporated into this Code.

(Code 1996, § 1.10.050)

Sec. 1-17. - RECORD AND MEMORANDUM OF ORDINANCES.

All ordinances passed by the city council shall be recorded by the city clerk in a proper book with indexes. The original shall be filed in the office of the city clerk. Due proof of publication of all ordinances requiring publication shall be procured by the clerk, and such proof or affidavit of publication shall be attached to and filed away with the ordinances. The clerk shall also note in his book of ordinances, at the foot of the record of each ordinance, a memorandum of the date of the passage, and, if published or posted, of the date of the publication or posting of such ordinance.

(Code 1996, § 1.15.010)

Sec. 1-18. - EFFECT OF REPEAL OF ORDINANCE.

Whenever an ordinance is repealed or modified by a subsequent ordinance, the ordinance or part of the ordinance thus repealed or modified shall continue in force until the due publication or posting of the ordinance repealing or modifying the same, when such publication or posting is required to give effect thereto, unless otherwise expressly provided therein; but no suit, proceeding, right, fine or penalty instituted or created, given, secured or accrued under any ordinance previous to its repeal shall in any way be affected, released or discharged, but may be prosecuted, enjoyed and recovered as full as if such ordinance had continued in force, unless it shall be therein otherwise expressly provided.

(Code 1996, § 1.15.020)

Sec. 1-19. - PUBLICATION OF ORDINANCES.

Except as otherwise provided by 65 ILCS 5/7-1-2, the city clerk shall cause to be prepared and publish, or make available to the public through the office of the city clerk, all ordinances of the city.

(Code 1996, § 1.15.040)

Sec. 1-20. - CORPORATE SEAL.

(a) *Description.* The corporate seal of the city shall be as follows: a circular disc with an image of a bold elliptical oval with a slanted bold capital R superimposed thereon, together with the words, "Seal of the City of Rochelle, Ogle County, Ill." on the perimeter thereof.

(b) *Custodian.* The city clerk shall be the custodian of the city seal and shall affix its impression on documents whenever this is required.

(Code 1996, §§ 1.20.010, 1.20.020; Ord. No. 06-3444, § 1.20.010, 6-12-2006)

Sec. 1-21. - OFFICIAL TIME.

The official time of the city shall be as designated by federal law.

(Code 1996, § 1.25.010)

Sec. 1-22. - Fee assessed by for certain offenses.

A fee of \$10.00 shall be assessed by the county circuit clerk and paid over to Ogle-Lee Crimestoppers, Inc., for convictions or dispositions of court supervision for the following offenses which are prosecuted by the city:

- (1) Battery;
- (2) Fighting;
- (3) Criminal damage to property;
- (4) Driving under the influence of alcohol or drugs;
- (5) Leaving the scene of a property damage or personal injury accident;
- (6) Illegal transportation of alcohol; and
- (7) Driving while license revoked or suspended.

(Ord. No. 06-3405, § 1.10.060, 3-14-2006)

Chapter 2 - ADMINISTRATION

ARTICLE I. - IN GENERAL
ARTICLE II. - CITY COUNCIL
ARTICLE III. - OFFICERS AND EMPLOYEES
ARTICLE IV. - PERSONNEL POLICIES
ARTICLE V. - BOARDS, COMMISSIONS AND COMMITTEES
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ARTICLE I. - IN GENERAL

Sec. 2-1. - Meetings defined; attendance by electronic means.
Sec. 2-2. - Electronic attendance at meetings rules.
Secs. 2-3—2-30. - Reserved.

Sec. 2-1. - MEETINGS DEFINED; ATTENDANCE BY ELECTRONIC MEANS.

The term "meeting" as used in this Code in reference to meetings of the city council or any committee or subcommittee of the city council, or any board or commission of the city established pursuant to state law or by action of the city council or the mayor (collectively and individually "public body"), shall have the same meaning as in the Illinois Open Meetings Act, 5 ILCS 120/1 et seq., as amended from time to time.

Members of any public body of the city may attend meetings of the public body by electronic means in accordance with applicable state law and rules adopted by the city council and maintained by the clerk.

(Ord. No. 08-3682, § 2 (Exh. A), 5-27-2008)

Sec. 2-2. - ELECTRONIC ATTENDANCE AT MEETINGS RULES.

(a) *Rules statement.* It is the decision of the city that any member of the city council, or any committee, subcommittee, board or commission created by the city council or the mayor (collectively and individually "public body"), may attend any open or closed meeting of the public body via electronic means (such as by telephone, video or internet connection) provided that such attendance is in compliance with these rules and any applicable laws.

(b) *Prerequisites.* A member may attend a meeting electronically if the member meets the following conditions:

- (1) The member should notify the city clerk at least 48 hours before the meeting, unless impractical, so that necessary communications equipment can be arranged. Inability to make the necessary technical arrangements will result in denial of a request for remote attendance.
- (2) The member must assert one of the following three reasons why he or she is unable to physically attend the meeting,
 - a. The member cannot attend because of personal illness or disability; or
 - b. The member cannot attend because of employment purposes or the business of the city;
or
 - c. The member cannot attend because of a family or other emergency.

(c) *Authorization to participate.*

(1) The city clerk, after receiving the electronic attendance request, shall inform the presiding officer of the public body of the request for electronic attendance.

(2) After establishing that there is a quorum physically present at a meeting where a member desires to attend electronically, the presiding officer shall state that (i) a notice was received from a member in accordance with these Rules, and (ii) the member will be deemed authorized to attend the meeting electronically unless a motion objecting to the member's electronic attendance is made, seconded, and approved by two-thirds of the members of the public body physically present at the meeting. If no such motion is made and seconded or if any such motion fails to achieve the required vote by the members of the public body physically present at the meeting, then the request by the member to attend the meeting electronically shall be deemed approved by the public body and the presiding officer shall declare the requesting member present. After such declaration by the presiding officer, the question of a member's electronic attendance may not be reconsidered.

(d) *Adequate equipment required.* The member participating electronically and other members of the public body must be able to communicate effectively, and members of the audience must be able to hear all communications at the meeting site. Before allowing electronic attendance at any meeting, the city shall provide equipment adequate to accomplish this objective at the meeting site.

(e) *Minutes.* Any member attending electronically shall be considered an off-site attendee and counted as present electronically for that meeting if the member is allowed to attend. The meeting minutes shall also reflect and state specifically whether each member is physically present or present by electronic means.

(f) *Rights of remote member.* A member permitted to attend electronically will be able to express his or her comments during the meeting and participate in the same capacity as those members physically present, subject to all general meeting guidelines and procedures previously adopted and adhered to. The member attending electronically shall be heard, considered, and counted as to any vote taken. Accordingly, the name of any member attending electronically shall be called during any vote taken, and his or her vote counted and recorded by the clerk and placed in the minutes for the corresponding meeting. A member attending electronically may leave a meeting and return as in the case of any member, provided the member attending electronically shall announce his or her leaving and returning.

(Ord. No. 08-3682, § 3 (Exh. B), 5-27-2008)

Secs. 2-3—2-30. - Reserved.

ARTICLE II. - CITY COUNCIL

Sec. 2-31. - Membership; terms; powers and duties.
Sec. 2-32. - Filling of vacancies.
Sec. 2-33. - Time and place of regular meetings.
Sec. 2-34. - Special meetings of council.
Sec. 2-35. - Notice of special meetings of boards and commissions.
Sec. 2-36. - Presiding officer.
Sec. 2-37. - Rules of procedure; order of business.
Sec. 2-38. - Consent required to address meeting.
Sec. 2-39. - Disturbing meetings.
Secs. 2-40—2-60. - Reserved.

Sec. 2-31. - MEMBERSHIP; TERMS; POWERS AND DUTIES.

The city council shall consist of a mayor and six councilmembers elected as provided by 65 ILCS 5/5-2-1 et seq. The council shall be the governing body of the city and shall have the powers and duties as prescribed by statute.

(Code 1996, § 2.05.010; Ord. No. 04-3286, 11-22-2004)

Sec. 2-32. - Filling of vacancies.

Vacancies occurring in the council shall be appointed by the remaining members, as is provided by 65 ILCS 5/5-2-12(g).

(Code 1996, § 2.05.020)

Sec. 2-33. - TIME AND PLACE OF REGULAR MEETINGS.

The regular meetings of the council shall be held on the second and fourth Monday evenings, at the hour of 7:00 p.m. in the council room of the city hall. In the event Monday falls on a legal holiday, the meetings shall be at a time and date set by the city council in conformity with the Open Meetings Act (5 ILCS 120/1 et seq.).

(Code 1996, § 2.05.030)

Sec. 2-34. - SPECIAL MEETINGS OF COUNCIL.

(a) Special meetings may be called by the mayor or any three councilmembers upon a 48-hour notice to every member of the council; provided that the requirement of a notice shall not be binding in any special meeting at which all of the members of the council are present, as is provided by 65 ILCS 5/3.1-40-25. Emergency meetings may be called pursuant to those provisions as allowed by state law.

(b) Such notices may be served by any member of the police department or by any other person in the city. It shall be the duty of the city clerk when given copies of such notices to serve the same or cause the same to be served immediately.

(Code 1996, § 2.05.040)

Sec. 2-35. - NOTICE OF SPECIAL MEETINGS OF BOARDS AND COMMISSIONS.

(a) Special meetings of all boards and commissions of the city may be called by the chairperson or any two members upon a 48-hour notice to every member of the board or commission; provided that the requirement of a notice shall not be binding at any meeting at which all of the members of the board or commission are present, or meetings at which notice is waived in writing, by members not present. Emergency meetings may be called pursuant to those provisions as allowed by state law.

(b) Notices of special meetings shall also be given to the mayor and each member of the city council.

(c) Notices of such special meetings may be by mail or by service by the police department as provided by section 2-34(b).

(Code 1996, § 2.05.060)

Sec. 2-36. - Presiding Officer.

The mayor shall preside at all regular and special meetings of the council; provided that in the absence of the mayor, the councilmembers who are present shall select one of its members to serve as the presiding officer as provided by 65 ILCS 5/3.1-35-35.

(Code 1996, § 2.05.070)

Sec. 2-37. - Rules OF PROCEDURE; ORDER OF BUSINESS.

The following rules shall govern the proceedings of the city council. A quorum being present, the council shall proceed to transact the business before it in the following manner, unless the same is temporarily suspended by unanimous consent:

- (1) Roll call of members;
- (2) Approve/accept minutes of the preceding meeting or meetings;
- (3) Approve bills and payrolls;
- (4) Reports and communications;
- (5) Public commentary;
- (6) Business items;
- (7) Adjournment.

(Code 1996, § 2.05.080)

Sec. 2-38. - CONSENT REQUIRED TO ADDRESS MEETING.

It is unlawful for any person to address or attempt to address any regular or special meeting of the council, except upon the consent of the mayor or with the consent of a majority of the members present.

(Code 1996, § 2.05.090)

Sec. 2-39. - DISTURBING MEETINGS.

It is unlawful to disturb or interrupt any regular or special meeting of the council. Any person violating any provision of this section may be prosecuted as provided by law and may be summarily removed from the council room and the city hall.

(Code 1996, § 2.05.100)

Secs. 2-40—2-60. - RESERVED.

ARTICLE III. - OFFICERS AND EMPLOYEES

DIVISION 1. - GENERALLY
DIVISION 2. - MANAGER
DIVISION 3. - CLERK
DIVISION 4. - TREASURER
DIVISION 5. - CITY ATTORNEY
DIVISION 6. - DIRECTOR OF PUBLIC WORKS
DIVISION 7. - STATE OFFICIALS AND EMPLOYEES ETHICS ACT

DIVISION 1. - GENERALLY

Sec. 2-61. - Applicability.
Sec. 2-62. - Authority of city manager to appoint, hire or terminate employees.
Sec. 2-63. - Supervision of clerk and treasurer.
Sec. 2-64. - Term of office.
Sec. 2-65. - Records to be open to inspection.
Sec. 2-66. - Oath of office.
Sec. 2-67. - Bonds.
Sec. 2-68. - Surety on bonds.
Sec. 2-69. - Order to secure additional surety.
Sec. 2-70. - Salaries; retention of fees prohibited.
Sec. 2-71. - Disposition of moneys.
Sec. 2-72. - Turning over books and records to successor.
Sec. 2-73. - Election of officers.
Secs. 2-74—2-100. - Reserved.

Sec. 2-61. - APPLICABILITY.

The provisions of this division shall apply to all officers or employees of the city, regardless of the time of the creation of the office or of the time of the appointment of the officer. Officers of the city shall be all elected officials and the following appointed officials: city manager, city clerk, and city treasurer.

(Code 1996, § 2.10.010)

Sec. 2-62. - AUTHORITY OF CITY MANAGER TO APPOINT, HIRE OR TERMINATE EMPLOYEES.

Except as otherwise specified by statute or ordinance, the city manager has authority to appoint, hire, or terminate any department head or other employee of the city.

(Code 1996, § 2.10.020)

Sec. 2-63. - SUPERVISION OF CLERK AND TREASURER.

The city clerk and the city treasurer and their deputies, if any, are under the supervision and direction of the mayor.

(Code 1996, § 2.10.030)

Sec. 2-64. - TERM OF OFFICE.

The city clerk and the city treasurer shall hold office for a term of four years or until their successors are appointed and qualified; the city manager shall be appointed for an indefinite term. All other employees shall be employed at will unless otherwise specified by the city council.

(Code 1996, § 2.10.040)

Sec. 2-65. - RECORDS TO BE OPEN TO INSPECTION.

All city records kept by any official or employee of the city shall be open to inspection as provided by law.

(Code 1996, § 2.10.050)

Sec. 2-66. - OATH OF OFFICE.

Every officer of the city shall, before entering upon his duties, take the oath prescribed by law. Newly elected councilmembers and the mayor shall be sworn into office on the first business day in the month of May.

(Code 1996, § 2.10.060)

Sec. 2-67. - BONDS.

Every officer and employee shall, if required by the council, upon entering upon the duties of his office, give a bond in such amount as may be determined by the council and with such sureties as it may approve, conditioned upon the faithful performance of the duties of his office or position.

(Code 1996, § 2.10.070)

Sec. 2-68. - SURETY ON BONDS.

Whenever a surety bond to indemnify the city is required as a prerequisite to exercising the duties of any office or position, or to the issuance of a license or permit, or for the exercise of any special privilege, the surety on such bond shall be a corporation licensed and authorized to do business in the state as a surety company, in the absence of specific provision to the contrary by ordinance.

(Code 1996, § 2.10.080)

Sec. 2-69. - ORDER TO SECURE ADDITIONAL SURETY.

Whenever in its opinion an additional surety may be needed on any bond to indemnify the city against loss or liability because of the insolvency of the existing surety or for any other reason, the council may order a new surety to be secured for such bond. If such new surety is not procured within ten days from the time such order is transmitted to the principal on the bond, or his assignees, the council shall declare the bond to be void, and thereupon such principal or assignee shall be deemed to have surrendered the privilege or position as a condition of which the bond was required.

(Code 1996, § 2.10.090)

Sec. 2-70. - SALARIES; RETENTION OF FEES PROHIBITED.

All officers and employees of the city shall receive such salaries as may be provided from time to time by ordinance or resolution. No officer or employee receiving a salary from the city shall be entitled to retain any portion of any fees collected in the performance of their duties as municipal officer or employee in the absence of a specific provision to that effect.

(Code 1996, § 2.10.100)

Sec. 2-71. - DISPOSITION OF MONEYS.

Every officer or employee shall at least once each day turn over all moneys received in their official capacity to the city treasurer or as directed by the city manager, with a statement showing the source from which the same was received.

(Code 1996, § 2.10.110)

Sec. 2-72. - TURNING OVER BOOKS AND RECORDS TO SUCCESSOR.

Every officer and employee of the city, upon the expiration of their term for any cause whatsoever, shall deliver to their successor all books and records which may be the property of the city. If no successor has been appointed within one week after the termination of office, such property shall be delivered either to their department head or to the city manager.

(Code 1996, § 2.10.120)

Sec. 2-73. - Election of officers.

(a) *Procedure generally.* Elections for municipal offices shall be held as is provided by 10 ILCS 5/18-1 et seq.

(b) *Precincts and polling places.* The precincts and polling places shall be those precincts and polling places as established by state law and county ordinance.

(Code 1996, §§ 2.00.010, 2.00.020)

Secs. 2-74—2-100. - RESERVED.

DIVISION 2. - MANAGER

Sec. 2-101. - Creation of office.
Sec. 2-102. - Appointment.
Sec. 2-103. - Removal.
Sec. 2-104. - Powers and duties.
Sec. 2-105. - Designation of budget officer.
Sec. 2-106. - Council's relationship to administrative service.
Sec. 2-107. - Purchasing authority during emergencies.
Sec. 2-108. - Bond.
Sec. 2-109. - Compensation.
Sec. 2-110. - Vacancy.
Sec. 2-111. - Supervision of municipal band.
Secs. 2-112—2-130. - Reserved.

Sec. 2-101. - CREATION OF OFFICE.

The office of city manager is hereby created.

(Code 1996, § 2.15.010)

Sec. 2-102. - APPOINTMENT.

The city manager shall be appointed by majority vote of the city council for an indefinite term. The manager shall be chosen by the council solely on the basis of executive and administrative qualifications with special reference to actual experience in or knowledge of accepted practice in respect to the duties of the office hereinafter set forth. At the time of this appointment, the appointee need not be a resident of the city or state, but within six months after appointment, the city manager shall reside within the corporate limits of the city. No mayor or councilmember shall receive an appointment to the position of city manager during the term for which the mayor or councilmember shall have been elected nor within one year after the expiration of the mayor or councilmember's term.

(Code 1996, § 2.15.020)

Sec. 2-103. - REMOVAL.

The city council may remove the city manager at any time by a majority vote of the councilmembers holding office, except in cases where the manager has been removed because the manager has violated a state or federal statute, the manager's salary and benefits shall continue for at least three calendar months following the final removal date.

(Code 1996, § 2.15.030)

Sec. 2-104. - POWERS AND DUTIES.

The city manager shall be the chief administrative officer of the city and shall be responsible to the city council for the proper administration of all affairs of the city. To that end, the manager shall have power and shall be required to:

- (1) After first having consulted with the mayor and members of the city council, appoint and, when necessary for the good of the city, suspend or remove any department heads, directors, officers and employees of the city including the chiefs of the police and fire departments, except as otherwise provided herein or by city ordinances, state law, or union and personal contracts.

- (2) Provide monthly statements to the city council regarding the city's financial condition. Prepare and submit to the council as of the end of the fiscal year a complete report on the finances and administrative activities of the city for the preceding year, together with the results of all audits made of city accounts. Prepare and submit an annual budget to the city council.
- (3) Keep the council advised of the financial condition and future needs of the city, and make such recommendations as may be deemed desirable.
- (4) Recommend to the city council a standard schedule of pay for each appointive office and position in the city service, including minimum, intermediate, and maximum rates.
- (5) Recommend to the city council, from time to time, adoption of such measures as may be deemed necessary or expedient for the health, safety, or welfare of the community or for the improvement of administrative services.
- (6) Consolidate or combine offices, positions, departments, or units under his jurisdiction, with the approval of the city council.
- (7) Attend all meetings of the city council unless excused therefrom and take part in the discussion of all matters coming before the council. The manager shall be entitled to notice of all regular and special meetings of the council.
- (8) Execute all approved contracts on behalf of the city.
- (9) See that all laws and ordinances are duly enforced.
- (10) Investigate the affairs of the city or any department or division thereof. Investigate all complaints in relation to matters concerning the administration of the government of the city, and in regard to service maintained by the public utilities in the city, and see that all franchises, permits, and privileges granted by the city are faithfully observed.
- (11) Devote his entire time to the discharge of all official duties.
- (12) Perform such other duties as may be required by the council, not inconsistent with the city Charter, law, or ordinances.
- (13) Supervise the negotiation of all contracts between the city and unions representing city employees.
- (14) In the event the city manager shall be absent from the city or incapacitated from performing the duties of city manager, designate a qualified department head to act as manager during his absence or incapacity. If the city manager does not designate a qualified department head to act as city manager, the city council shall, in its discretion, so designate a department head as acting city manager.
- (15) Examine all proposed contracts to which the city may be a party and supervise the performance of the terms and conditions of any contract to which the city is a party.

(Code 1996, § 2.15.040)

State law reference— Manager's powers and duties generally, 65 ILCS 5/5-3-7.

Sec. 2-105. - DESIGNATION OF BUDGET OFFICER.

The city manager shall designate the budget officer as set forth in 65 ILCS 5/8-2-9.1—5/8-2-9.10 to implement an annual budget for each fiscal year.

(Code 1996, § 2.15.050)

Sec. 2-106. - COUNCIL'S RELATIONSHIP TO ADMINISTRATIVE SERVICE.

Neither the council nor any of its members shall direct or request the appointment of any person to, or removal from, office by the city manager or any of the manager's subordinates, or in any manner take part in the appointment or removal of officers and employees in the administrative services of the city. Except for the purpose of inquiry, the council and its members shall deal with the administrative service solely through the city manager and neither the council nor any member thereof shall give orders to any subordinates of the city manager, either publicly or privately.

(Code 1996, § 2.15.060)

Sec. 2-107. - PURCHASING AUTHORITY DURING EMERGENCIES.

In case of accident, disaster, or other circumstance creating a public emergency, the city manager may award contracts and make purchases for the purpose of meeting said emergency; but the manager shall file promptly with the council a certificate showing such emergency and the necessity for such action, together with an itemized account of all expenditures.

(Code 1996, § 2.15.070)

Sec. 2-108. - BOND.

The city manager shall furnish a surety bond in an amount to be approved by the council, said bond to be conditioned on the faithful performance of all the manager's duties. The premium of the bond shall be paid by the city.

(Code 1996, § 2.15.080)

Sec. 2-109. - COMPENSATION.

The city manager shall receive such compensation as the council shall fix from time to time.

(Code 1996, § 2.15.090)

Sec. 2-110. - VACANCY.

Any vacancy in the office of city manager shall be filled with a temporary appointment made by a majority vote of the members of the city council within 14 days from the date of the vacancy. A person appointed as temporary city manager shall have all the powers of a city manager and must meet the same qualifications as a city manager. A temporary appointment shall not be for longer than 180 days. Within 30 days of the date that the city council becomes aware there will be a vacancy in the office of city manager, the city council shall actively commence the process of filling the vacancy with a new city manager. The new city manager shall be appointed not later than six months from the time the office becomes vacant.

(Code 1996, § 2.15.100)

Sec. 2-111. - SUPERVISION OF MUNICIPAL BAND.

The municipal band shall be under the supervision of the city manager.

(Code 1996, § 2.15.110)

Secs. 2-112—2-130. - RESERVED.

DIVISION 3. - CLERK

Sec. 2-131. - Appointment.

Sec. 2-132. - Bond.

Sec. 2-133. - Powers and duties.

Sec. 2-134. - Deputy city clerk.

Sec. 2-135. - Inventory of public property; maps, plats and records of public property.

Sec. 2-136. - Vital statistics.

Secs. 2-137—2-160. - Reserved.

Sec. 2-131. - APPOINTMENT.

The city clerk shall be appointed by the mayor with the approval of the city council as provided by 65 ILCS 5/5-2-19.

(Code 1996, § 2.20.010)

Sec. 2-132. - BOND.

Before entering upon the duties of his office, the city clerk shall execute a bond in such amount and with such sureties as may be required by the council, conditioned upon the faithful performance of his duties.

(Code 1996, § 2.20.020)

Sec. 2-133. - POWERS AND DUTIES.

(a) *Signature required on certain documents.* The city clerk shall seal and attest all contracts of the city, and all licenses, permits and other documents which require this formality.

(b) *Disposition of moneys collected.* The city clerk shall turn over all moneys received by him on behalf of the city to the city treasurer promptly on receipt of the same, and with such moneys he shall give a statement as to their source.

(c) *Keeping accounts.* The city clerk shall keep accounts showing all moneys received by him, and the source and disposition thereof, and such other accounts as may be required by statute or ordinance.

(d) *Records.* In addition to the record of ordinances and other records which the clerk is required by statute to keep, he shall keep a register of all licenses and permits issued, and a record of the payment thereon. He shall keep a record showing all of the officers and regular employees of the city, and such other records as may be required by the council.

(e) *Custody of documents.* The clerk shall be the custodian of all documents belonging to the city which are not assigned to the custody of some other officer.

(f) *Preparation of indexes.* The clerk shall keep and maintain a proper index to all documents and records kept by him, so that ready access thereto and use thereof may be had.

(g) *Additional duties.* In addition to the duties provided in this division, the clerk shall perform such other duties and functions as may be required by statute or ordinance. (Code 1996, § 2.20.030)

Sec. 2-134. - DEPUTY CITY CLERK.

The city council may create the position of deputy city clerk as provided by 65 ILCS 5/3.1-30-10. The city clerk shall appoint the deputy city clerk.

(Code 1996, § 2.20.040)

Sec. 2-135. - INVENTORY OF PUBLIC PROPERTY; MAPS, PLATS AND RECORDS OF PUBLIC PROPERTY.

The city clerk shall keep an accurate inventory of all public property of the city used or controlled by any department thereof, and shall keep accurate maps, plats and records of all public works, lands or property owned by the city.

(Code 1996, § 2.20.050)

Sec. 2-136. - VITAL STATISTICS.

The provisions of the state statutes relative to vital statistics shall be fully complied with by the city clerk, as authorized by the state department of public health.

(Code 1996, § 2.20.060)

Secs. 2-137—2-160. - RESERVED.

DIVISION 4. - TREASURER

Sec. 2-161. - Appointment.

Sec. 2-162. - Bond.

Sec. 2-163. - Treasurer to be ex officio collector.

Sec. 2-164. - Duties.

Secs. 2-165—2-190. - Reserved.

Sec. 2-161. - APPOINTMENT.

The city treasurer shall be appointed by the mayor, with the approval of the city council as is provided by 65 ILCS 5/5-2-19.

(Code 1996, § 2.25.010)

Sec. 2-162. - BOND.

The city treasurer and any deputy city treasurer shall give a bond in such sum as may be required by the council, but the bond shall not be less than the amount required by 65 ILCS 5/3.1-10-30. The bond shall be conditioned upon the faithful performance by the treasurer of the duties of his office, and to indemnify the city for any loss due to any neglect of duty or any wrongful act on the part of the treasurer.

(Code 1996, § 2.25.020)

Sec. 2-163. - TREASURER TO BE EX OFFICIO COLLECTOR.

The city treasurer shall be ex officio city collector and shall collect all special assessments and special taxes and perform all other duties of the city collector as provided by law.

(Code 1996, § 2.25.030)

Sec. 2-164. - DUTIES.

The city treasurer shall provide periodic financial statements and analysis, and perform other such duties as may be prescribed by ordinance of the city.

(Code 1996, § 2.25.040)

Secs. 2-165—2-190. - RESERVED.

DIVISION 5. - CITY ATTORNEY

Sec. 2-191. - Position created; appointment.
Sec. 2-192. - Prosecution and defense of suits and actions.
Sec. 2-193. - Enforcement of judgments, decrees and interlocutory orders.
Sec. 2-194. - Legal advice; written opinions.
Sec. 2-195. - Contract supervision; ordinance drafting.
Sec. 2-196. - Employment of additional counsel.
Secs. 2-197—2-220. - Reserved.

Sec. 2-191. - POSITION CREATED; APPOINTMENT.

There is created the position of city attorney. The city attorney shall be appointed by and shall report to the city manager. (Code 1996, § 2.30.010)

Sec. 2-192. - PROSECUTION AND DEFENSE OF SUITS AND ACTIONS.

The city attorney shall prosecute or defend any and all suits or actions at law or equity to which the city may be a party, or in which it may be interested, or which may be brought against or by any officer of the city on behalf of the city, or in capacity of such person as an officer of the city. (Code 1996, § 2.30.020)

Sec. 2-193. - ENFORCEMENT OF JUDGMENTS, DECREES AND INTERLOCUTORY ORDERS.

It shall be the duty of the city attorney to see to the full enforcement of all judgments or decrees rendered or entered in favor of the city in courts of record, and all similar interlocutory orders.

(Code 1996, § 2.30.030)

Sec. 2-194. - LEGAL ADVICE; WRITTEN OPINIONS.

The city attorney shall be the legal advisor of the city and shall render advice on all legal questions affecting the city whenever requested to do so by any city official. Upon request by the mayor or council, he shall reduce such opinion to writing.

(Code 1996, § 2.30.040)

Sec. 2-195. - CONTRACT SUPERVISION; ORDINANCE DRAFTING.

It shall be the duty of the city attorney to draft or supervise the phraseology of any contracts, leases or other documents or instruments to which the city may be a party, and to draft ordinances and resolutions covering any subjects within the powers of the city.

(Code 1996, § 2.30.050)

Sec. 2-196. - EMPLOYMENT OF ADDITIONAL COUNSEL.

The city council may authorize the employment of additional counsel to give advice or render service to the city. Said additional counsel to be retained by the city manager. (Code 1996, § 2.30.060)

Secs. 2-197—2-220. - RESERVED.

DIVISION 6. - DIRECTOR OF PUBLIC WORKS

Sec. 2-221. - Department of public works created.
Sec. 2-222. - Position of director created; appointment; duties.
Secs. 2-223—2-240. - Reserved.

We no longer have a Director of Public Works

Sec. 2-221. - DEPARTMENT OF PUBLIC WORKS CREATED.

There is hereby created the department of public works.

Sec. 2-222. - POSITION OF DIRECTOR CREATED; APPOINTMENT; DUTIES.

There is created the position of director of public works. The director of public works shall be appointed by the city manager. The director of public works is assigned to the department of public works and shall perform his duties subject to the supervision of the city manager. He shall have charge of the administrative, operation, and activities of the public works department, which includes the public streets and rights-of-way, the solid waste management program, the municipal cemetery, and stormwater management including the stormwater sewer system. He shall perform any other duties in the department assigned by the city manager.

(Code 1996, § 2.60.010)

Secs. 2-223—2-240. - RESERVED.

DIVISION 7. - STATE OFFICIALS AND EMPLOYEES ETHICS ACT

Sec. 2-241. - State act adopted.

Sec. 2-242. - Prohibitions.

Secs. 2-243—2-260. - Reserved.

Sec. 2-241. - STATE ACT ADOPTED.

The regulations of section 5-15 (5 ILCS 430/5-15) and article 10 (5 ILCS 430/10-10—430/10-40) of the State Officials and Employees Ethics Act, 5 ILCS 430/1-1 et seq., hereinafter referred to as the "Act" in this division, are hereby adopted by reference and made applicable to the officers and employees of the city to the extent required by 5 ILCS 430/70-5. (Ord. No. 04-3240, § 1(2.130(A)), 5-10-2004)

Sec. 2-242. - PROHIBITIONS.

- (a) The solicitation or acceptance of gifts prohibited to be solicited or accepted under the Act by any officer or any employee of the city is hereby prohibited.
- (b) The offering or making of gifts prohibited to be offered or made to an officer or employee of the city under the Act is hereby prohibited.
- (c) The participation in political activities prohibited under the Act by any officer or employee of the city is hereby prohibited.
- (d) For purposes of this division, the terms "officer" and "employee" shall be defined as set forth in 5 ILCS 430/70-5(c).
- (e) The penalties for violations of this division shall be the same as those penalties set forth in 5 ILCS 430/50-5 for similar violations of the Act.
- (f) This division does not repeal or otherwise amend or modify any existing ordinances or policies which regulate the conduct of city officers and employees. To the extent that any such existing ordinances or policies are less restrictive than this division, however, the provisions of this division shall prevail in accordance with the provisions of 5 ILCS 430/70-5(a).
- (g) Any amendment to the Act that becomes effective after the effective date of the ordinance from which this division is derived shall be incorporated into this division by reference and shall be applicable to the solicitation, acceptance, offering and making of gifts and to prohibited political activities. However, any amendment to the Act that makes its provisions optional for adoption by municipalities shall not be incorporated into this division by reference without formal action by the city council.
- (h) If the state supreme court declares the Act unconstitutional in its entirety, then this division shall be repealed as of the date that the state supreme court's decision becomes final and not subject to any further appeals or rehearings. This division shall be deemed repealed without further action by the city council if the Act is found unconstitutional by the state supreme court.

(i) If the state supreme court declares part of the Act unconstitutional but upholds the constitutionality of the remainder of the Act, or does not address the remainder of the Act, then the remainder of the Act as adopted by this division shall remain in full force and effect; however, that part of this division relating to the part of the Act found unconstitutional shall be deemed repealed without further action by the city council. (Ord. No. 04-3240, § 1(2.130(B)—(J)), 5-10-2004)

Secs. 2-243—2-260. - RESERVED.

ARTICLE IV. - PERSONNEL POLICIES

Sec. 2-261. - Pay ranges for salaried and hourly employees.
Sec. 2-262. - Administration of classification and pay plans.
Sec. 2-263. - Wage rates for workers employed in public works.
Secs. 2-264—2-290. - Reserved.

Sec. 2-261. - PAY RANGES FOR SALARIED AND HOURLY EMPLOYEES.

The pay and hourly pay ranges for salaried positions within the service of the city, union employees excepted, shall be as established annually by resolution of the city council.

(Code 1996, § 2.110.010)

Sec. 2-262. - ADMINISTRATION OF CLASSIFICATION AND PAY PLANS.

The city council is authorized to issue regulations for the administration of the position classification and pay plans.

(Code 1996, § 2.110.020)

Sec. 2-263. - WAGE RATES FOR WORKERS EMPLOYED IN PUBLIC WORKS.

(a) To the extent and as required by "An Act regulating works by the State, County, City or any public body or any political subdivision or by any one under contract for public works," approved June 26, 1941, as amended, the general prevailing rate of wages in this locality for laborers, mechanics and other workers engaged in the construction of public works coming under the jurisdiction of the city is hereby ascertained to be the same as the prevailing rate of wages for construction work in the county area as determined by the state department of labor. The definition of any terms appearing in this section which are also used in the aforesaid act shall be the same as in said act.

(b) Nothing herein contained shall be construed to apply said general prevailing rate of wages as herein ascertained to any work or employment except public works construction of the city to the extent required by the aforesaid act.

(c) The city clerk shall publicly post and keep available for inspection by any interested party in the main office of this city this determination of such prevailing rate of wage.

(Code 1996, § 2.110.030)

Secs. 2-264—2-290. - RESERVED.

ARTICLE V. - BOARDS, COMMISSIONS AND COMMITTEES

DIVISION 1. - GENERALLY

DIVISION 2. - BOARD OF FIRE AND POLICE COMMISSIONERS

DIVISION 1. - GENERALLY

[Sec. 2-291. - Authority of council to establish or abolish advisory boards and commissions.](#)

[Sec. 2-292. - Membership.](#)

[Secs. 2-293—2-310. - Reserved.](#)

Sec. 2-291. - AUTHORITY OF COUNCIL TO ESTABLISH OR ABOLISH ADVISORY BOARDS AND COMMISSIONS.

The city council may establish or abolish advisory boards or commissions by resolution.

(Code 1996, § 2.70.010)

Sec. 2-292. - MEMBERSHIP.

(a) No elected official or employee may serve as a voting member of any board or commission established pursuant to this Code.

(b) Persons appointed to serve on boards or commissions serve at the pleasure of the city council and may be removed at any time.

(c) A person may be appointed to more than one board or commission.

(d) It is not required that members of boards or commissions be residents of the city, but persons appointed should have significant contacts with the city.

(e) A majority of the members of any board or commission must be residents of the city.

(f) Board members shall serve until their successor is appointed and qualified.

(Code 1996, § 2.70.020)

Secs. 2-293—2-310. - Reserved.

DIVISION 2. - BOARD OF FIRE AND POLICE COMMISSIONERS

Sec. 2-311. - Created.

Sec. 2-312. - Powers and duties.

Sec. 2-313. - Members to serve without compensation.

Sec. 2-314. - Appointment and term of members.

Sec. 2-315. - Qualifications of members; oath; bond; removal.

Secs. 2-316—2-350. - Reserved.

Sec. 2-311. - CREATED.

There is created a board of fire and police commissioners consisting of three members, as provided by 65 ILCS 5/10-2.1-1.

(Code 1996, § 2.90.010)

Sec. 2-312. - POWERS AND DUTIES.

The board of fire and police commissioners shall appoint all sworn members of the fire and police departments, except the chief of the fire department and chief of the police department, and shall have such other powers and duties as are now or as may hereafter be given to it by law.

(Code 1996, § 2.90.020)

Sec. 2-313. - MEMBERS TO SERVE WITHOUT COMPENSATION.

The secretary of the board of fire and police commissioners shall serve without compensation for his services, and the members of such board shall serve without compensation.

(Code 1996, § 2.90.030)

Sec. 2-314. - APPOINTMENT AND TERM OF MEMBERS.

The board of fire and police commissioners shall be appointed by the mayor with the consent of the city council. The terms of office of the members of the board of fire and police commissioners shall be three years and until their respective successors shall be appointed and qualified; provided that no such appointments shall be made by the mayor within 30 days before the expiration of the mayor's term of office; provided further that the mayor shall appoint the first members of such board, one of whom is appointed to serve until the end of the current municipal year in which such appointment is made, another to serve until the end of the municipal year next ensuing, and the third to serve until the end of the municipal year second next ensuing; provided further that each of the first members of the board shall serve until their successor is appointed and qualified.

(Code 1996, § 2.90.040)

Sec. 2-315. - QUALIFICATIONS OF MEMBERS; OATH; BOND; REMOVAL.

The members of the board of fire and police commissioners shall have such qualifications as are now or may hereafter be required of them by law. Each member of the board of fire and police commissioners shall take oath or affirmation of office and shall execute and deliver to the city a bond in the sum of \$1,000.00 with such sureties as the mayor and city council shall approve, conditioned for the faithful performance of the duties of his office. Members shall not be subject to removal, except for cause, upon written charges, and after an opportunity to be heard within 30 days in his or their own defense, before a regular meeting of the city council. A majority vote of the elected members of the city council shall be required to remove any such member from office.

(Code 1996, § 2.90.050)

State law reference— Qualifications, oath, bond and removal, 65 ILCS 5/10-2.1-3.

Secs. 2-316—2-350. - RESERVED.

ARTICLE VI. - FINANCE, REVENUE AND CONTRACTS

DIVISION 1. - GENERALLY
DIVISION 2. - CONTRACTS

DIVISION 1. - GENERALLY

[Sec. 2-351. - Fiscal year.](#)
[Sec. 2-352. - Purchasing authority and duties of city manager.](#)
[Secs. 2-353—2-370. - Reserved.](#)

Sec. 2-351. - Fiscal Year.

The fiscal year of the city shall begin on May 1 of each year and end on April 30 of the year following.

(Code 1996, § 3.05.010)

State law reference— Authority to adopt a fiscal year, 65 ILCS 5/1-1-2(5).

Sec. 2-352. - PURCHASING AUTHORITY AND DUTIES OF CITY MANAGER.

The city manager shall have power and shall be required to supervise the purchase of all materials, supplies, and equipment for which funds are provided in the budget, award contracts as budgeted necessary for operation or maintenance of city services without bids where allowed by section 2-371, receive sealed bids for purchases or contracts where required by section 2-371 and present them to the council for approval, and advise the council on the advantages or disadvantages of contract and bid proposals. No purchase shall be made, contract let, or obligations incurred for any item or service which exceeds the current budget allocation with the authority of the city council. The manager may issue such rules governing purchasing procedures within the administrative organization as the council shall approve.

(Code 1996, § 2.15.040(H); Ord. No. 05-3367, § 1, 12-27-2005)

Secs. 2-353—2-370. - RESERVED.

DIVISION 2. - CONTRACTS

Sec. 2-371. - Approval of contracts.

Sec. 2-372. - Publication of notice inviting competitive bids.

Sec. 2-373. - Contracts excluded from requirement of competitive bidding.

Sec. 2-374. - Provisions which shall be included in all contracts.

Sec. 2-375. - Review by city attorney.

Sec. 2-376. - Original contracts to be kept by city clerk.

Sec. 2-371. - APPROVAL OF CONTRACTS.

Unless otherwise approved by the city council, all contracts must be within the amount as set forth for the fiscal budget in which the purchase is to be completed and payment is to be made. Except as otherwise set forth in this section, city contracts in excess of \$20,000.00 shall be made available for competitive bidding, and city contracts in amounts up to and including \$20,000.00 may be awarded by the city manager without competitive bidding. The city council may, by a two-thirds vote of all councilmembers holding office, authorize the city manager to enter into a contract without competitive bidding.

(Code 1996, § 3.10.010; Ord. No. 05-3367, § 2, 12-27-2005)

State law reference— When bids required, 65 ILCS 5/8-9-1.

Sec. 2-372. - PUBLICATION OF NOTICE INVITING COMPETITIVE BIDS.

Whenever a contract is to be let for competitive bids, the advertisement calling for such bids shall be published in a newspaper not less than one time not more than 15 days or less than ten days before the day fixed for the opening of the bids. In all contracts inviting competitive bids, the city council reserves the right to accept the bid that it believes is in the best interest of the city.

(Code 1996, § 3.10.020)

Sec. 2-373. - CONTRACTS EXCLUDED FROM REQUIREMENT OF COMPETITIVE BIDDING.

Contracts which by their nature are not adapted to award by competitive bidding are excluded from the requirement of competitive bidding. Such contracts shall include the following:

- (1) Contracts for emergency services or repairs when the delay in seeking competitive bids would result in damage or additional cost to the city;
- (2) Contracts for professional services;
- (3) Contracts for utility related goods and services.

(Code 1996, § 3.10.030)

Sec. 2-374. - PROVISIONS WHICH SHALL BE INCLUDED IN ALL CONTRACTS.

The following provisions shall be included in all city contracts whether or not the contract is let for competitive bids:

- (1) That the contractor will comply with the state prevailing wage law;
- (2) That the contractor will comply with the state law relating to the hiring of state workers;
- (3) An indemnification agreement and proof of liability insurance insuring the interest of the city;
- (4) Contracts for greater than \$10,000.00 for public works projects, a bond in the amount of the contract issued by a reputable bond company.

(Code 1996, § 3.10.040)

Sec. 2-375. - REVIEW BY CITY ATTORNEY.

All contracts let for public bidding shall be reviewed by the city attorney prior to being signed by the appropriate city official or officer.

(Code 1996, § 3.10.050)

Sec. 2-376. - ORIGINAL CONTRACTS TO BE KEPT BY CITY CLERK.

The original contracts shall be kept and maintained by the city clerk.

(Code 1996, § 3.10.060)

Chapters 3—5 - RESERVED

Chapter 6 - ALCOHOLIC BEVERAGES

ARTICLE I. - IN GENERAL

ARTICLE II. – LICENSE

ARTICLE III – OUTDOOR LIQUOR SALES

ARTICLE II. - LICENSE

ARTICLE I. - IN GENERAL

Sec. 6-1. - Purpose.
Sec. 6-2. - Definitions.
Sec. 6-3. - License classifications.
Sec. 6-4. - Hours of sale.
Sec. 6-5. - Prohibited sales; offenses relating to persons of nonlegal age.
Sec. 6-6. - Employment of persons under 21 years of age on licensed premises.
Sec. 6-7. - Possession or consumption in public.
Sec. 6-8. - Sale or consumption of alcoholic beverages; exceptions.
Sec. 6-9. - Sales to persons in motor vehicles.
Sec. 6-10. - Prohibited entertainment on licensed premises.
Sec. 6-11. - Sanitary facilities in licensed premises.
Sec. 6-12. - Furnishing liquor on credit.
Sec. 6-13. - Local liquor control commissioner designated.
Sec. 6-14. - Hearings by local liquor control commissioner.
Sec. 6-15. - Powers and duties of local liquor control commissioner.
Sec. 6-16. - Duties of city clerk.
Sec. 6-17. - Violations; penalty.
Secs. 6-18—6-40. - Reserved.

Sec. 6-41. - Required.
Sec. 6-42. - Application; term.
Sec. 6-43. - Payment of fees.
Sec. 6-44. - Serving liquor in unlicensed premises.
Sec. 6-45. - License to be for single location; change of location.
Sec. 6-46. - Number limitations.
Sec. 6-47. - Ineligibility for license.
Sec. 6-48. - Transfer.
Sec. 6-49. - Renewal.
Sec. 6-50. - Privilege limited.
Sec. 6-51. - Sale of licensed business.
Sec. 6-52. - Change of local manager of corporate licensee.
Sec. 6-53. - Posting.
Sec. 6-54. - Termination for nonuse.

ARTICLE III – OUTDOOR LIQUOR SALES

Sec. 6-70 – Outdoor Sales of Liquor Permitted
Sec. 6-71 – Outdoor Area Requirements
Sec. 6-72 – Hours of Operation Limited
Sec. 6-73 – Entertainment in an Outdoor Area
Sec. 6-74 – Smoking Prohibited

Sec. 6-1. - PURPOSE.

This chapter shall be construed to the end that the health, safety and welfare of the people of the city shall be protected and temperance in the consumption of alcoholic liquors shall be fostered and promoted. (Code 1996, § 5.15.010)

Sec. 6-2. - DEFINITIONS.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alcohol means the product of distillation of any fermented liquid, whether rectified or diluted, whatever may be the origin thereof, and includes synthetic ethyl alcohol. It does not include denatured alcohol or wood alcohol.

Alcoholic liquor includes the four varieties of liquor defined herein: alcohol, spirits, wine and beer, and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed by a person. The provisions of this chapter shall not apply to alcohol used in the manufacture of denatured alcohol produced in accordance with Acts of Congress and regulations promulgated thereunder, nor to any liquid or solid containing one-half of one percent or less of alcohol, by volume. None of the provisions of this chapter shall apply to wine intended for use by any church or religious organization for sacramental purposes, provided that such wine shall be purchased from a licensed manufacturer or importing distributor under the Illinois Liquor Control Act, 235 ILCS 5/1-1 et seq.

Bar means a counter from which alcoholic beverages are served.

Bar area means the room or place in which a bar is located.

Beer means a beverage obtained by alcoholic fermentation of an infusion or concoction of barley or other grain, malt and hops in water, and includes, among other things, beer, ale, stout, lager beer, porter and the like.

Club means a corporation organized under the laws of the state, not for pecuniary profit, solely for the promotion of some common object other than the sale or consumption of alcoholic liquors, kept, used and maintained by its members through the payment of annual dues, and owning, hiring or leasing a building or space in a building of such extent and character as may be suitable and adequate for the reasonable and comfortable use and accommodation of its members and their guests and provided with suitable and adequate kitchen and dining room space and equipment and maintaining a sufficient number of servants and employees for cooking, preparing and serving food and meals for its members and their guests; provided, that such club files with the local liquor control commissioner at the time of its application for a license under the Illinois Liquor Control Act, 235 ILCS 5/1-1 et seq., two copies of a list of names and residences of its members, and similarly files within ten days of the election of any additional member his name and address; provided, that the affairs and management of such club are conducted by a board of directors, executive committee or similar body chosen by the members at their annual meeting; and provided further that no member or any officer, agent or employee of the club is paid, or directly or indirectly receives, in the form of salary or other compensation any profits from the distribution or sale of alcoholic liquor to the club, or its guests introduced by members, beyond the amount of such salary as may be fixed and voted at any annual meeting by the members or by its board of directors or other governing body out of the general revenue of the club.

Consumption sales means the sale or offering for sale at retail of any alcoholic liquor for consumption on the premises where sold.

Distributor means any person, other than a manufacturer or nonresident dealer licensed under the Illinois Liquor Control Act, 235 ILCS 5/1-1 et seq., who is engaged in the purchasing, storing, possessing or warehousing any alcoholic liquors for resale or reselling at wholesale, within or without this city.

Gas station and *filling station* mean a place where gasoline, gasoline products, oil and oil products are sold at retail for motor vehicles.

Hotel means every building or other structure kept, used, maintained, advertised and held out to the public to be a place where food is actually served and consumed and sleeping accommodations are offered for adequate pay to travelers and guests, whether transient, permanent or residential, in which 25 or more rooms are used for the sleeping accommodations of such guests and having one or more public dining rooms where meals are served to such guests, such sleeping accommodations and dining rooms being conducted in the same building or buildings in connection therewith and such building or buildings, structure or structures being provided with adequate and sanitary kitchen and dining room equipment and capacity.

Illinois Liquor Control Act means an act passed by the 58th Illinois General Assembly entitled "An Act relating to alcoholic liquors," approved January 31, 1934, as amended, 235 ILCS 5/1-1 et seq.

Illinois Liquor Control Commission and *state commission* mean the commission created by the Illinois Liquor Control Act, 235 ILCS 5/1-1 et seq.

Importing distributor means any person other than a nonresident dealer licensed under the Illinois Liquor

Control Act, 235 ILCS 5/1-1 et seq., who imports into this state, from any point in the United States outside this state, whether for himself or for another, any alcoholic liquors for sale or resale, or for use in the manufacture, preparation or compounding of products other than alcoholic liquors, or who imports into this state, from any point in the United States outside this state, for consumption in any one calendar year, more than one gallon of such liquors.

Initial application means any application that is not an application seeking renewal of a liquor license held by the applicant at the time such application is submitted.

Licensed premises means the premises described in the application for the license or in the license as the place where the business to be covered or covered by the license is to be or is carried on.

Manufacturer means every brewer, fermenter, distiller, rectifier, winemaker, blender, processor, bottler or person who fills or refills an original package, and any other person engaged in brewing, fermenting, distilling, rectifying or bottling alcoholic liquors as defined in this section.

Meals means salads, sandwiches, pizza and dinners containing pasta, fish, meat or poultry, together with similar foods prepared or cooked on the premises and ordered by the patrons from a full service menu for consumption on the premises. The term "meals" does not include popcorn, potato chips, pretzels, peanuts and other food considered as snacks.

Original package means any unopened bottle, flask, jug, can, cask, barrel, keg, hogshead or other receptacle or container whatsoever used, corked or capped, sealed and labeled by the manufacturer of alcoholic liquor, to contain and to convey any alcoholic liquor.

Owner and *proprietor* include all persons who are owners or are in control of any place where the sale or distribution of alcoholic liquor is carried on, whether they be individuals, partners, corporations, joint stock companies, fiduciaries or officers, directors, stockholders of corporations or otherwise.

Package sales means the sale or offering for sale at retail of alcoholic liquor, in the original package, and not to be consumed or in fact consumed, in whole or in part, on the premises where sold; provided, however, that the term "package sales" shall not include original packages containing less than one-half pint of alcoholic liquor.

"Restaurant means any public place kept, used, maintained, advertised, and held out to the public as a place where meals are served, having a complete menu service during the hours of 5:00 p.m. to 9:00 p.m. each day that the premises are open to the public. The dining area must be maintained separate and apart from the kitchen. Alcoholic beverages shall be served directly to the tables except when there is a banquet or reception not open to the general public when alcoholic beverages may be served from a service area. No bar can be located upon the premises. The restaurant and kitchen facilities must be licensed and inspected by the county health department as a commercial food service establishment." Ord. No. 12-4191, 6/11/2012;

Restaurant/recreation means:

(1) Any public place kept, used, maintained, advertised and held out to the public as a place where meals are served having a complete menu service at least during the hours of 5:00 to 9:00 p.m. each day the premises are open to the public. A dining area must be maintained as separate and apart from the kitchen and bar area. The kitchen shall contain at a minimum the following facilities:

a. A utility service sink.

- b. A three-compartment sink or a mechanical dishwasher.
- c. Separate handwashing facilities in the kitchen for employees.
- d. Commercial cooking equipment including a grease duct, exhaust equipment, and a fire suppression system meeting the requirements of sections 506, 507 and 509 of the 1996 International Mechanical Code.

The restaurant must be licensed and inspected by the county health department as a commercial food service establishment.

(2) A facility which has all the facilities of a restaurant together with separate facilities such as bowling lanes, billiards, miniature golf, simulated or actual golfing and similar types of activities, and at least 51 percent of the gross revenues, as determined by the close of the licensee's most recent past fiscal or calendar year of operation, must be obtained from the sale of meals and recreation activities.

Retailer means a person who sells, or offers for sale, alcoholic liquor for use or consumption and not for resale in any form.

Sale means any transfer, exchange or barter, in any manner or by any means whatsoever, including the transfer of alcoholic liquors by and through the transfer or negotiation of warehouse receipts or certificates, and includes all sales, whether direct or indirect, made by any person, whether principal, proprietor, agent, servant or employee. The term "sale" includes any transfer of alcoholic liquor from a foreign importer's license to an importing distributor's license even if both licenses are held by the same person.

Sell at retail and *sale at retail* refer to and mean sales for use or consumption and not for resale in any form.

Snacks means popcorn, potato chips, peanuts, pretzels, breadsticks, relishes, hors d'oeuvres and similar foods not ordinarily consumed as a meal.

Spirits means any beverage which contains alcohol obtained by distillation, mixed with water or other substance in solution, and includes brandy, rum, whiskey, gin or other spirituous liquors, and such liquors when rectified, blended or otherwise mixed with alcohol or other substances.

To sell includes to keep or expose for sale, and to keep with intent to sell.

Wine means any alcoholic beverage obtained by the fermentation of the natural contents of fruits or vegetables containing sugar, including such beverages when fortified by the addition of alcohol or spirits as defined in this section.

(Code 1996, § 5.15.020; Ord. No. 12-4131, § 1(Exh. A), 1-9-2012); Ord. No. 12-4169, 4-23-12; Ord. No. 12-4191 (6-11-2012)

Sec. 6-3. - LICENSE CLASSIFICATIONS.

It is unlawful to sell, distribute or give away alcoholic liquor, beer or wine to the general public without first having obtained a license from the city. It is also unlawful to allow the consumption of alcoholic liquor, beer or wine at an unlicensed business when the business is open to the general public. The license classifications are as follows:

(1) *Tavern.* A tavern license shall entitle the licensee to sell at retail alcoholic liquor in the original package for consumption either on or off the premises; except that such classification shall not be construed so as to permit sales in the original package without also making sales for consumption on the premises.

(2) *Package.* A package license shall entitle the licensee to sell at retail alcoholic liquor in the original package only for consumption off the premises. In the event a package license is issued to a licensee who is open on days or at times prohibited by section 6-4, then at all such times or days the licensee shall place the alcoholic liquor or beverages in such a way as to prevent the public any access to the alcoholic liquor or beverages.

(3) *Package beer and wine.* A package beer and wine license shall entitle the licensee to sell beer and wine in the original package only for consumption off the premises. In the event a package beer and wine license is issued to a licensee who is open on days or at times prohibited by section 6-4, then at all such times or days the licensee shall place the beer and wine in such a way as to prevent the public any access to the beer and wine.

(4) *Restaurant/recreation.* A restaurant/recreation license shall be available only to a facility that meets the definition contained in section 6-2 and shall entitle the licensee to all the privileges granted under a tavern license. (Ord. No. 12-4131)

(5) *Restaurant beer and wine.* A restaurant beer and wine license shall entitle the licensee to sell only beer and wine at retail only for consumption on the premises in connection with the sale of meals. No bar is permitted on the premises.

(6) *Restaurant.* A restaurant license shall entitle the licensee to sell alcoholic beverages at retail only for consumption on the premises in connection with the sale and consumption of meals. No bar sales or package sales are allowed.

(7) *Club.* A club license shall be a license for the sale of alcoholic liquor by a club, as defined in section 6-2. A club license shall entitle the licensee to sell alcoholic liquor for consumption on or off the club premises in the original package. (Ord. No. 12-4131)

(8) *One-day not-for-profit.*

a. A one-day not-for-profit license shall be a license for the sale of alcoholic beverages by a not-for-profit, charitable, civic organization, having its principal place of operation within the city. This license shall be issued for a one-day period, and shall be for the sale of beer and wine for consumption on the premises. Any one not-for-profit, charitable or civic organization shall be limited to six such licenses per year. The licensee shall make application not less than 14 days prior to the date of which the license is sought and, in addition to the other information required in the application, shall state the following:

1. Date for which license sought;
2. Name or purpose of group to be served;
3. Nature of gathering;
4. Hours of proposed sale.

b. The licensee shall comply with all requirements of this chapter.

c. The fee for this license shall be \$25.00 per day. Nothing in this subsection shall prohibit the issuance of a license to a church or private school to sell at retail alcoholic liquor, if any such sales are limited to periods when groups are assembled on the premises solely for the promotion of some common object other than the sale or consumption of alcoholic liquors.

(Code 1996, § 5.15.030; Ord. No. 12-4131, § 1(Exh. A), 1-9-2012)

Sec. 6-4. - HOURS OF SALE.

(a) No person licensed to sell alcoholic liquor under this chapter shall permit his establishment to be open for the serving, sale or giving away of such liquors between the following hours:

(1) Tavern, package, and package beer and wine:

Sunday	2:00 a.m. to 11:00 a.m. and 11:00 p.m. to 12:00 midnight
Monday	12:01 a.m. to 6:00 a.m.
Tuesday	1:00 a.m. to 6:00 a.m.
Wednesday	1:00 a.m. to 6:00 a.m.
Thursday	1:00 a.m. to 6:00 a.m.
Friday	2:00 a.m. to 6:00 a.m.
Saturday	2:00 a.m. to 6:00 a.m.

(2) Club license:

Sunday	2:00 a.m. to 11:00 a.m. and 11:00 p.m. to midnight
Monday	12:01 a.m. to 6:00 a.m.
Tuesday	1:00 a.m. to 6:00 a.m.
Wednesday	1:00 a.m. to 6:00 a.m.
Thursday	1:00 a.m. to 6:00 a.m.
Friday	2:00 a.m. to 6:00 a.m.
Saturday	2:00 a.m. to 6:00 a.m.

(3) Restaurant, restaurant/recreation, restaurant beer and wine licenses:

Sunday	2:00 a.m. to 11:00 a.m. and 11:00 p.m. to midnight
Tuesday	1:00 a.m. to 6:00 a.m.
Wednesday and Thursday	1:00 a.m. to 6:00 a.m.
Friday and Saturday	2:00 a.m. to 6:00 a.m.

(Ord. No. 12-4131)

(4) Nonprofit beer and wine: Nonprofit beer and wine licenses shall be valid from 12:00 noon for the day they are issued until 10:00 p.m. that day. All other provisions as to hours and days of sale applicable to tavern, package licenses shall apply to nonprofit beer and wine licenses as well.

(b) The following rules shall apply during certain holiday periods:

(1) All establishments having a liquor license shall be closed from 7:00 p.m. on Christmas Eve and shall be closed from 7:00 p.m. on Christmas Eve and shall be closed through Christmas Day and evening. Regular hours shall resume on the day following Christmas Day.

(2) All establishments having a liquor license shall be permitted to remain open for the sale of liquor until 2:00 a.m. on every January 1 (New Year's Day). Regular hours shall then resume on January 1 (New Year's Day), following the 2:00 a.m. closing.

(c) No patron shall remain or be permitted to remain in the bar area of any premises licensed for the sale of alcoholic liquor regardless of license classification during the time that the business of selling alcoholic liquors is not permitted to be transacted on such premises, and the door shall be locked promptly at the time of closing and shall remain locked during this closing period. In the case of any restaurant, recreation, or club, each as defined in section 6-2, meals may be served to patrons and the doors need not be locked during the hours that liquor is not permitted to be served, but all bar areas must be closed to the public, and no wine or liquor lists shall be displayed or placed on any table or counter, and alcoholic liquor shall not be consumed or served on the premises during such hours.

(d) The time referred to hereunder shall be either central standard time or central daylight saving time, whichever is in effect in the city. On those days that a time change occurs, the closing time shall be 2:00 a.m. daylight saving time or 1:00 a.m. central standard time.

(Code 1996, § 5.15.040; Ord. No. 12-4131, § 1(Exh. A), 1-9-2012)

Sec. 6-5. - PROHIBITED SALES; OFFENSES RELATING TO PERSONS OF NONLEGAL AGE.

(a) *Sale to person of nonlegal age; sale to intoxicated person.* No licensee, his agent or employee shall sell, give, deliver or permit the delivery of alcoholic liquor to any minor or to any person who because of nonlegal age is prohibited by state law from consuming alcoholic liquor, or to any intoxicated person.

(b) *Misrepresentation of age.* It is unlawful for any person who because of nonlegal age is prohibited by state law from consuming alcoholic liquor to represent that he is of age for the purpose of buying, accepting or receiving alcoholic liquor from a licensee.

(c) *Presence of persons of nonlegal age in bar area.* It is unlawful for any licensee or his agent or employee to permit any person who because of nonlegal age is prohibited by state law from consuming alcoholic liquor to be or remain in any area of the premises where a bar is located, and it is unlawful for any person who because of nonlegal age is prohibited by state law from consuming alcoholic liquor to be in any area of the premises where a bar is located; provided, that this subsection shall not apply:

(1) To any such person who is accompanied by his parent or legal guardian on a licensed premises holding a restaurant/recreation, club, or restaurant beer and wine license;

(2) If prior notice has been given to the liquor commissioner of a wedding reception or a similar event where minors will be present without a parent or guardian.

(d) *Permitting consumption during times when sale is prohibited.* It is unlawful for a licensee to permit the consumption of alcoholic beverages on the licensed premises during the days and times the sale of alcoholic beverages is prohibited.

(e) *Permitting consumption by minor on licensed premises.* It is unlawful for a licensee to permit a minor to consume alcoholic beverages on the licensed premises.

(f) *Sale or delivery to minor.* It is unlawful for any person to sell or deliver alcohol to a minor, except a parent or legal guardian within the minor's residence, or in connection with a bona fide religious

ceremony.

(Code 1996, § 5.15.050; Ord. No. 12-4131, § 1(Exh. A), 1-9-2012)

Sec. 6-6. - EMPLOYMENT OF PERSONS UNDER 21 YEARS OF AGE ON LICENSED PREMISES.

No licensee, his agent or employee shall permit any person under the age of 21 years to work behind the bar or to pour or mix any alcoholic liquor as an employee of such license. No licensee, his agent or employee shall permit any person under the age of 21 years to tend bar, to serve or dispense or in any other way to handle alcoholic liquor upon his licensed premises, provided that persons of the ages of 19 years and 20 years may serve alcoholic liquor in such establishments as waiters, stockpersons or waitresses and serve as sale clerks in establishments selling liquor for consumption off the premises. Notwithstanding anything set forth above, no holder of a tavern liquor license may employ any person who would be present in the licensed premises during its operating hours who is under the age of 21 years.

(Code 1996, § 5.15.060; Ord. No. 12-4131, § 1(Exh. A), 1-9-2012)

Sec. 6-7. - POSSESSION OR CONSUMPTION IN PUBLIC.

It is unlawful for any person to consume alcoholic liquor or to possess alcoholic liquor, other than in the original package and with the seal unbroken, in the public parks, streets, municipal buildings, alleys or highways, or other public buildings in the city; provided, however, that a one-day not-for-profit license, as provided in subsection 6-3(9), may be issued for a special event on city-owned property upon approval of the city council. Upon the issuance of such a license, alcoholic liquor may be sold, delivered and consumed in the following buildings owned or under the control of the city: Rochelle Municipal Airport buildings and grounds.

(Code 1996, § 5.15.070; Ord. No. 09-3822, 6-8-2009)

Sec. 6-8. - SALE OR CONSUMPTION OF ALCOHOLIC BEVERAGES; EXCEPTIONS.

It is unlawful to dispense, serve or allow alcoholic beverages to be brought into or consumed in any business or building open to the general public unless a license has been obtained pursuant to the requirements of this chapter. The use of wine for religious ceremonies by a bona fide religious organization is excluded from the requirements under this section.

(Code 1996, § 5.15.075)

Sec. 6-9. - SALES TO PERSONS IN MOTOR VEHICLES.

No licensee, agent or employee shall sell or serve any alcoholic liquor to any person occupying a motor vehicle, whether such vehicle is moving or parked either in a public place or on the licensed premises. A licensee may deliver alcoholic beverages in the sealed original container which are purchased in person, inside the licensed premises, to the purchaser's vehicle.

(Code 1996, § 5.15.080)

Sec. 6-10. - PROHIBITED ENTERTAINMENT ON LICENSED PREMISES.

(a) It is unlawful for any person, partnership, firm, corporation or other legal entity, holding a liquor license issued by the city, to:

(1) Provide any service or performance to patrons, by means of live entertainment, video or film, or by any other means, in such a manner as to expose to public view, with less than a fully opaque covering:

- a. Part or all of male or female genitals, pubic hair, buttocks, perineum, anal region or pubic hair region;
- b. Any device, costume or covering which gives the appearance of or simulates part or all of the male or female genitals, pubic hair, buttocks, perineum, anal region or pubic hair region;
- c. Any portion of the female breast at or below the areola thereof.

(2) Promote the commission of any of the unlawful acts listed in subsection (a)(1) of this section whether or not such acts take place on the licensed premises.

(b) A violation of this section will constitute an unlawful act pursuant to the provisions of section 6-15(4)c and subject the offender to the penalties as provided in section 6-15

(Code 1996, § 5.15.090)

Sec. 6-11. - SANITARY FACILITIES IN LICENSED PREMISES.

Every holder of a tavern, restaurant/recreation, restaurant beer and wine, or club license shall provide separate washroom facilities for male and female patrons, and shall maintain the same in a clean and sanitary condition in accordance with the health ordinances of the city.

(Code 1996, § 5.15.100; Ord. No. 12-4131, § 1(Exh. A), 1-9-2012)

Sec. 6-12. - FURNISHING LIQUOR ON CREDIT.

No licensee, his agent or employee shall sell or furnish alcoholic liquor at retail to any person on personal credit or in exchange for any goods, wares or merchandise, or in payment for any services rendered; provided that nothing contained in this section shall be construed to prevent any club, or restaurant from permitting checks or statements for alcoholic liquor combined with meals to be signed by patrons and members; provided further that nothing contained in this section shall be construed to prevent any hotel from permitting checks or statements for liquor to be signed by regular guests residing at the hotel and charged to the accounts of the guests. The use of a charge card such as VISA, MasterCard, American Express, and similar charge cards to purchase alcoholic liquor shall not be prohibited.

(Code 1996, § 5.15.110; Ord. No. 12-4131, § 1(Exh. A), 1-9-2012)

Sec. 6-13. - LOCAL LIQUOR CONTROL COMMISSIONER DESIGNATED.

The mayor shall be the local liquor control commissioner and shall be charged with the administration of the appropriate provisions of the Illinois Liquor Control Act, of this chapter, and of such ordinances, resolutions, rules and regulations relating to alcoholic liquor as hereafter may be adopted. Whenever in this chapter the local liquor control commissioner shall be referred to, such reference shall also include any committee or other agency appointed by the local liquor control commissioner.

(Code 1996, § 5.15.120; Ord. No. 08-3765, Exh. A, 12-8-2008)

Sec. 6-14. - HEARINGS BY LOCAL LIQUOR CONTROL COMMISSIONER.

For the purpose of administering and enforcing the provisions of this chapter, the local liquor control commissioner may, in his discretion, hold public hearings at any time within the city concerning any matters embraced within this chapter.

(Code 1996, § 5.15.130)

Sec. 6-15. - Powers AND DUTIES OF LOCAL LIQUOR CONTROL COMMISSIONER.

(a) *Generally.* The local liquor control commissioner shall have the following powers and duties:

- (1) *Licenses.* To grant, to suspend and to revoke for cause all licenses issued under this chapter to persons for premises within his jurisdiction;
- (2) *Right of entry.* To enter into and to authorize any law enforcement officer to enter at any time upon any premises licensed hereunder to determine whether any of the provisions of the Illinois Liquor Control Act, of this chapter, or of any rules and regulations adopted by him or by the state commission have been or are being violated;
- (3) *Powers granted under state and local law.* To exercise all the powers, functions and duties which now or hereafter may be granted to him by the Illinois Liquor Control Act or by this chapter;
- (4) *Suspension and revocation of licenses.* To suspend or revoke any license issued under this chapter for any of the following reasons:
 - a. The licensee has violated any of the laws of the United States relating to the sale of alcoholic liquor, or any of the provisions of the Illinois Liquor Control Act, or any ordinance enacted by the city council including this chapter, or any applicable rules and regulations adopted by the local liquor commissioner or by the state commission;
 - b. The willful making of any false statement as to a material fact in the application for such license;
 - c. The permitting of an unlawful, disorderly or immoral practice upon the licensed premises;
 - d. The refusal of any licensee to testify under oath to all relevant and material questions propounded to him at any hearing conducted by the local liquor control commissioner;
 - e. The state commission has suspended or revoked the license of the licensee;
- (5) *Examination of applicants for license.* To examine or cause to be examined, under oath, any applicant for a local license or for a renewal thereof, or any licensee upon whom notice of hearing has been served, to hear testimony and take proof for his information in the performance of his duties, and for such purposes to issue subpoenas which shall be effective in any part of the state;
- (6) *Investigation of complaints.* To receive the complaint of any resident of the city and to investigate upon such complaint, or to investigate upon his own initiative, any alleged violation of any law of the United States relating to the sale of alcoholic liquor, or any of the provisions of the Illinois Liquor Control Act, or any ordinance of the city, including this chapter, or any applicable rules and regulations adopted by the local liquor control commissioner, or by the state commission. The local liquor commissioner may issue subpoenas requiring persons to appear and offer testimony at

hearings in connection with such complaints;

(7) *Rules and regulations.* To make, promulgate, alter, amend, repeal and enforce such reasonable rules and regulations relating to the administration and enforcement of the provisions of this chapter as may be deemed by him to be desirable;

(b) *Appeals to state liquor commission.* Appeals to the state liquor commission shall be on the basis of the record of the local liquor commissioner's hearing and shall not be de novo.

(Code 1996, § 5.15.140)

Sec. 6-16. - DUTIES OF CITY CLERK.

The city clerk shall receive all license applications and issue all licenses when directed to do so by the local liquor commissioner and perform such other duties and functions as are assigned to him by this chapter.

(Code 1996, § 5.15.150)

Sec. 6-17. - VIOLATIONS; PENALTY.

In addition to any penalty imposed by the liquor commissioner, whoever violates any of the provisions of this chapter shall, upon conviction, be punished as provided in section 1-15. Every act or omission of whatsoever nature constituting a violation of any of the provisions of this chapter, by any officer, director, manager or other agent or employee of any licensee, shall be deemed and held to be the act of such employer or licensee, and the employer or licensee shall be punishable in the same manner as if the act or omission had been done or omitted by him personally.

(Code 1996, § 5.15.160)

Secs. 6-18—6-40. - RESERVED.

ARTICLE II. - LICENSE

- Sec. 6-41. - Required.
- Sec. 6-42. - Application; term.
- Sec. 6-43. - Payment of fees.
- Sec. 6-44. - Serving liquor in unlicensed premises.
- Sec. 6-45. - License to be for single location; change of location.
- Sec. 6-46. - Number limitations.
- Sec. 6-47. - Ineligibility for license.
- Sec. 6-48. - Transfer.
- Sec. 6-49. - Renewal.
- Sec. 6-50. - Privilege limited.
- Sec. 6-51. - Sale of licensed business.
- Sec. 6-52. - Change of local manager of corporate licensee.
- Sec. 6-53. - Posting.
- Sec. 6-54. - Termination for nonuse.

Sec. 6-41. - REQUIRED.

No person within the corporate limits of the city shall offer for sale at retail or sell at retail alcoholic liquor without first having obtained a license or permit to do so, as provided in this chapter.

(Code 1996, § 5.20.010)

Sec. 6-42. - APPLICATION; TERM.

Annual licenses shall expire at 11:59 p.m. on May 31 of each year. Any person desiring a license authorized by this chapter shall make application therefor to the local liquor control commissioner. A separate application shall be made for each license desired by the applicant. Such application shall be in writing upon forms prepared and furnished by the city. Each application for a license shall be signed by the applicant and verified by him by oath or affidavit, and shall be filed with the city clerk. In case the applicant is a partnership, all partners must sign and verify the application. In case the applicant is a corporation or club, all officers must sign and verify the application and indicate their official positions. The information requested in the application form must be furnished as to each person signing the application. Each application shall contain the following information and statements:

- (1) *Name, age and address.* The name, age and address of the applicant in the case of an individual; in the case of a partnership, the persons entitled to a share in the profits thereof; and in the case of a corporation or club, the objects for which organized, the names and addresses of the officers and directors and, if a majority interest of the stock of such corporation is owned by one person or his nominee, the name and address of such person;
- (2) *Location.* The location where the applicant proposes shall conform to the requirements of the state liquor code to engage in the business for which the application was submitted, and whether or not the proposed location is within 100 feet of any church, school, hospital, home for the aged or indigent persons or for war veterans, their wives or children, or of any military or naval station;
- (3) *Citizenship.* The citizenship of the applicant, and if a naturalized citizen, the time and place of his naturalization; or his status as a legal resident;

- (4) *Sale of food.* Whether food or human consumption is to be sold in such place of business if the application is allowed;
- (5) *Ownership of premises; name of landlord.* Whether the applicant owns the premises for which a license is sought and, if he does not, the name of his landlord and the term of his lease;
- (6) *Disposition of other applications.* Whether the applicant has made application for a similar or other license on premises other than those described in the application, and the disposition of such other license;
- (7) *Suspension or revocation of previous licenses.* Whether or not any license issued to him under this chapter or previous ordinances relating to alcoholic liquor has ever been suspended or revoked;
- (8) *Former convictions relative to decency or morality.* Whether or not the applicant has ever been convicted of being the keeper or an inmate of a house of ill fame, of pandering, or of any other crime or misdemeanor opposed to decency or morality;
- (9) *Former conviction of felony.* Whether or not the applicant has ever been convicted of a felony, and whether or not he is disqualified to receive the license sought by reason of any manner or thing contained in the laws of the state or this chapter conforming to state law;
- (10) *Agreement not to violate ordinances.* A statement that the applicant agrees not to violate any provision of this Code or other ordinance of the city, or any law of the United States or of the state in the conduct of his business, and that, in the event such promise is broken or if any statement contained in the application is not true, the license applied for may be immediately suspended or revoked;
- (11) *Agreement to testify under oath.* A statement that the applicant will testify under oath to all relevant and material questions propounded to him, in any hearing conducted by the local liquor control commissioner, either before or after the issuance of a license to him, and that his failure to so testify shall be sufficient reason for the refusal to issue any such license to him, or the renewal thereof, or for the suspension or revocation of any license which has been issued to him;
- (12) *Agreement to employ only persons of good moral character.* A statement that the applicant will employ managers, agents and employees of good moral character, and he will not employ persons who have been convicted of a felony or of any crime or misdemeanor opposed to decency or morality;
- (13) *Insurance.* Furnish proof of liability and dram shop insurance issued by a reputable insurance company.

(Code 1996, § 5.20.020)

Sec. 6-43. - PAYMENT OF FEES.

Fees for all licenses shall be due and payable in full at the time the application is submitted.

(Code 1996, § 5.20.030)

Sec. 6-44. - SERVING LIQUOR IN UNLICENSED PREMISES.

No alcoholic liquor shall be served in a building open to the general public, or club or other business establishment which does not have a liquor license. The owner of any such establishment shall not permit

the carrying of alcoholic beverages by persons who may be customers, guests, invitees or patrons of their business.

(Code 1996, § 5.20.050)

Sec. 6-45. - LICENSE TO BE FOR SINGLE LOCATION; CHANGE OF LOCATION.

Any license issued under this chapter shall be for a single and particular location, and no license shall be issued nor shall any person hold a license for more than one location at the same time. Upon application being filed with the city clerk for a change of location and upon payment of an investigation fee in the amount of \$50.00, the local liquor control commissioner may allow the location authorized by the particular license to be changed. In case the applicant has not personally operated his business at the particular location for at least 90 days prior to the application for change of location, such application shall be rejected. The application blank shall be similar to that required of an original applicant for license under section 6-42. After investigation, the change of location may be approved or rejected, as in the case of original license applications, and, if approved, the authorized change of location shall be shown by endorsement upon the face of the existing license.

(Code 1996, § 5.20.060)

Sec. 6-46. - NUMBER LIMITATIONS.

There shall be issued in the city not more than seven tavern licenses, not more than two restaurant licenses, not more than five restaurant/recreation licenses, not more than three package licenses, not more than four package beer and wine licenses, not more than one restaurant beer and wine licenses, not more than two club licenses, not more than six one-day nonprofit beer and wine licenses. Not more than one one-day non-profit beer and wine license shall be issued for the same date.

(Code 1996, § 5.20.070; Ord. No. 03-3149, 4-14-2003; Ord. No. 03-3188, 10-14-2003; Ord. No. 04-3275, 10-25-2004; Ord. No. 04-3289, 12-27-2004; Ord. No. 05-3314, 4-25-2005; Ord. No. 05-3329, 5-23-2005; Ord. No. 07-3552, 5-14-2007; Ord. No. 07-3568, 6-11-2007; Ord. No. 07-3603, 9-10-2007; Ord. No. 08-3699, 7-14-2008; Ord. No. 08-3724, 8-11-2008; Ord. No. 08-3760, 11-24-2008; Ord. No. 11-4084, 8-22-2011; Ord. No. 12-4131, 1-9-2012; Ord. No. 12-4142, 1-23-2012; Ord. No. 12-4176, 5/14/2012; Ord. 12-4191, 6/11/2012; Ord. No. 12-4260, 11/26/2012)

Sec. 6-47. - INELIGIBILITY FOR LICENSE.

No license authorized by this chapter shall be issued to:

- (1) *Nonresidents of city.* A person or, in the case of a partnership, a partner who is not a resident of the city.
- (2) *Persons not of good character.* A person who is not of good character and reputation in the community in which he resides.
- (3) *U.S. citizenship or residency.* A person who is not a citizen of the United States or a legal resident alien.
- (4) *Persons convicted of felony.* A person who has been convicted of a felony under the laws of the state or of the United States, unless the local liquor control commissioner determines that such person has been sufficiently rehabilitated to warrant the public trust after considering matters set forth in such person's application and the commissioner's investigation. The burden of proof of

sufficient rehabilitation shall be on the applicant.

(5) *Persons convicted of keeping house of ill fame.* A person who has been convicted of being the keeper or is keeping a house of ill fame.

(6) *Persons convicted of certain crimes.* A person who has been convicted of any other crime or misdemeanor opposed to decency and morality.

(7) *Revocation of former license.* A person whose license issued under this chapter has been revoked for any cause.

(8) *Ineligibility for renewal.* A person who at the time of application for renewal of any license issued under this chapter would not be eligible for such license upon a first application.

(9) *Copartnerships.* A copartnership, unless all of the members of such copartnership shall be qualified to obtain a license.

(10) *Corporations generally.* A corporation, if any officer, manager or director thereof, or any stockholder owning in the aggregate more than five percent of the stock of such corporation, would not be eligible to receive a license under this chapter for any reason other than citizenship and residence within the city.

(11) *Foreign corporations.* A corporation unless it is incorporated in the state, or unless it is a foreign corporation which is qualified under the Business Corporation Act of 1983, 805 ILCS 5/1.01 et seq., to transact business in the state.

(12) *Business conducted by manager or agent.* A person whose place of business is conducted by a manager or agent unless the manager or agent possesses the same qualifications required by the licensee.

(13) *Former conviction of federal or state law relative to alcoholic liquor.* A person who has been convicted of a violation of any federal or state law concerning the manufacture, possession or sale of alcoholic liquor, subsequent to July 12, 1937, or has forfeited his bond to appear in court to answer charges for any such violation.

(14) *Ownership or lease of premises.* A person who does not own the premises for which a license is sought, or does not have a lease thereon for the full period for which the license is to be issued.

(15) *City officials.* Any law enforcing public official, the local liquor control commissioner, the city manager or members of the city council and any other such official.

Editor's note— Officials are now permitted, per 235 ILCS 5/6-2(a)(14), to hold licenses, under certain circumstances, within their city.

(16) *Ineligibility for state license.* Any person not eligible for a state retail liquor license.

(17) *Failure to furnish information.* A person who fails to furnish the information or to make the statements required in the application for license as set forth in section 6-42

(18) *Business conducted by manager, agent or bartender.* A person whose place of business is conducted by a manager or agent or bartender, unless such manager, agent or bartender possesses the same qualifications required of the licensee.

(Code 1996, § 5.20.080)

Sec. 6-48. - TRANSFER.

All licenses issued under this chapter shall be considered personal and no license may be transferred to any other person.

(Code 1996, § 5.20.090)

Sec. 6-49. - RENEWAL.

Any licensee may renew his license at the expiration thereof; provided that he is then qualified to receive a license, and the premises for which such renewal license is sought are suitable for the purpose; provided further that the renewal privilege herein contained shall not be construed as a vested right which shall in any case prevent the city council from decreasing the number of licenses to be issued within the city. The requirements for, and the procedure for obtaining, a renewal of a license shall be the same as that provided for in section 6-42. All applications for renewal shall be submitted on or before May 15. Any application submitted after the deadline must be accompanied by a \$20.00 late filing fee.

(Code 1996, § 5.20.100)

Sec. 6-50. - PRIVILEGE LIMITED.

A license shall be purely a personal privilege, good for not to exceed one year after issuance, unless sooner revoked as provided in this chapter. It shall not constitute property, nor shall it be subject to attachment, garnishment or execution, voluntarily or involuntarily, or subject to being encumbered or hypothecated. Such license shall not descend by the laws of testate or intestate devolution, but shall cease upon the death of the licensee, provided that the executor of the will or administrator of the estate of any deceased licensee, and the trustee of any insolvent or bankrupt licensee, when such estate consists in part of alcoholic liquor, under order of the appropriate court may exercise the privileges of the deceased or insolvent or bankrupt licensee until the expiration of such license or until six months after the death, insolvency or bankruptcy of such licensee, whichever is the shorter period of time.

(Code 1996, § 5.20.110)

Sec. 6-51. - SALE OF LICENSED BUSINESS.

When a business holding a liquor license is sold, the purchaser of that business shall have the first opportunity to make application for the license previously held by the prior business, provided that the previous license has not been surrendered or revoked, and not more than 30 days has past from the time the prior license holder has discontinued its business operations. Upon application being filed with the city clerk, and upon payment of an investigation fee in the amount required by section 6-45, the local liquor control commissioner may issue a license to the purchaser of an established, licensed business as a going concern. In case the business sold, or proposed to be sold, has in fact no good will or other value as a going concern, in addition to the value of its physical assets, such application shall be rejected. Any such sale shall include all furniture, fixtures and equipment used in such business or on such premises or place of business for sale, offering for sale or dispensing of alcoholic liquor. Such application must be for exactly the same class of license as that held by the seller, and such application shall be only for the same location as the previously licensed business. Any such purchaser shall make application for the issuance of a new license to him, and in such application he shall state the actual facts in respect to his purchase of such business. He shall also fill out an application blank and furnish the information and

make the statements similar to that required of any other licensee under section 6-42. Such application shall be investigated and approved or rejected, as in the case of applications for original licenses, and, if approved, a license shall be issued to such purchaser upon payment to the city clerk of the license fee then due, without any credit for any unused portion of the previous license, and there shall be no rebate to any person for any unused portion of any license. No license shall be issued to the purchaser of such business until the seller of such business has surrendered his license to the city clerk for cancellation. Notwithstanding the foregoing, the city council shall in no event be obligated to renew any license or create any new license upon the sale of any business. No license shall be issued for any convenience store; provided, however, that any license for a convenience store which was in effect as of January 9, 2012, may be renewed on the same terms as provided in this chapter, and must be surrendered upon the sale of the convenience store, and no purchaser of a licensed convenience store shall be entitled to the surrendered license or granted a new license for such convenience store.

(Code 1996, § 5.20.120; Ord. No. 12-4131, § 1(Exh. A), 1-9-2012)

Sec. 6-52. - CHANGE OF LOCAL MANAGER OF CORPORATE LICENSEE.

If a corporation holding a liquor license modifies the license by naming a new local manager, a fee of \$50.00 shall be assessed to offset the additional cost of investigating the manager's qualifications. The manager of the holder of a corporate liquor license must reside within a ten-mile radius of the city limits.

(Code 1996, § 5.20.125)

Sec. 6-53. - POSTING.

Every licensee under the provisions of this chapter shall cause his license to be framed and hung in plain view in a conspicuous place on the licensed premises.

(Code 1996, § 5.20.130)

Sec. 6-54. - TERMINATION FOR NONUSE.

Any license issued under this chapter shall terminate if for 60 continuous days the licensee is not open for business to the public. The licensee shall immediately return the license to the city clerk after the 60-day period.

(Code 1996, § 5.20.140)

ARTICLE III. OUTDOOR LIQUOR SALES.**Sec. 6-70. OUTDOOR SALES OF LIQUOR PERMITTED.**

Subject to approval of the Liquor Commissioner and the conditions contained in this Article, the sale, service and consumption of alcoholic liquors in an outdoor seating area shall be permitted adjacent to premises licensed to sell alcoholic liquor for consumption on the premises.

Sec. 6-71. OUTDOOR AREA REQUIREMENTS.

(a) Any outdoor area in which a liquor licensee seeks permission to serve alcoholic liquors must conform to the following standards:

- (1) The outdoor area must be owned by the licensee, or leased by the licensee and the owner must consent to the sale of alcoholic liquors in the outdoor area;
- (2) Access to the outdoor area must be only through the indoor licensed premises;
- (3) The outdoor area must be enclosed by a decorative fence, not less than 36" in height nor more than 72" in height, which fence must allow viewing of the outdoor area from the outside, and the fence must create a complete enclosure around the outdoor area with an emergency gate;
- (4) The outdoor area must be situated on a hard surface, such as concrete, asphalt, or wood decking; and
- (5) No bar as defined in this Chapter may be constructed or maintained in the outdoor area.

(b) In order to ensure compliance with the provisions of this Article, the licensee seeking approval for liquor sales in an outdoor area shall submit a site plan for review to the Community Development Department which shall make its recommendation to the Liquor Commissioner. The fee for this review shall be \$150.00.

Sec. 6-72. HOURS OF OPERATION LIMITED.

A licensee who has obtained permission to serve alcoholic liquors in an outdoor area may serve alcoholic liquors from the beginning hour of operation permitted by the licensee's liquor license until one hour prior to the ending hour of operation permitted by the licensee's liquor license.

Sec. 6-73. ENTERTAINMENT IN AN OUTDOOR AREA.

A licensee is permitted to provide any lawful entertainment in the outdoor area provided the licensee complies with applicable Federal, State and City ordinances regulating entertainment, including without limitation any noise and nuisance ordinances.

Sec. 6-74. SMOKING PROHIBITED.

Smoking shall be prohibited in outdoor areas where alcoholic liquors are permitted to be served.

Ord. No. 12-4190, 6/11/2012;

Chapters 7—9 – RESERVED

Chapter 10 - AMUSEMENTS AND ENTERTAINMENTS

ARTICLE I. - IN GENERAL

ARTICLE II. - COIN-OPERATED AMUSEMENT DEVICES

ARTICLE III. - RAFFLES

ARTICLE I. - IN GENERAL

Sec. 10-1. - Applicability.

Sec. 10-2. - License required.

Sec. 10-3. - Application for license.

Sec. 10-4. - License fee.

Sec. 10-5. - Outdoor entertainment.

Sec. 10-6. - Overcrowding.

Sec. 10-7. - Inspections.

Sec. 10-8. - Obscene shows or exhibitions.

Sec. 10-9. - Incitement to violence.

Secs. 10-10—10-30. - Reserved.

Sec. 10-1. - APPLICABILITY.

The provisions of this article, except as to licensing and fees, shall apply to all public shows, theatricals, circuses and other amusements in the city, whether specifically licensed under other provisions of this Code or not.

(Code 1996, § 5.25.010)

Sec. 10-2. - LICENSE REQUIRED.

It is unlawful to conduct or operate any amusement which is open to the public and for which a fee is charged for admission thereto, without having first obtained a license therefor; provided that the provisions of this section shall not be held to apply to those amusements which are specifically licensed by any other provision in this Code or other ordinance of the city.

(Code 1996, § 5.25.020)

Sec. 10-3. - APPLICATION FOR LICENSE.

Applications for licenses required by section 10-2 shall be made to the clerk and shall comply with all of the general provisions of chapter 26, article II relating to applications for licenses generally.

(Code 1996, § 5.25.030)

Sec. 10-4. - License fee.

The license fees for menageries, exhibitions of inanimate objects and other amusements not otherwise provided for shall be as set out in section 26-44.

(Code 1996, § 5.25.040)

Sec. 10-5. - OUTDOOR ENTERTAINMENT.

It is unlawful to conduct or sponsor any outdoor entertainment, including, but not limited to, any carnival or circus, unless the same shall be approved by the city council.

(Code 1996, § 5.25.050)

Sec. 10-6. - Overcrowding.

It is unlawful to permit or gather such a crowd to witness any amusement or show as to create a dangerous condition because of fire or other risks.

(Code 1996, § 5.25.070)

Sec. 10-7. - INSPECTIONS.

It shall be the duty of the chief of police and the fire marshal to see that every exhibition, amusement, theatrical or other public show or amusement is inspected by a member of the police and fire departments, to ensure conformity with the provisions of this Code concerning such amusements.

(Code 1996, § 5.25.080)

Sec. 10-8. - OBSCENE SHOWS OR EXHIBITIONS.

It is unlawful for any person to present, exhibit, conduct or take part in any obscene, as defined in 720 ILCS 5/11-20(b), show, theatrical, play, motion picture, exhibition or other form of public amusement or show.

(Code 1996, § 5.25.090)

Sec. 10-9. - INCITEMENT TO VIOLENCE.

It is unlawful to present any public amusement or show of any kind which is reasonably calculated to cause or promote an immediate, violent response from any percipient.

(Code 1996, § 5.25.100)

Secs. 10-10—10-30. - RESERVED.

ARTICLE II. - COIN-OPERATED AMUSEMENT DEVICES

Sec. 10-31. - Definitions.

Sec. 10-32. - Restrictions and standards.

Sec. 10-33. - Violation of gambling laws prohibited.

Sec. 10-34. - Penalty.

Secs. 10-35—10-60. - Reserved.

Sec. 10-31. - DEFINITIONS.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Coin-operated amusement device means a mechanical or electronic device designed to be played for amusement, the operation of which is governed or controlled by the deposit of a coin or token, or for which a fee is charged for its operation.

Distributor means any person, firm, partnership or corporation which owns or leases coin-operated amusement devices, as defined herein, and which places its machines in establishments other than those owned by said person, firm, partnership or corporation within the city for play by the public.

Operator means any person, firm, partnership or corporation which owns or leases the premises where the machines are located for use by the general public, or members of clubs, associations or fraternities.

(Code 1996, § 5.30.010)

Sec. 10-32. - RESTRICTIONS AND STANDARDS.

(a) *Maximum number of devices.* In those establishments having a liquor license, such establishment shall have no more than eight coin-operated amusement devices, provided that a licensee may have up to 12 coin-operated amusement devices if those machines in addition to the original eight are electronic dart machines. In those establishments not having a liquor license, up to 20 coin-operated amusement devices are allowed.

(b) *Free replays.* No coin-operated amusement device may reward more than ten free replays at any time.

(c) *Knock-off switch.* No coin-operated amusement device may be equipped with a "knock-off" button or switch allowing for the automatic termination of accumulated games.

(d) *Maintenance and safety; obscenity.* Devices shall be mechanically sound, shall operate safely, and shall not be obscene within the meaning of 720 ILCS 5/11-20.

(Code 1996, § 5.30.040)

Sec. 10-33. - VIOLATION OF GAMBLING LAWS PROHIBITED.

No coin-operated amusement device shall be operated or permitted to be used in such a manner as to violate the gambling laws of the city or of the state.

(Code 1996, § 5.30.050)

Sec. 10-34. - PENALTY.

Any person violating any provision of this article shall be subject to punishment as provided in section 1-15.

(Code 1996, § 5.30.060)

Secs. 10-35—10-60. - RESERVED.

ARTICLE III. - RAFFLES

Sec. 10-61. - Definitions.
Sec. 10-62. - Compliance; license required.
Sec. 10-63. - Application for license.
Sec. 10-64. - Licensee qualifications.
Sec. 10-65. - Issuance of license.
Sec. 10-66. - Operation and conduct.
Sec. 10-67. - Records.
Sec. 10-68. - License fee.
Sec. 10-69. - Prizes.
Sec. 10-70. - Violations; penalty.

Sec. 10-61. - DEFINITIONS.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Business organization means a voluntary organization composed of individuals and businesses who have joined together to advance the commercial, financial, industrial and civic interests of a community.

Charitable organization means an organization or institution organized and operated to benefit an indefinite number of the public, including organized sporting activities. The service rendered to those eligible for benefits must also confer some benefit upon the public.

Educational organization means an organization or institution organized and operated to provide systematic instruction in useful branches of learning by methods common to schools and institution of learning which compare favorably in their scope and intensity with the course of study present in tax-supported schools, including organized sporting activities.

Fraternal organization means an organization of persons having a common interest, the primary interest of which is to both promote the welfare of its members and to provide assistance to the general public in such a way as to lessen the burdens of government by caring for those who otherwise would be cared for by the government.

Labor organization means an organization composed of workers organized with the objective of betterment of the conditions of those engaged in such pursuit and development of a higher degree of efficiency in their respective occupations.

Licensee means an organization which has been issued a license to operate a raffle.

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

Nonprofit means organized, operated, and conducted on a not-for-profit basis with no personal profit inuring to anyone as a result of said operation.

Person means an individual, firm, organization, public or private corporation, government, partnership, or unincorporated association.

Raffle means a form of lottery, as defined in section 28-2(b) of the Criminal Code of 1961, 720 ILCS 5/28-2(b), conducted by an organization licensed under this article, in which:

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

Religious organization means any church, congregation, society, or organization founded for the purpose of religious worship.

Veterans organization means an organization or association comprised of members of which substantially all are individuals who veterans or spouses, widows, or widowers of veterans, the primary purpose of which is to promote the welfare of its members and to provide assistance to the general public in such a way as to confer a public benefit.

(Code 1996, § 5.27.010)

Sec. 10-62. - COMPLIANCE; LICENSE REQUIRED.

It is unlawful to conduct or operate a raffle or to sell, offer for sale, convey, issue, or otherwise transfer for value a chance on a raffle unless done in accordance with this article.

(Code 1996, § 5.27.020)

Sec. 10-63. - APPLICATION FOR LICENSE.

Any bona fide charitable, educational, fraternal, labor, business, religious or school, organized sports and veterans organization having been in existence continuously for at least five years immediately before making application for license, or a non-profit fundraising organization that the city council determines is organized for the sole purpose of providing financial assistance to an identified individual or group of individuals suffering extreme financial hardship as a result of illness, disability, accident or disaster may conduct or operate a raffle within the city after filing an application therefor with the city clerk on forms provided by the city clerk and paying the appropriate fee. Said application shall contain the following information:

- (1) The name, address, and type of organization;
- (2) The length of existence of the organization and, if incorporated, the date and state of incorporation (must have a bona fide membership carrying out not-for-profit objectives);
- (3) The name, address, and telephone number of the organization's presiding officer, raffles manager, and any other designated members responsible for the conduct and operation of the raffle;

- (4) The maximum time period during which raffle chances will be issued or sold;
- (5) The maximum number of raffles to be conducted during the period of the license and location at which winning chances will be determined;
- (6) The value of all prizes to be awarded in the raffle;
- (7) The maximum price charged for each raffle chance issued or sold;
- (8) A sworn statement signed by the applicant's presiding officer attesting to the fact that the applicant is a not-for-profit organization and that the information contained in the application is true and correct.

(Code 1996, § 5.27.030)

Sec. 10-64. - LICENSEE QUALIFICATIONS.

Raffle licenses shall be issued only to bona fide charitable, educational, fraternal, labor, business, religious or school, organized sports, and veterans organizations that operate without profit to their members and which have a bona fide membership engaged in carrying out their objectives. Said organization must have their principal place of business or activity located within the corporate limits of the city.

(Code 1996, § 5.27.040)

Sec. 10-65. - ISSUANCE OF LICENSE.

(a) The city clerk shall receive all raffle applications and, if the organization and application meet the requirements of this article, issue a raffle license to the applicant. In the event the city clerk believes that the requirements for a raffle application have not been met, the raffle application shall be submitted to the city council at its next regular meeting. The city council shall decide whether the requirements have been met and whether a license should be issued. The decision of the city council shall be final. A single raffle license shall be issued for a specified period of time not to exceed one year. A raffle license for a specified number of multiple raffles shall be issued for up to one year expiring on April 30 of each year.

(b) A raffle license shall show the following:

- (1) The area or areas in which raffle chances may be sold or issued;
- (2) The period of time during which raffle chances may be sold or issued;
- (3) The time of determination of winning chances; and
- (4) The location or locations at which winning chances will be determined.

(c) A license shall be valid for multiple raffles only during the license period.

(Code 1996, § 5.27.050)

Sec. 10-66. - OPERATION AND CONDUCT.

The operation and conduct of raffles are subject to the following restrictions:

- (1) The entire net proceeds of any raffle must be exclusively devoted to the lawful purpose of the licensee.
- (2) No person except a bona fide member of the licensee may participate in the management or operation of the raffle.
- (3) No person may receive a remuneration of profit for participating in the management or operation of the raffle.
- (4) A licensee may rent a premises on which to determine the winning chance or chances in a raffle only from an organization which is also licensed under the state Raffles Act, 230 ILCS 15/0.01 et seq.
- (5) Raffle chances may be sold, offered for sale, conveyed, issued, or otherwise transferred for value only within the area specified on the license; and the winning chances may be determined only at the location specified on the license.
- (6) A person under the age of 18 years may participate in the conducting of raffles or chances only with the permission of a parent or guardian. A person under the age of 18 years may be within the area where winning chances are being determined only when accompanied by his parent or guardian.
- (7) Each raffle chance shall not cost more than \$100.00 for a single raffle license or \$5.00 for a multiple raffle license.
- (8) It shall be unlawful for a sponsoring organization to fail to provide a prize to the appropriate winner unless the winner cannot be located after a reasonable time after the win.

(Code 1996, § 5.27.060)

Sec. 10-67. - RECORDS.

- (a) Each licensee shall keep records of its gross receipts, expenses, and net proceeds for each single gathering or occasion at which winning chances are determined. All deductions from gross receipts for each single gathering or occasion shall be documented with the receipts or other records indicating the amount, a description of the purchased item or service or other reason for the deduction, and the recipient. The distribution of net proceeds shall be itemized as to payee, amount and date of payment.
- (b) Gross receipts from the operation of raffles shall be segregated from the other revenues of the licensee including bingo gross receipts, if bingo games are also conducted by the same nonprofit organization pursuant to license therefor issued by the state department of revenue, and placed in a separate account. Each licensee shall keep separate records of its raffles. The person who accounts for gross receipts, expenses, and net proceeds from the operation of raffles shall not be the same person who accounts for other revenues of the licensee.

(c) Each organization licensed to conduct raffles shall report promptly after the conclusion of each raffle to its membership, and to the licensing unit of the city, its gross receipts, expenses and net proceeds from raffles, and the distribution of net proceeds itemized as required in this section.

(d) Raffle records shall be preserved for three years, and organizations shall make available their records relating to the operation of raffles for public inspection at reasonable times and places.

(Code 1996, § 5.27.080)

Sec. 10-68. - LICENSE FEE.

A license fee of \$10.00 per year shall be paid to the city clerk when an application for a raffle license is filed.

(Code 1996, § 5.27.090)

Sec. 10-69. - PRIZES.

The aggregate retail value of all prizes awarded in a single raffle or a multiple raffle shall not exceed \$50,000.00, and the retail value of any one prize awarded in a single raffle shall not exceed \$20,000.00.

(Code 1996, § 5.27.100)

Sec. 10-70. - VIOLATIONS; PENALTY.

Failure to comply with any of the requirements of this article shall constitute a violation; and any person, upon conviction thereof, shall be subject to punishment as provided in section 1-15. Each member of the sponsoring organization shall be jointly and severally liable with the organization and with each other for any violation. The imposition of the penalties herein prescribed shall not preclude the institution of appropriate action to prevent unlawful raffles or to restrain, correct, or abate a violation of this article or of the conditions of a raffle license issued pursuant hereto.

(Code 1996, § 5.27.110)

Chapters 11—13 - RESERVED

Chapter 14 - ANIMALS

ARTICLE I. - IN GENERAL

ARTICLE II. - DOGS AND CATS

ARTICLE I. - IN GENERAL

Sec. 14-1. - Cruelty prohibited.
Sec. 14-2. - Running at large.
Sec. 14-3. - Keeping animals which disturb the peace.
Sec. 14-4. - Killing dangerous animals.
Sec. 14-5. - Keeping of certain animals prohibited or restricted.
Sec. 14-6. - Removal of animal matter.
Sec. 14-7. - Diseased animals.
Sec. 14-8. - Inoculation against rabies.
Sec. 14-9. - Vicious animals.
Secs. 14-10—14-30. - Reserved.

Sec. 14-1. - CRUELTY PROHIBITED.

Whoever, within the limits of the city, shall be guilty of cruelty to any animal in any of the ways mentioned in this section shall be guilty of a violation of this Code.

- (1) By overloading, overdriving, overworking, cruelly beating, torturing, tormenting, mutilating or cruelly killing any animal, or causing or knowingly allowing the same to be done.
- (2) By cruelly working any old, maimed, infirm, sick or disabled animal or causing or knowingly allowing the same to be done.
- (3) By unnecessarily failing to provide any animal in his charge or custody, as owner or otherwise, with proper food, drink, shelter or care.
- (4) By abandoning any old, maimed, infirm, sick or disabled animal.
- (5) By carrying or driving or keeping, or causing to be carried or driven or kept, any animal in an unnecessarily cruel manner.

(Code 1996, § 6.05.010)

Sec. 14-2. - RUNNING AT LARGE.

It is unlawful to permit any animals, e.g., horses, sheep, goats, swine, cattle, poultry, or any wild or domestic animal to run at large in the city. Any such animal running at large in any public place in the city shall be impounded in the manner provided in section 14-36.

(Code 1996, § 6.05.020)

Sec. 14-3. - KEEPING ANIMALS WHICH DISTURB THE PEACE.

It is unlawful to harbor or keep any animals or birds which disturb the peace by loud noises at any time of the day or night. (Code 1996, § 6.05.030)

Sec. 14-4. - KILLING DANGEROUS ANIMALS.

The members of the police department or any other persons in the city are authorized to kill any dangerous animal of any kind when it is necessary for the protection of any person or property.

(Code 1996, § 6.05.050)

Sec. 14-5. - KEEPING OF CERTAIN ANIMALS PROHIBITED OR RESTRICTED.

It is unlawful to keep any horses, ponies, sheep, goats, swine, cattle, fowl, pigeons, or any animal which is dangerous to mankind within the city, except in a manufacturing zone or except as allowed under the zoning ordinance (chapter 110). (Code 1996, § 6.05.060)

Sec. 14-6. - REMOVAL OF ANIMAL MATTER.

It shall be unlawful for any person, firm or corporation having animal matter which is in the process of decay so as to be offensive or dangerous to the public health, to permit such animal matter to remain for more than 12 hours. All fecal waste from animals and fowl, including, but not limited to, dogs, cats, rabbits, and pigeons, must be removed daily. It shall be unlawful:

- (1) To so negligently conduct any business or use any premises as to create such an offensive smell as may taint the air and render it unwholesome or disagreeable to the neighborhood;
 - (2) To cause or suffer the carcass of any animal or any animal or vegetable matters such as slop, swill, suds, filth, garbage, or offal or noisome substance of any kind to be collected, deposited or to remain in any place in the city;
 - (3) To throw or deposit, or cause to be thrown or deposited, any offal or any offensive matter, or the carcass of any animal in any water, pond, spring, or well, or on land within the city;
 - (4) To deposit any dead animal or other filthy, offensive or noisome substance upon any lot, street, alley, highway, park or other place;
 - (5) To corrupt or render unwholesome or impure the water of any drinking hydrant, spring, stream, pond, or lake to the injury of others;
 - (6) For any person to keep, or suffer to be kept, in a foul, offensive, noisome or filthy condition any pigeon or rabbit coop, or any other animal or bird pen, building, yard, trailer, ground or premises.
- (Code 1996, § 6.05.070)

Sec. 14-7. - DISEASED ANIMALS.

(a) No domestic animal afflicted with a contagious or infectious disease shall be allowed to be exposed in any public place whereby the health of man or beast may be affected; nor shall such diseased animal be shipped or removed from the premises of the owner thereof except under the supervision of the chief of police or of the animal control officer.

(b) It is made the duty of the animal control officer to secure such disposition of any diseased animal and such treatment of affected premises as is necessary to prevent the communication and spread of the contagion or infection, except in cases where the state veterinarian is empowered to act. (Code 1996, § 6.05.080)

Sec. 14-8. - INOCULATION AGAINST RABIES.

(a) Every owner of a dog four months of age shall cause such dog to be inoculated against rabies by a licensed veterinarian at such intervals as may be established pursuant to the Illinois Animal Control Act, 510 ILCS 5/1 et seq. The tag shall be affixed to the dog's collar.

(b) The provisions of 510 ILCS 5/1 et seq. are incorporated by reference and made a part of this section.

(Code 1996, § 6.05.090)

Sec. 14-9. - VICIOUS ANIMALS.

(a) *Definitions.*

(1) *Vicious animal.* "Vicious animal" means:

- a. Any animal that has a propensity, tendency or disposition, known to the owner thereof, to attack, without provocation, in a manner which may cause death, injury or damage, or which may otherwise endanger the safety of any human being or domestic animal; or
- b. Any animal documented by any law enforcement agency to have demonstrated a propensity, tendency or disposition to attack, without provocation, in a manner which may cause death, injury or damage, or which may otherwise endanger the safety of any human being or domestic animal; or
- c. Any animal trained or used for fighting against another animal.
- d. Notwithstanding the provisions of this section, no animal may be declared vicious if death, injury or damage is sustained by a person who, at the time such death, injury or damage was sustained, was committing a criminal trespass upon the premises occupied by the owner of the animal, or was committing or attempting to commit a crime or violating or attempting to violate an ordinance which protects persons or property.
- e. Notwithstanding the provisions of this section, no animal may be declared vicious if death, injury or damage was sustained by a domestic animal which, at the time such death, injury or damage was sustained, was teasing, tormenting, abusing or assaulting the animal.
- f. Notwithstanding the provisions of this section, no animal may be declared vicious if the animal was protecting or defending a human being within the immediate vicinity of the animal from an unjustified attack or assault.
- g. Notwithstanding the provisions of this section, no dog may be declared vicious for acts committed by the dog while being utilized by a law enforcement agency for law enforcement purposes while under the control and direction of a law enforcement officer.

(2) *Owner.*

a. "Owner" means any person having a right of property in an animal, or who keeps or harbors an animal, or who has an animal in his care, or acts as an animal's custodian, or who knowingly permits an animal to remain on any premises occupied by him or her.

b. "Owner" does not include a feral cat caretaker participating in a trap, spay/neuter, return or release program.

(b) *Prohibition.* No person shall own, possess, harbor, keep or maintain a vicious animal within the city limits of the City of Rochelle.

(c) *Determination of vicious animal.*

(1) Any police officer or other officer designated by the city is authorized to declare an animal vicious and take appropriate steps to secure the animal.

(2) Any animal declared vicious by a police officer or other designated officer will be impounded with a licensed veterinarian for up to ten days.

(3) During the initial impoundment of a vicious animal, the chief of police shall make a determination as to whether the animal is vicious. If the animal is determined to be vicious, the chief of police shall give an appropriate order to exterminate the animal.

(4) Any dispute concerning the determination of an animal as a vicious animal shall be heard and determined by the city manager. An appeal to the city manager must be made within five days from the determination by the chief of police that such animal is vicious. If the city manager determines the animal is vicious, the city manager shall give an appropriate order to exterminate the animal.

(5) Any order to exterminate the animal shall not be carried out for a period of five days from the entry of the last order entered relative to the animal.

(6) The costs of impounding the animal during this process shall be the responsibility of the owner of the animal.

(d) In addition, a complaint may be filed with the Ogle County Animal Control Administrator to take appropriate action.

(e) Any owner found to have a vicious animal within the city limits may be punished pursuant to section 1-15 of this Code.

(Ord. No. 11-4011, § 1, 2-28-2011)

Secs. 14-10—14-30. - RESERVED.

ARTICLE II. - DOGS AND CATS

Sec. 14-31. - Rabies vaccination required.

Sec. 14-32. - Prohibited acts; committing nuisance.

Sec. 14-33. - Owner's responsibility regarding cleanup of waste.

Sec. 14-34. - Animals disturbing public peace.

Sec. 14-35. - Allowing dangerous animal to run at large; authority to destroy dangerous animals.

Sec. 14-36. - Impoundment authorized; destruction of impounded animals.

Sec. 14-37. - Redemption of impounded animals.

Sec. 14-38. - Penalties.

Sec. 14-31. - RABIES VACCINATION REQUIRED.

The owner or keeper of a dog or cat must have the animal vaccinated for rabies.

(Code 1996, § 6.10.010)

Sec. 14-32. - PROHIBITED ACTS; COMMITTING NUISANCE.

No dog or cat shall be permitted to commit any of the following acts on any premises or property, private or public:

- (1) Bite or charge any person;
 - a. "Bite" means to seize with the teeth or jaws so that the person seized has been nipped, gripped, wounded or pierced, and further includes contact of saliva with any break or abrasion of the skin.
- (2) Destroy private property;
- (3) Scatter refuse;
- (4) Chase vehicles;
- (5) Deposit fecal matter on any property not of its owner; or
- (6) Commit any nuisance defined by this article or other city ordinance.

(Code 1996, § 6.10.020; Ord. No. 11-4011, § 1, 2-28-2011)

Sec. 14-33. - OWNER'S RESPONSIBILITY REGARDING CLEANUP OF WASTE.

Any person allowing any dog or cat to trespass and defecate upon any public or private property within the city, not owned, leased or otherwise controlled by said person, shall immediately clean up any such fecal matter deposited upon such property and shall properly dispose of same.

(Code 1996, § 6.10.030)

Sec. 14-34. - ANIMALS DISTURBING PUBLIC PEACE.

It is declared a public nuisance and it is unlawful for any person to own or keep any dog within the city which barks or howls or any dog or cat which whines or otherwise behaves in such a manner as to disturb the peace and quiet and safety of persons in the neighborhood. It shall be a rebuttable presumption that any such barking, whining or howling does in fact disturb the peace, comfort and/or repose of others when such activities take place between the hours of 9:00 p.m. and 7:00 a.m.

(Code 1996, § 6.10.040)

Sec. 14-35. - ALLOWING DANGEROUS ANIMAL TO RUN AT LARGE; AUTHORITY TO DESTROY DANGEROUS ANIMALS.

It shall be unlawful to permit any dangerous or vicious dog or cat to run at large within the city. The members of the police department and the animal control officer as designated by the city council are authorized to kill any dangerous dog or cat when it is necessary for the protection of any person or property.

(Code 1996, § 6.10.050)

Sec. 14-36. - IMPOUNDMENT AUTHORIZED; DESTRUCTION OF IMPOUNDED ANIMALS.

Any police officer or other officer designated by the city is authorized to impound any dog or cat found within the city which is in violation of the provisions of this article. Any unlicensed dog or cat which appears to be suffering from rabies or affected by hydrophobia, mange or other infectious disease shall not be released, but shall be destroyed forthwith. Any dog or cat not registered and unclaimed after three days may be destroyed. Any dog or cat registered and unclaimed seven days after notice is mailed to the person designated on the registration as the owner, by regular mail, may be destroyed.

(Code 1996, § 6.10.070)

Sec. 14-37. - REDEMPTION OF IMPOUNDED ANIMALS.

Any person seeking to redeem any impounded animal shall pay a fee of \$75.00 and an additional fee for care for the animal, the actual charge made by the poundkeeper for care of the animal for each day such animal has been held in the pound, together with an additional fee for the mandatory implanting of a microchip as approved by the chief of police for the purpose of locating the owner of a stray dog or cat in the future.

(Code 1996, § 6.10.090)

Sec. 14-38. - PENALTIES.

Failure to perform any act required or the performance of any act prohibited by this article is designated a city ordinance violation, and any person, firm or corporation found to have committed a city ordinance violation shall be assessed a monetary penalty of \$50.00 if payment is made within ten days of the violation, after which date a violation of this article shall result in a fine of not less than \$75.00 and not more than \$750.00 for each offense.

(Code 1996, § 6.10.080; Ord. No. 03-3205, § 2(6.10.080), 11-24-2003)

Chapters 15—17 – RESERVED

Chapter 18 - AVIATION

ARTICLE I. - IN GENERAL

ARTICLE II. - MUNICIPAL AIRPORT

ARTICLE I. - IN GENERAL

[Secs. 18-1—18-30. - Reserved.](#)

Secs. 18-1—18-30. - Reserved.

ARTICLE II. - MUNICIPAL AIRPORT ^[1]

⁽¹⁾ **Editor's note—** Ord. No. 06-3496, adopted November 27, 2006, amended article II in its entirety to read as herein set out. Former article II, §§ 18-31—18-40, 18-61—18-65, 18-91, 18-92, 18-111—18-125, 18-141—18-146, 18-161—18-181, 18-201, 18-202, pertained to similar subject matter, and derived from §§ 14.05.030—14.05.080, 14.10.010—14.10.100, 14.15.010—14.15.050, 14.20.010, 14.20.020, 14.25.010—14.25.150, 14.30.010—14.30.060, 14.35.010—14.35.220, 14.40.010, 14.40.020, 14.45.010, 14.50.010, 14.50.020, of the 1996 Code.

DIVISION 1. - GENERALLY

DIVISION 2. - MOTOR VEHICLES

DIVISION 3. - DRIVING ON AIRPORT LANDING STRIP

DIVISION 4. - AIRCRAFT OPERATION

DIVISION 5. - FUELING AND FLAMMABLE SUBSTANCES

DIVISION 6. - PUBLIC AND TENANT USAGE

DIVISION 7. - COMMERCIAL OPERATIONS

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Sec. 18-31. - SCOPE; AIRPORT RULES.

All persons on any part of the property comprising the airport shall be governed by the provisions of this article and by other ordinances, and instructions of the airport manager relative to the use or occupation of any part of the property comprising the airport. The provisions of this article are subject to amendment.

(Ord. No. 06-3496, 11-27-2006)

Sec. 18-32. - NONLIABILITY OF CITY.

The city assumes no responsibility for loss, injury or damage to persons or property by reason of fire, theft, vandalism, wind, flood, earthquake or collision damage; nor does it assume any liability for injury to persons while on the airport or while using the facilities of same.

(Ord. No. 06-3496, 11-27-2006)

Sec. 18-33. - LOST ARTICLES.

All lost articles shall be turned in to the FBO office by the finders. Any such articles not claimed in 60 days will be disposed of as determined by the airport manager.

(Ord. No. 06-3496, 11-27-2006)

Sec. 18-34. - LAW ENFORCEMENT.

The members of the police department shall be charged with the enforcement of all traffic and other ordinances in force within the airport territorial limits and with the prevention of crimes and offenses and the apprehension of law violators.

(Ord. No. 06-3496, 11-27-2006)

Sec. 18-35. - ACCIDENT REPORTS.

All persons involved in any accident, whether it be related to personal, aircraft, buildings, or automotive, occurring on the premises of the municipal airport shall make a report to the city police department as soon as possible, giving all pertinent information as requested by the officer in charge.

(Ord. No. 06-3496, 11-27-2006)

Sec. 18-36. - SEVERABILITY.

Voiding of any particular rule or regulation contained in this article shall not affect the validity of the remainder of this article.

(Ord. No. 06-3496, 11-27-2006)

Sec. 18-37. - DEFINITIONS.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Airport means all property belonging to the city, including areas not used for aeronautical purposes.

Airport manager means the manager of the Rochelle Municipal Airport, as appointed by the city manager.

Airport traffic area shall be defined as in current Federal Aviation Regulation part 1.

Driver means any person who is in actual physical control of a vehicle.

Fixed base operator (FBO) means the FBO is the person or company that is contracted by the city to operate on or at the airport and conduct an approved aviation business under a lease agreement.

Loiter means to remain in an area for no obvious reason.

Person means any individual, firm, copartnership, corporation, company or association, and includes any trustee, receiver, or similar representative thereof.

Police officer means every officer authorized and empowered by the city council to direct or regulate traffic and to enforce airport rules and regulations.

Public aircraft facilities means the following facilities as they are from time to time provided and made available by the city council for public use by all aircraft and their operators:

- (1) Public runways for the purpose of landing and taking off of aircraft;
- (2) Public taxiways for the purpose of ground movement of aircraft;
- (3) Public aircraft parking space for the purpose of parking and storing aircraft; loading and unloading passengers, baggage, freight, mail, and other cargo upon and from aircraft; performing operations incidental to the immediate arrival and departure of aircraft and servicing with fuel; and for parking mobile equipment actively used in connection with the foregoing;
- (4) Any other space provided by the city for public use by aircraft operators at the airport.

Vehicle, emergency, means vehicles of the police or fire departments, ambulances, and any vehicle conveying an airport official or airport employee in response to an emergency official call.

Vehicle, motor, means every device in repose, or by which any person or property is or may be transported or drawn upon a highway, or a pathway or upon the airport property.

(Ord. No. 06-3496, 11-27-2006)

Sec. 18-38. - REVISION OF RULES AND REGULATIONS.

The city council reserves the right to revise the rules and regulations set forth in this article, making changes or waiving said rules and regulations without prior notice to the general public. The city council reserves the right to publicly advertise for the FBO contract every three years, or as deemed necessary for the safe and efficient operations of the municipal airport.

(Ord. No. 06-3496, 11-27-2006)

Sec. 18-39. - EVICTION OR DENIAL OF USE.

The airport manager for the city may remove or evict from the airport premises any person who knowingly or willfully violates any rule or regulation prescribed in this article, or any rule or regulation in effect by the Federal Aviation Administration or the state; and may deny the use of the airport and its facilities to any person if it is determined that such denial is in the public interest.

(Ord. No. 06-3496, 11-27-2006)

Sec. 18-40. - VIOLATIONS; PENALTY.

Any person, firm or corporation violating or failing to comply with any provision of this article shall be subject to punishment as provided in section 1-15.

(Ord. No. 06-3496, 11-27-2006)

Secs. 18-41—18-60. - RESERVED.

DIVISION 2. - MOTOR VEHICLES

Sec. 18-61. - Operator's license required; registration with airport manager.

Sec. 18-62. - Rules of operation.

Sec. 18-63. - Repairs.

Sec. 18-64. - Parking.

Sec. 18-65. - Carriers for hire, rentals and vehicles for hire.

Secs. 18-66—18-90. - Reserved.

Sec. 18-61. - OPERATOR'S LICENSE REQUIRED; REGISTRATION WITH AIRPORT MANAGER.

- (a) No person shall operate motor vehicles of any kind on the airport without a valid state operator's license.
- (b) No person shall operate any motor vehicle in the aircraft facilities area or landing area without authorization from the FBO except to access their hangar.
- (1) The airport manager or FBO may restrict vehicle operations to a certain portion or segment of the aircraft facility areas as necessary for the safety of operations.
- (2) Vehicle operations must be in strict compliance with section 18-62, regarding speed limits, exercise of caution, etc.
- (c) Any person violating any of the provisions of this section shall, upon conviction, be subject to punishment as provided in section 1-15

(Ord. No. 06-3496, 11-27-2006)

Sec. 18-62. - RULES OF OPERATION.

- (a) *Reckless or negligent operation.* No person shall operate a motor vehicle of any kind on the airport in a reckless or negligent manner.
- (b) *Right-of-way of pedestrians and aircraft.* Pedestrians and aircraft shall at all times have the right-of-way over vehicular traffic. All vehicles shall pass to the rear of taxiing aircraft.
- (c) *Signals; obedience to signs.* No person operating a motor vehicle on the airport shall fail to give proper signals, or fail to observe the directions of posted traffic signs.
- (d) *Operation under the influence of liquor or drugs.* No person under the influence of liquor or narcotic drugs shall operate a motor vehicle or aircraft on the airport.
- (e) *Lights.* All vehicles operating on the airport between the hours of sunset and sunrise shall have fully operating headlights and taillights visible from at least 500 feet, and all gasoline trucks and service trucks shall carry an overhead 360-degree revolving amber beacon or strobe.
- (f) *Prohibition of private vehicles during emergencies.* During times of emergency caused by natural

disaster, windstorms, aircraft accidents and other mishaps, no private vehicles shall be allowed in the aircraft facilities area. The airport manager shall determine when normal operations may be resumed.

(g) *Authorized equipment during emergencies.* In the event of an emergency situation on the airport, only that equipment and personnel so authorized by the airport manager shall be used.

(h) *Speed limits.*

(1) No person shall drive a motor vehicle upon any public street or road within the territorial limits of the municipal airport at a speed greater than is reasonable and proper.

(2) The rate of speed on the street or road shall not exceed 30 miles per hour or as posted. The rate of speed within the airport grounds shall not exceed 15 MPH at any time except for emergency vehicles.

(i) *Damage to fixture or facilities.* Any person damaging any light, fixture or other airport facility by means of contact with a vehicle or aircraft shall report such damage to the airport manager's office immediately, and may be fully responsible for any costs required to repair or replace the damaged facility.

(j) *Penalty.* Any person violating any provision of this section may, upon conviction, be subject to punishment as provided in section 1-15 for each offense.

(Ord. No. 06-3496, 11-27-2006)

Sec. 18-63. - REPAIRS.

No person shall clean or make repairs to motor vehicles anywhere on the airport, except those minor repairs necessary to remove such motor vehicles from the airport.

(Ord. No. 06-3496, 11-27-2006)

Sec. 18-64. - PARKING.

(a) No person shall park a motor vehicle for loading, unloading, or any other purpose on the airport other than in the areas specifically established for parking and in the manner prescribed by signs, lines, or other means. No person shall abandon any motor vehicle on the airport. No person shall park a motor vehicle in a manner so as to obstruct roadways, nor in aircraft parking areas.

(b) The airport manager shall have the authority to tow or otherwise move motor vehicles which are parked by their owners or operators on the airport in violation of this article, at the operator's expense, and without liability for damage which may result in the course of such moving.

(c) Tenants of T-hangars may park their automobiles inside their respective T-hangars when leaving the field via their airplane.

(d) Any person violating any of the provisions of this section may, upon conviction be subject to punishment as provided in section 1-15 for each offense.

(Ord. No. 06-3496, 11-27-2006)

Sec. 18-65. - CARRIERS FOR HIRE, RENTALS AND VEHICLES FOR HIRE.

No carrier for hire shall load or unload passengers at the airport at any place other than that designated

by the airport manager or FBO. This shall also apply to rentals and all vehicles for hire.

(Ord. No. 06-3496, 11-27-2006)

Secs. 18-66—18-90. - RESERVED.

DIVISION 3. - DRIVING ON AIRPORT LANDING STRIP

Sec. 18-91. - Prohibited without consent of airport manager.

Secs. 18-92—18-110. - Reserved.

Sec. 18-91. - PROHIBITED WITHOUT CONSENT OF AIRPORT MANAGER.

(a) It is unlawful for any person to drive a motor vehicle upon the surfaced landing strip at the municipal airport without the express consent of the airport manager. The FBO may drive a motor vehicle on the airport landing strip to check runway conditions or for legitimate airport operation reasons. Any vehicles entering shall comply with section 18-62

(b) Any person violating or failing to comply with the provisions of this section shall subject to punishment as provided in section 1-15

(Ord. No. 06-3496, 11-27-2006)

Secs. 18-92—18-110. - RESERVED.

DIVISION 4. - AIRCRAFT OPERATION

Sec. 18-111. - Conformance with applicable regulations.

Sec. 18-112. - Aircraft registration.

Sec. 18-113. - Accident and incident reports.

Sec. 18-114. - Special restrictions.

Sec. 18-115. - Closing of field.

Sec. 18-116. - Disabled aircraft.

Sec. 18-117. - Repairs.

Sec. 18-118. - Engine starting and runup.

Sec. 18-119. - Parking.

Sec. 18-120. - Experimental demonstrations.

Sec. 18-121. - Equipment requirements.

Sec. 18-122. - Taxiing.

Sec. 18-123. - Landings and takeoffs.

Sec. 18-124. - Fees.

Secs. 18-125—18-140. - Reserved.

Sec. 18-111. - CONFORMANCE WITH APPLICABLE REGULATIONS.

All aeronautical activities at the airport, and all flying of aircraft departing from or arriving in the airspace above the airport, shall be conducted in conformity with the current pertinent regulations of the Federal

Aviation Administration, the Civil Aeronautics Board, the state, and the city.

(Ord. No. 06-3496, 11-27-2006)

Sec. 18-112. - AIRCRAFT REGISTRATION.

(a) The owners of all aircraft based on the airport shall register their aircraft with the airport manager's office prior to beginning operation. Any change in the ownership will require a change in registration.

(b) No person shall operate from the municipal airport any aircraft that is not fully certificated by the Federal Aviation Administration and registered with the Federal Aviation Administration, and carrying a current certificate of airworthiness.

(Ord. No. 06-3496, 11-27-2006)

Sec. 18-113. - ACCIDENT AND INCIDENT REPORTS.

Persons involved in aircraft accidents occurring on the airport shall, as soon as possible, make a full report thereof to the airport manager and to the state division of aeronautics, under the state department of transportation, which report shall include names, addresses, and all pertinent information. When a written report of an accident or incident is required by the regulations of the National Transportation Safety Board, and as may be requested by the Federal Aviation Administration as the board's authorized representative, such report shall be promptly submitted.

(Ord. No. 06-3496, 11-27-2006)

Sec. 18-114. - SPECIAL RESTRICTIONS.

The airport manager may delay or restrict the flight or other operations of any aircraft at the airport for any justifiable reason.

(Ord. No. 06-3496, 11-27-2006)

Sec. 18-115. - CLOSING OF FIELD.

In the event the airport manager or FBO believes the conditions of the airport or any part of the airport to be unsafe for landing or takeoff, it shall be within his authority to issue a Notice to Airmen (NOTAM) closing the entire airport or any part thereof. This shall be filed with the FAA Flight Service Station over the signature of the person authorizing such closing. The same procedure will be followed when the field is again usable.

(Ord. No. 06-3496, 11-27-2006)

Sec. 18-116. - DISABLED AIRCRAFT.

(a) All disabled aircraft and parts thereof on the airport shall be promptly removed.

(b) If any person refuses to move an aircraft as directed by the airport manager, said aircraft may be towed away or otherwise removed by the airport manager at the owner's or operator's expense, without liability for damage which may result in the course of or after such moving. The same may apply to removal of a wrecked or damaged aircraft and its parts.

(Ord. No. 06-3496, 11-27-2006)

Sec. 18-117. - REPAIRS.

No person or firm shall repair an aircraft, aircraft engine, propeller, or other aeronautical equipment or apparatus without appropriate FFA credentials.

(Ord. No. 06-3496, 11-27-2006)

Sec. 18-118. - ENGINE STARTING AND RUNUP.

(a) Aircraft runup or other engine test operations at the municipal airport shall not be performed in any area that would result in a hazard to other aircraft, persons or property.

(b) No person shall start or run any engine in an aircraft without following FAR (Federal Aeronautic Regulations) guidelines for engine starting and runup.

(c) No person shall run the engine or engines of any aircraft at any location on the airport in such a manner as to cause damage to other aircraft or property, or in such a manner as to blow paper, dirt or other materials across taxiways or runways in such manner as to endanger the safety of operations on the airport.

(Ord. No. 06-3496, 11-27-2006)

Sec. 18-119. - PARKING.

No person shall park an aircraft in any area on the airport other than that prescribed by the airport manager or FBO. Overnight parking on the ramp shall be in an area approved by the airport manager or FBO.

(Ord. No. 06-3496, 11-27-2006)

Sec. 18-120. - EXPERIMENTAL DEMONSTRATIONS.

No experimental flight or ground demonstration shall be conducted on the airport without strict compliance of all current FAR Regulations.

(Ord. No. 06-3496, 11-27-2006)

Sec. 18-121. - EQUIPMENT REQUIREMENTS.

(a) Except when an appropriate Federal Aviation Administration special flight permit has been obtained, no aircraft shall be operated on the airport unless that aircraft contains the instruments and equipment specified by current Federal Aviation Regulations for that type of operations, and those instruments and items of equipment are in operable condition.

(Ord. No. 06-3496, 11-27-2006)

Sec. 18-122. - TAXIING.

(a) No person shall taxi an aircraft until he has ascertained by visual inspection that there will not be danger of collision with any person or object in the immediate area.

(b) No aircraft shall be operated in a careless or reckless manner, or taxied except at a safe and reasonable speed.

(c) Pilots shall not taxi onto or across any runway until ascertaining that there will be no danger of collision with any other aircraft.

(Ord. No. 06-3496, 11-27-2006)

Sec. 18-123. - LANDINGS AND TAKEOFFS.

(a) All aircraft landing and takeoffs at the municipal airport shall approach and land conforming to the current approved traffic pattern and follow all current FAR Regulations.

(b) Aircraft operators shall use extreme caution when their aircraft are being taxied on the grass or using the grass areas for takeoff and landing, and shall give way to aircraft using the hard-surfaced runway.

(c) Takeoffs and landings over populated areas shall be kept to a minimum in the interest of public safety and convenience, and pilots using the municipal airport shall conform to any applicable noise abatement procedures established by the city.

(d) The airport manager, or his designee, may at any time prohibit touch-and-go landing due to consideration of other traffic.

(e) Pilots possessing a student permit must follow all current FAR Regulations and be under the direct supervision of a qualified instructor.

(f) The procedures for section 18-123 will apply in every case except when emergency conditions exist.

(Ord. No. 06-3496, 11-27-2006; Ord. No. 11-4051, § 1, 4-25-2011)

Sec. 18-124. - FEES.

The owner or operator of each aircraft used as a common carrier, or other transient aircraft carrying passengers or cargo for hire, that lands at the municipal airport shall pay to the city such fees as are established by ordinance.

(Ord. No. 06-3496, 11-27-2006)

Secs. 18-125—18-140. - RESERVED.

DIVISION 5. - FUELING AND FLAMMABLE SUBSTANCES

[Sec. 18-141. - Cleaning of aircraft.](#)

[Sec. 18-142. - Storage.](#)

[Sec. 18-143. - Doping and painting.](#)

[Sec. 18-144. - Disposal of liquids.](#)

[Sec. 18-145. - Fueling operations.](#)

[Sec. 18-146. - Mobile refueling equipment.](#)

[Secs. 18-147—18-160. - Reserved.](#)

Sec. 18-141. - CLEANING OF AIRCRAFT.

No person shall use flammable, volatile liquids having a flashpoint of less than 100 degrees Fahrenheit in

the cleaning of aircraft, aircraft engines, propellers and appliances.

(Ord. No. 06-3496, 11-27-2006)

Sec. 18-142. - STORAGE.

(a) No person shall keep or store any flammable liquids, gases, signal flares or other similar material in the hangars or outside, except that such materials may be kept in an aircraft for such purpose as the storage area in the aircraft was designed, and manufactured for such flammable materials.

(b) Lessees shall provide suitable metal receptacles with self-closing covers for the storage of waste, rags and other rubbish. All used waste and rags or other rubbish shall be removed by the lessee daily.

(Ord. No. 06-3496, 11-27-2006)

Sec. 18-143. - DOPING AND PAINTING.

(a) Doping and painting of aircraft or other associated painting activities within or upon airport property is prohibited. Minor cosmetic repairs may be allowed with prior written approval from the airport manager.

(Ord. No. 06-3496, 11-27-2006)

Sec. 18-144. - DISPOSAL OF LIQUIDS.

No fuels, oils, dopes, paints, solvents or acids shall be disposed of or dumped in drains, on the ramp areas, catchbasins or ditches, or elsewhere on the airport.

(Ord. No. 06-3496, 11-27-2006)

Sec. 18-145. - FUELING OPERATIONS.

(a) No piston aircraft shall be fueled or defueled while the engine is running or being warmed by applications of exterior heat, or while such aircraft is in a hangar or enclosed area. Hot fueling may be permitted for turbine engine aircraft with prior written approval of the airport manager, or his designee.

(b) No person shall smoke on airport grounds or inside airport terminals or hangars.

(c) No person shall operate any radio transmitter or receiver, or switch electrical appliances off or on in an aircraft during fueling or defueling. During refueling, the aircraft and the fuel dispensing apparatus shall both be grounded.

(d) Per FAR and NFPA (National Fire Protection Association) regulations no person shall use any material or equipment during fueling or defueling of aircraft which is likely to cause a spark or ignition.

(e) Adequate fire extinguishers shall be within ready reach of all persons engaged in fueling or defueling aircraft.

(f) No person shall start the engine of any aircraft when there is any gasoline on the ground under such aircraft.

(g) Fueling hoses and equipment shall be maintained in a safe, sound and nonleaking condition, and shall be approved by National Board of Fire Underwriters in all respects and parts.

- (h) No aircraft shall be fueled or defueled while passengers are on board.
- (i) Persons engaged in the fueling and draining of aircraft shall exercise care to prevent overflow of fuel. Persons responsible will take proper measures to remove volatile liquids when spilled during transfer.
- (j) Lessees owning and operating aircraft based at the Rochelle Municipal Airport, whose requirements for aviation fuel are not available at the airport, may be given permission to service their leased or owned aircraft, subject to the safety standards and conditions contained herein. This includes the use of auto fuel in aircraft approved for such fuel by the FAA. Fueling operations subject to the provisions of this section.

(Ord. No. 06-3496, 11-27-2006; Ord. No. 11-4051, § 2, 4-25-2011)

Sec. 18-146. - MOBILE REFUELING EQUIPMENT.

There shall be no mobile refueling equipment on the ramps and roadways of the municipal airport, unless authorized by the airport manager.

(Ord. No. 06-3496, 11-27-2006)

Secs. 18-147—18-160. - RESERVED.

DIVISION 6. - PUBLIC AND TENANT USAGE

Sec. 18-161. - Prohibited conduct.
Sec. 18-162. - Sanitation requirements.
Sec. 18-163. - Destruction or alteration of airport property; abandoning personal property.
Sec. 18-164. - Weapons, explosives and flammable materials.
Sec. 18-165. - Minors in aircraft operation areas.
Sec. 18-166. - Interfering or tampering with aircraft.
Sec. 18-167. - Entering restricted areas.
Sec. 18-168. - Use of roads and walks.
Sec. 18-169. - Loitering; trespassing.
Sec. 18-170. - Unauthorized use of shop areas or other facilities.
Sec. 18-171. - Open flame operations.
Sec. 18-172. - Smoking.
Sec. 18-173. - Floors and ramp areas to be kept clean.
Sec. 18-174. - Maintenance of leased property.
Sec. 18-175. - Communication equipment; structural and decorative changes.
Sec. 18-176. - Responsibility for damages.
Sec. 18-177. - Hangar rules.
Secs. 18-178—18-200. - Reserved.

Sec. 18-161. - PROHIBITED CONDUCT.

No person shall commit any disorderly act, as provided in 720 ILCS 5/26-1(a)(1); act of obscenity, as provided in 720 ILCS 5/11-20; act of public indecency; commit any act of nuisance; or conduct or engage in any form of gambling on the airport.

(Ord. No. 06-3496, 11-27-2006)

Sec. 18-162. - SANITATION REQUIREMENTS.

No person shall dispose of garbage, papers, refuse or other material on the airport except in the receptacles provided for that purpose; nor use a comfort station other than in a clean and sanitary manner; nor expectorate on the floors, walls or other surfaces of any airport building.

(Ord. No. 06-3496, 11-27-2006)

Sec. 18-163. - DESTRUCTION OR ALTERATION OF AIRPORT PROPERTY; ABANDONING PERSONAL PROPERTY.

No person shall destroy, injure, deface or disturb in any way any building, sign, equipment, marker or other structure, trees, flowers, lawn or other property on the airport; nor alter, make additions to, or erect any building or sign, or make any excavations on the airport; nor willfully abandon any personal property on the airport.

(Ord. No. 06-3496, 11-27-2006)

Sec. 18-164. - WEAPONS, EXPLOSIVES AND FLAMMABLE MATERIALS.

No person, except peace officers duly authorized, shall carry any weapons, explosives or flammable material on the airport.

(Ord. No. 06-3496, 11-27-2006)

Sec. 18-165. - MINORS IN AIRCRAFT OPERATION AREAS.

No person under the age of 14 years, for safety purposes, shall be permitted access to the aircraft operation areas unless accompanied by an adult.

(Ord. No. 06-3496, 11-27-2006)

Sec. 18-166. - INTERFERING OR TAMPERING WITH AIRCRAFT.

No person shall interfere or tamper with any aircraft or put in motion the engine of such aircraft, or use any aircraft, aircraft parts, instruments or tools without permission of the owners or by specific direction of the airport manager.

(Ord. No. 06-3496, 11-27-2006)

Sec. 18-167. - ENTERING RESTRICTED AREAS.

No person shall enter the field area, utilities and service rooms or areas, or other areas as may be designated restricted, except:

- (1) Persons assigned to duty therein;
- (2) Persons authorized by the airport manager;
- (3) Passengers, under appropriate supervision, entering the apron for the purpose of embarkation or debarkation.

(Ord. No. 06-3496, 11-27-2006)

Sec. 18-168. - USE OF ROADS AND WALKS.

(a) No person shall travel on the airport other than on the roads, walks, or places provided for the particular class of traffic.

(b) No person shall occupy the roads or walks in such a manner as to hinder or obstruct their proper use.

(Ord. No. 06-3496, 11-27-2006)

Sec. 18-169. - LOITERING; TRESPASSING.

No person shall loiter on any part of the airport or in any building on the airport. Violators will be subject to the provisions of section 66-403 of the Municipal Code.

(Ord. No. 06-3496, 11-27-2006)

Sec. 18-170. - UNAUTHORIZED USE OF SHOP AREAS OR OTHER FACILITIES.

All shops, garages, equipment and facilities leased by lessee are expressly for the airport business and operations. No persons other than lessee, owner, FBO or their employees shall make use of these facilities.

(Ord. No. 06-3496, 11-27-2006)

Sec. 18-171. - OPEN FLAME OPERATIONS.

No person shall conduct any open flame operations in any hangar or on the airport, except as provided for in a lease agreement or with prior written approval of the airport manager, or his designee.

(Ord. No. 06-3496, 11-27-2006; Ord. No. 11-4051, § 3, 4-25-2011)

Sec. 18-172. - SMOKING.

No person shall smoke on the airport apron, in any hangar or shop, service station area, gasoline storage area, or in any public building, room or place on the airport, unless the area is designated as an outside smoking area, approved receptacles are provided and the area is maintained in compliance with any laws of the State of Illinois related to smoking regulations.

(Ord. No. 06-3496, 11-27-2006; Ord. No. 11-4051, § 4, 4-25-2011)

Sec. 18-173. - FLOORS AND RAMP AREAS TO BE KEPT CLEAN.

All lessees on the airport shall keep the floors of the hangars, hangar areas, and terminal apron and ramp areas, leased by them respectively or used in their operations, clean and clear of oil, grease and other materials or stains.

(Ord. No. 06-3496, 11-27-2006)

Sec. 18-174. - MAINTENANCE OF LEASED PROPERTY.

All tenants shall be required to maintain their leased property in a condition of repair, cleanliness and general maintenance in a manner agreeable to the airport manager.

(Ord. No. 06-3496, 11-27-2006)

Sec. 18-175. - COMMUNICATION EQUIPMENT; STRUCTURAL AND DECORATIVE CHANGES.

No tenants, lessees or grantees will be permitted to effect structural or decorative changes, or additions of any type, without prior permission of the airport manager.

(Ord. No. 06-3496, 11-27-2006)

Sec. 18-176. - RESPONSIBILITY FOR DAMAGES.

Tenants, lessees and grantees shall be fully responsible for all damages to buildings, equipment, real property, and appurtenances in the ownership or custody of the city caused by their negligence, abuse or carelessness, or caused by the negligence, abuse or carelessness on the part of their employees, agents, customers, visitors, suppliers, or persons with whom they may do business.

(Ord. No. 06-3496, 11-27-2006)

Sec. 18-177. - HANGAR RULES.

Applicable hangar rules are as provided in the lease agreement.

(Ord. No. 06-3496, 11-27-2006)

Secs. 18-178—18-200. - RESERVED.**DIVISION 7. - COMMERCIAL OPERATIONS**

[Sec. 18-201. - General requirements.](#)

[Sec. 18-202. - Commercial aviation activities.](#)

Sec. 18-201. - GENERAL REQUIREMENTS.

(a) *Written agreement required.* No person may engage in the sale or rental of any commodities, supplies or services, or any business or commercial activity whatsoever, within the limits of the airport, without a current commercial operating agreement, contract, lease or other written agreement with the city.

(b) *Soliciting funds.* The soliciting of fares, alms or funds for any purpose on the airport without the permission of the airport manager is prohibited.

(c) *Discrimination prohibited generally.* No person shall, in the use of the municipal airport or any of the facilities located thereon, discriminate against any other person or group of persons on the grounds of race, color, creed or national origin, in any manner prohibited by part 21 of the regulations of the Office of the Secretary of Transportation and title VI of the Civil Rights Act of 1964 (42 USC 2000d et seq.). In the event of noncompliance with the above provision, the city may take such action as the federal government may direct to enforce such compliance.

(d) *Discrimination in furnishing service.* No person shall engage in any aeronautical activity for furnishing services to the public at the airport, unless:

(1) Said service is conducted on a fair, equal and not unjustly discriminatory basis to all users thereof; and

(2) Fair, reasonable and not unjustly discriminatory prices are charged for each unit or service; provided that reasonable and nondiscriminatory discounts, rebates or other similar types of price reductions may be made to volume purchasers.

(e) *Insurance.* Any person engaging in any business or commercial activity on the airport shall carry insurance for the protection of the customer covering all risks, also protecting the city. The amounts of this coverage shall be as established in the commercial operating agreement, contract, lease, or other written agreement with the city.

(f) *Nonliability of city.* Any person engaging in any business or commercial activity on the airport shall accept all the moral and financial responsibilities of its operation, and hold the city harmless of any liability incurred because of such operations.

(g) *Cancellation of lease or operating agreement.* Any lessee or operator who is subject to any of the rules and regulations set forth in this article, and who violates any of the provisions thereof, shall have his lease or operating agreement cancelled and terminated at the discretion of and upon notice by the airport manager.

(Ord. No. 06-3496, 11-27-2006)

Sec. 18-202. - COMMERCIAL AVIATION ACTIVITIES.

(a) *Operating agreement required.* No person shall use the airport as a base or terminal for the carrying on of commercial aviation, including, but not limited to, fixed-base operations; aircraft maintenance; scheduled or nonscheduled air carrier carrying passengers, freight, express, or mail; student instruction; communications; or any other commercial flying, without a current commercial operating agreement, contract, lease, or other written agreement with the city authorizing such activity. Any person engaging in commercial aviation operations shall, upon request, furnish the city a current financial statement which shall reflect the financial status and results of such operations.

(Ord. No. 06-3496, 11-27-2006; Ord. No. 11-4051, § 5, 4-25-2011)

Chapters 19—21 - RESERVED

Chapter 22 - BUILDINGS AND BUILDING REGULATIONS ^[2]

⁽²⁾ **Editor's note—** Ord. No. 10-3971, §§ 1, 2(Exh. A), adopted Nov. 8, 2010, repealed former Ch. 22, §§ 22-1—22-455, and enacted a new Ch. 22 as set out herein. Former Ch. 22 pertained to the same subject matter. See the Code Comparative Table for complete derivation.

ARTICLE I. - IN GENERAL
ARTICLE II. - BUILDING CODE
ARTICLE III. - ELECTRICAL CODE
ARTICLE IV. - PLUMBING CODE
ARTICLE V. - PROPERTY MAINTENANCE CODE
ARTICLE VI. - MECHANICAL CODE
ARTICLE VII. - RESIDENTIAL DWELLING CODE
ARTICLE VIII. - EXISTING BUILDING CODE
ARTICLE IX. - FUEL GAS CODE
ARTICLE X. - ENERGY CONSERVATION CODE
ARTICLE XI. - NUMBERING OF BUILDINGS
ARTICLE XII. - PERMITS AND FEES
ARTICLE XIII. - STORMWATER RUNOFF
ARTICLE XIV. - PRODIVERSITY CONSTRUCTION STANDARDS

ARTICLE I. - IN GENERAL

[Secs. 22-1—22-30. - Reserved.](#)

Secs. 22-1—22-30. - RESERVED.

ARTICLE II. - BUILDING CODE

[Sec. 22-31. - Adopted by reference.](#)
[Sec. 22-32. - Amendments.](#)
[Secs. 22-33—22-43. - Reserved.](#)

Sec. 22-31. - ADOPTED BY REFERENCE.

The International Code Council (ICC) Building Code, 2003 edition, together with any supplements and any appendices or amendments thereto, as published by the ICC is hereby adopted in its entirety by reference as the building code for the city as though fully set forth herein. A copy of this Code shall remain on file at the office of the city clerk and building division of the public works department for public review and inspection.

(Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Sec. 22-32. - AMENDMENTS.

The following sections of the ICC Building Code of 2003, as adopted in section 22-31 are hereby revised as follows:

- (1) *Section 101.1.* Insert for name of jurisdiction: "City of Rochelle, Illinois."
- (2) *Section 108.1, Payment of fees.* Insert at end of the paragraph: "The permit and inspection fees shall be as established and published by the Rochelle City Council from time to time and made available to the public."
- (3) *Section 113.4, Violation penalties.* Insert at end of section: "Penalties shall be punishable by a fine per the general penalty of section 1-15 up for each offense and each day that said offense occurs or continues to occur; however, noncompliance of orders issued by the Director of Community Development the fine shall be no less than \$200.00 or more than the maximum amount allowed by state statute for each offense and each day that said offense occurs or continues to occur."
- (4) *Section 1612.3, Establishment of flood hazard areas.*
 - a. Insert for jurisdiction: "City of Rochelle (Municipal Code, chapter 46, article II)."
 - b. Insert for effective date: "November 24, 2003."
- (5) *Section 3410.2.* Insert for applicability date of this code: "February 2, 2004."

(Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Secs. 22-33—22-43. - Reserved.

ARTICLE III. - ELECTRICAL CODE

Sec. 22-44. - Adopted by reference.

Sec. 22-45. - Amendments.

Sec. 22-46. - Definitions.

Sec. 22-47. - Inspector.

Sec. 22-48. - Permits.

Sec. 22-49. - Certificate of approval.

Sec. 22-50. - Violations; penalty.

Secs. 22-51—22-60. - Reserved.

Sec. 22-44. - ADOPTED BY REFERENCE.

The National Electrical Code, 2002 edition, together with any supplements and appendices or amendments thereto, as published by the National Fire Protection Association, Inc., is adopted in its entirety by reference as the Electrical Code for the city as though fully set forth herein. A copy of this Code will remain on file at the office of the city clerk and building division of the public works department for public review and inspection. (Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Sec. 22-45. - AMENDMENTS.

The following amendments are made to the published form of the National Electrical Code, 2002 edition:

- (1) Meter bases shall be installed at a minimum of four feet to a maximum of five feet six inches to the center of the meter at the finish grade or from top of finished patio and deck in front of meter.
- (2) Two eight-foot ground rods spaced six feet apart with continuous grounding conductor are required in addition to requirements of article 250.
- (3) All meter bases are to be installed outside, accessible to the meter reader, subject to the city electrical engineer's approval.
- (4) All new or replacement service entrance conductors shall be installed in rigid metal conduit (RMC).
- (5) All electrical wiring in commercial and industrial structures shall be installed in electrical metal tubing (EMT), rigid intermediate metal conduit (IMC), or ridged metal conduit (RMC). All electrical wiring in multifamily buildings having more than three stories plus an elevator shall be installed in EMT, IMC, or RMC. Where a conduit is required and where there will be low voltage wiring, the low voltage wiring shall be installed in EMT, ICM, or RMC if in concealed spaces.
- (6) Duplexes, apartment houses, other multiple use buildings shall have banked meters.
- (7) The electric code as adopted by the city is applicable to mobile homes located within the corporate boundaries of the city.
- (8) A one-inch I.D. Schedule 40 PVC conduit with factory sweeps shall be installed six inches above the electrical service wire from the secondary side of the distribution transformer serving the home to the right side above the meter base. The conduit shall be extended 12 inches above grade on both ends and capped at each end.

(Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Sec. 22-46. - DEFINITIONS.

The term *electrical equipment*, as used in this article, shall be construed to mean and include conductors and equipment installed for the use of electricity supplied for light, heat or power, but does not include radio apparatuses or equipment for the wireless reception of sounds and signals, nor ordinary household appliances such as toasters, vacuum cleaners, or washing machines, and does not include apparatuses, conductors and other equipment installed for and by public utilities, including common carriers, which are under the jurisdiction of the state commerce commission for use in their operations as public utilities. (Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Sec. 22-47. - INSPECTOR.

Building inspectors assigned to the building division and authorized in writing by the director of public works shall act as and have all the powers and duties given in this article to the electrical inspector. (Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Sec. 22-48. - PERMITS.

There are hereby adopted, as reasonable rules and regulations governing the issuance of permits for electrical installations or alterations, the following:

- (1) *Required.* It is unlawful to install or alter any electrical equipment or wiring without having first secured a permit therefore.
- (2) *Filing of application.* Applications for such permits shall be made in writing to the building division, and shall be referred by the building division to the electrical inspector.
- (3) *Contents of application; plans and specifications.* Each such application shall contain the name of the owner of the premises to be served, the name of the contractor doing the work, and the nature of the work to be done. When the work consists of new installations or extensive repairs or alterations, plans and specifications of the work shall accompany the application. (Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Sec. 22-49. - CERTIFICATE OF APPROVAL.

The electrical inspector shall issue a certificate of approval after each inspection in which the wiring or apparatus is found to be in compliance with the terms of this article and with the rules adopted in this article. It is unlawful to use or turn on any power into any wire or apparatus hereafter installed for which such certificate has not been issued because the permit was not secured for installation or because the work was not completed according to the provisions of this article. (Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Sec. 22-50. - VIOLATIONS; PENALTY.

Any person found violating the provisions of the National Electrical Code as adopted by the city shall be subject to punishment as provided in section 1-15 for each offense and each day that said offense occurs or continues to occur. (Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Secs. 22-51—22-60. - RESERVED.

ARTICLE IV. - PLUMBING CODE

[Sec. 22-61. - Adopted by reference.](#)

[Secs. 22-62—22-74. - Reserved.](#)

Sec. 22-61. - ADOPTED BY REFERENCE.

The Illinois Plumbing Code dated February 18, 2004, together with any supplements and any amendments thereto, as published by the state, is hereby adopted in its entirety by reference as the plumbing code for the city as though fully set forth herein. A copy of this Code shall remain on file at the office of the city clerk and building division for public review and inspection.

(Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Secs. 22-62—22-74. - RESERVED.

ARTICLE V. - PROPERTY MAINTENANCE CODE

[Sec. 22-75. - Adopted by reference.](#)

[Sec. 22-76. - Amendments.](#)

[Sec. 22-77. - Illinois Public Act 09-0183 adopted.](#)

[Secs. 22-78—22-87. - Reserved.](#)

Sec. 22-75. - ADOPTED BY REFERENCE.

The International Code Council (ICC) Property Maintenance Code, 2003 edition, together with any supplements and appendices or amendments thereto, as published by the ICC, is adopted in its entirety by reference as the property maintenance code for the city as though fully set forth herein. A copy of said code will remain on file at the office of the city clerk and building division of the public works department for public review and inspection.

(Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Sec. 22-76. - AMENDMENTS.

The following sections of the International Property Maintenance Code, as adopted in section 22-75, are hereby revised as follows:

- (1) The term "structure," as defined in chapter 2, shall include mobile homes as a structure.
- (2) In section 101.1, insert for name of jurisdiction: "City of Rochelle, Illinois."
- (3) In section 304.14, insect screens, insert for dates: "April 1 to October 1."
- (4) In section 602.3, heat supply, insert for dates: "October 1 to April 1."
- (5) In section 602.4, occupiable workspaces, insert for dates: "October 1 to April 1."

(Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Sec. 22-77. - ILLINOIS PUBLIC ACT 09-0183 ADOPTED.

Illinois Public Act 09-0183, Property Maintenance, is hereby adopted by reference.

(Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Secs. 22-78—22-87. - Reserved.**ARTICLE VI. - MECHANICAL CODE**

[Sec. 22-88. - Adopted by reference.](#)

[Sec. 22-89. - Amendments.](#)

[Secs. 22-90—22-104. - Reserved.](#)

Sec. 22-88. - ADOPTED BY REFERENCE.

The International Code Council (ICC) Mechanical Code, 2003 edition, together with any supplements and appendices or amendments thereto, as published by the ICC, is adopted in its entirety by reference as the mechanical code for the city as though fully set forth herein. A copy of this Code shall remain on file at the office of the city clerk and building division of the public works department for public review and inspection. (Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Sec. 22-89. - AMENDMENTS.

The following sections of the International Mechanical Code, as adopted in section 22-88, are hereby revised as follows:

- (1) *Section 101.1.* Insert for name of jurisdiction, "City of Rochelle, Illinois".
- (2) *Section 106.5.2.* Insert: "The permit and inspection fees shall be as established and published by the Rochelle City Council from time to time and made available to the public."
- (3) *Section 106.5.3.2.* Insert, for fee refunds in the case where no work has been done under an issued permit, no more than "75 percent."
- (4) *Section 106.5.3.3.* Insert, for fee refunds in the case where the permit is withdrawn or canceled before any plan review effort has been expended, no more than "75 percent."
- (5) *Section 108.4.*
 - a. Insert "Petty offense" for the name of the specific offense;
 - b. Insert "punishable by a fine per the general penalty of section 1-15 for each offense and each day that said offense occurs or continues to occur" for the amount; and
 - c. Insert "zero" for the number of days of imprisonment.
- (6) *Section 108.5.* Insert "Not less than \$200.00 for each offense and each day that said offense occurs or continues to occur" for amount. (Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Secs. 22-90—22-104. - RESERVED.

ARTICLE VII. - RESIDENTIAL DWELLING CODE

Sec. 22-105. - Adopted by reference.

Sec. 22-106. - Climatic and geographic design criteria.

Sec. 22-107. - Minimum insulation standards.

Secs. 22-108—22-120. - Reserved.

Sec. 22-105. - ADOPTED BY REFERENCE.

The International Code Council (ICC) Residential Code for One- and Two-Family Dwellings, 2003 edition, copies of which are on file in the office of the city clerk and building division of the Community Development Department for public review and inspection, is hereby adopted as the residential dwelling code for the city for the control of buildings and structures and manufactured housing and mobile homes, as provided in said code, and each and all of the regulations, provisions, penalties, conditions and terms of the ICC Residential Code for One- and Two-Family Dwellings, 2003 edition, are hereby adopted and made part of this article as though fully set forth in this article with the following modifications being made:

(1) *Section 101.1.* Insert, for name of jurisdiction, "City of Rochelle, Illinois."

(2) *Scope.* The first paragraph shall have added: "These provisions shall be applicable to manufactured homes used as single-family dwelling units installed on both privately owned lots and rented lots all within trailer parks and mobile home parks. Structures, as defined in said code, shall include mobile homes."

(Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Sec. 22-106. - CLIMATIC AND GEOGRAPHIC DESIGN CRITERIA.

The following information is applicable to table R301.2(1) of the ICC Residential Dwelling Code, 2003 edition:

Ground snow load	25 pounds
Wind speed	90 mph
Seismic design category	C
Subject to damage from:	
Weathering	Severe
Frost line depth	42 inches
Termite	Moderate to heavy
Decay	Slight to moderate
Winter design temperature	minus five degrees Fahrenheit
Ice shield underlayment required	Yes
Flood hazard	Refer to chapter 46
Air freezing index	2,000
Mean annual temperature	47 degrees Fahrenheit

(Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Sec. 22-107. - MINIMUM INSULATION STANDARDS.

For purposes of energy conservation and efficiency and minimum insulation purposes, the city shall be considered and be in climate zone 14; provided, however, that the minimum insulation R-value for walls shall be R-13 and the R-value for ceilings shall be R-38. This requirement shall be made part of table N 1102.1 of the IRC Energy Efficiency Code.

(Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Secs. 22-108—22-120. - RESERVED.**ARTICLE VIII. - EXISTING BUILDING CODE**

[Sec. 22-121. - Adopted by reference.](#)

[Sec. 22-122. - Amendments.](#)

[Secs. 22-123—22-135. - Reserved.](#)

Sec. 22-121. - ADOPTED BY REFERENCE.

The International Code Council (ICC) Existing Building Code, 2003 edition, together with any supplements and appendices or amendments thereto, as published by the ICC, is hereby adopted in its entirety by reference as the existing building code for the city as though fully set forth herein. A copy of this Code shall remain on file at the office of the city clerk and building division of the public works department for public review and inspection.

(Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Sec. 22-122. - AMENDMENTS.

The following sections of the ICC Existing Building Code, 2003 edition, are revised as follows:

- (1) *Section 101.1.* Insert, for name of jurisdiction, "City of Rochelle, Illinois."

(Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Secs. 22-123—22-135. - RESERVED.**ARTICLE IX. - FUEL GAS CODE**

[Sec. 22-136. - Adopted by reference.](#)

[Sec. 22-137. - Amendments.](#)

[Secs. 22-138—22-150. - Reserved.](#)

Sec. 22-136. - ADOPTED BY REFERENCE.

The International Code Council (ICC) Fuel Gas Code, 2003 edition, together with any supplements and any appendices or amendments thereto, as published by the ICC, is adopted in its entirety by reference as the fuel gas code for the city as though fully set forth herein. A copy of said code shall remain on file at the office of the city clerk and building division of the public works department for public review and inspection. (Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Sec. 22-137. - AMENDMENTS.

The following sections of the ICC Fuel Gas Code, 2003 edition, are revised as follows:

- (1) *Section 101.1.* Insert, for name of jurisdiction, "City of Rochelle, Illinois."
- (2) *Section 106.5.2, Fee schedule.* Insert, "The permit and inspection fees shall be as established and published by the Rochelle City Council from time to time and made available to the public."
- (3) *Section 108.4, Violation penalties.*
 - a. Insert "petty offense" for the name of the specific offense.
 - b. Insert "punishable by a fine per the general penalty of section 1-15 for each offense and each day that said offense occurs or continues to occur" for the amount.
 - c. Insert "zero" for the number of days of imprisonment.

(Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Secs. 22-138—22-150. - RESERVED.**ARTICLE X. - ENERGY CONSERVATION CODE**

[Sec. 22-151. - Adopted by reference.](#)

[Sec. 22-152. - Amendments.](#)

[Secs. 22-153—22-170. - Reserved.](#)

Sec. 22-151. - ADOPTED BY REFERENCE.

The International Code Council (ICC) Energy Conservation Code, 2003 edition, together with any supplements and any appendices or amendments thereto, as published by the ICC, is adopted in its entirety by reference as the energy conservation code for the city as though fully set forth herein. A copy of said code shall remain on file at the office of the city clerk and building division of the public works department for public review and inspection.

(Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Sec. 22-152. - AMENDMENTS.

The following sections of the ICC Energy Conservation Code, 2003 edition, are revised as follows:

- (1) *Section 101.1.* Insert, for name of jurisdiction, "City of Rochelle, Illinois."

(Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Secs. 22-153—22-170. - RESERVED.

ARTICLE XI. - NUMBERING OF BUILDINGS

[Sec. 22-171. - Numbering system.](#)

[Sec. 22-172. - Placement of numbers.](#)

[Sec. 22-173. - Street number chart.](#)

[Secs. 22-174—22-200. - Reserved.](#)

Sec. 22-171. - NUMBERING SYSTEM.

All lots and buildings of the city shall be numbered as follows:

(1) All buildings shall be numbered on the street or avenue which they face. All streets shall be considered to run due north and south, and all avenues shall be considered to run due east and west. On the streets, the odd numbers shall be on the east side and the even numbers on the west side; and on the avenues, the odd numbers shall be on the north side and the even numbers shall be on the south side.

(2) In the first tier of blocks north of First Avenue, the numbers shall be from 100 to 199; in the second tier of blocks, 200 to 299; in the third tier of blocks, 300 to 399; and so on north, each block beginning with an additional hundred. In the first tier of blocks south of First Avenue, between First Avenue and Avenue A, and between First Avenue and Kyte Creek, east of Eighth Street, the numbers shall be from 100 to 199; in the tier between Avenue B and Avenue C, and in the district between Kyte Creek and Avenue C, the numbers shall be from 200 to 299; in the tier of blocks between Avenue C and Avenue D, the numbers shall be from 300 to 399; and so on south between Avenues D and H, each block beginning with an additional hundred.

(3) In the first tier of blocks west of First Street, the numbers shall be from 100 to 199; in the second tier of blocks from 200 to 299; in the third tier of blocks from 300 to 399; and so on west, each block beginning with an additional hundred; but Avenue F shall not be counted as dividing blocks between Avenues F and G.

(4) In the district north and west of Kyte Creek, every 22 feet of street frontage, and in the district south and east of Kyte Creek every 20 feet of frontage, shall be a separate lot for numbering purposes. Beginning from the east line of the block and running west on the avenues; and beginning from the south line of the block and running north on the streets, north of First Avenue; and so on the streets south of First Avenue, beginning on the north line of the block and running south.

(5) On the east side of Lincoln Highway, from Third Avenue to Fourth Avenue, the numbers shall be from 300 to 399, counting Cherry Avenue as lots of 22 feet each.

(6) On Fourth, Third, Second and First Streets, from Second Avenue and Second Avenue extended, to Cherry Avenue, shall be one block each, and numbers thereon shall be from 200 to 299.

(7) On Eighth to 15th Streets, inclusive, from First Avenue to Third Avenue, shall be one block each and numbers shall be from 100 to 299.

(Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Sec. 22-172. - PLACEMENT OF NUMBERS.

It shall be the duty of the owner or occupant of every building in the city to have placed thereon, in a place visible from the street, numbers at least two and one-half inches high showing the number of the building. The owner of every apartment building or building in which there is more than one address shall be required to place upon the door of each additional apartment unit or address the assigned number of each apartment or unit.

(Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Sec. 22-173. - STREET NUMBER CHART.

The building division shall keep a chart showing the proper street number of every lot in the city, which chart shall be open to the inspection of anyone interested. (Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Secs. 22-174—22-200. - Reserved.**ARTICLE XII. - PERMITS AND FEES**

[Sec. 22-201. - Requirements; fee schedule.](#)

[Sec. 22-202. - Ordinary repairs.](#)

[Secs. 22-203—22-220. - Reserved.](#)

Sec. 22-201. - REQUIREMENTS; FEE SCHEDULE.

The requirements and fee schedule for the permits referred to in this Code related to building and other permits issued by the city shall be those fees as established by resolution of the city council as modified from time to time. (Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Sec. 22-202. - Ordinary repairs.

- (a) No application for a building permit shall be required for ordinary repairs and services, including roof and siding repairs not exceeding 25 percent of the gross surface.
- (b) An application for a building permit shall be required when ordinary repairs include:
- (1) Cutting away of any wall, partition or portion thereof;
 - (2) Removal or cutting of any structural beam or bearing support;
 - (3) Removal or change of any required means of egress;
 - (4) Rearrangement of parts of a structure affecting the existing requirements;
 - (5) Repairs including addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electrical wiring or mechanical repairs;
 - (6) Any work affecting public health or general safety. (Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Secs. 22-203—22-220. - RESERVED.

ARTICLE XIII. - STORMWATER RUNOFF

DIVISION 1. - GENERALLY
 DIVISION 2. - REQUIREMENTS FOR STORMWATER MANAGEMENT
 DIVISION 3. - EROSION AND SEDIMENT CONTROL
 DIVISION 4. - PROTECTION OF SPECIAL MANAGEMENT AREAS
 DIVISION 5. - REQUIRED SUBMITTALS FOR STORMWATER MANAGEMENT PERMITS
 DIVISION 6. - LONGTERM MAINTENANCE
 DIVISION 7. - ENFORCEMENT AND PENALTIES
 DIVISION 8. - APPLICABILITY, INTERPRETATION AND LEGAL PROVISIONS
 DIVISION 9. - ADMINISTRATION
 DIVISION 10. - SECURITIES AND FEES

DIVISION 1. - GENERALLY

[Sec. 22-221. - Title; statutory authority.](#)
[Sec. 22-222. - Purpose.](#)
[Sec. 22-223. - Definitions.](#)
[Secs. 22-224—22-240. - Reserved.](#)

Sec. 22-221. - TITLE; STATUTORY AUTHORITY.

(a) This article shall be known and may be cited as the "City of Rochelle Stormwater Management Regulations Ordinance."

(b) The city council adopts this article pursuant to its authority to regulate stormwater management and govern the location, width, course, and release rate of all stormwater runoff channels, conduits, streams, and basins in the city. This article is enacted pursuant to the police powers granted to the city by 65 ILCS 5/11-110-1 et seq. (Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Sec. 22-222. - PURPOSE.

The principal purpose of this article is to promote effective, equitable, acceptable, and legal stormwater management measures by establishing reasonable rules and regulations for development. Other purposes of this article include:

- (1) Managing and mitigating the effects of urbanization on stormwater drainage throughout the city through planning, appropriate engineering practices, and proper maintenance;
- (2) Protecting the public health safety and reducing the potential for loss of human life and property from flood damage;
- (3) Protecting the public from degradation of water quality;
- (4) Controlling sediment and erosion in and from stormwater facilities, development, and construction sites and reducing and repairing stream bank erosion;
- (5) Requiring planning for new development to provide for water resource management, taking into account natural features such as vegetation, wildlife, waterways, wetlands, and topography in order to reduce the probability that new development will create unstable conditions susceptible to erosion or degrade the quality of groundwaters and surface waters;

- (6) Reduce flood damage by requiring appropriate and adequate provisions for site runoff control, especially when the land is developed with a large amount of impervious surface;
- (7) Encouraging the use of stormwater storage and infiltration of stormwater in preference to stormwater conveyance;
- (8) Lessening the taxpayer's burden for flood-related disasters, repairs to flood-damaged public facilities and utilities, and flood rescue and relief operations caused by increased stormwater runoff quantities from new development and redevelopment;
- (9) Protecting and improving surface water quality and promoting beneficial uses of ponds, lakes, wetlands, and streams by reducing point source and nonpoint source discharges of pollutants;
- (10) Requiring regular, planned maintenance of stormwater management facilities;
- (11) Requiring control of stormwater quality at the most site-specific level and preventing unauthorized or unmitigated discharge of flow off site; and
- (12) Requiring strict compliance with and enforcement of this article.

(Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Sec. 22-223. - DEFINITIONS.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Administrator means the person designated by the city manager to administer and enforce this article.

Agricultural land means land predominantly used for agricultural purposes.

Allowable peak discharge means the rate of flow allowed to escape beyond the confines of the property.

Applicable engineering practice means procedures, methods, or materials recommended in standard engineering textbooks or references as suitable for the intended purpose.

Applicant means any person who submits an application under this article.

Base flood means the flood having a one percent probability of being equaled or exceeded in a given year (100-year event).

BFE and *base flood elevation* mean the highest water surface elevation that can be expected during the base flood.

BMP and *best management practices* mean a measure used to control the adverse stormwater related effects of development, and includes structural devices (for example, swales, filter strips, infiltration trenches, and site runoff storage basins), designed to remove pollutants, reduce runoff rates and volumes, and protect aquatic habitats, and nonstructural approaches, such as public education efforts to prevent the dumping of household chemicals into storm drains.

Buffer means an area of predominantly deeply rooted native vegetative land adjacent to channels, wetlands, lakes, ponds, rivers, or streams for the purpose of stabilizing banks, reducing contaminants, including sediments, in stormwater that flows to such areas.

Building means a structure that is principally aboveground and is enclosed by walls and a roof; a building includes a gas or liquid storage tank, a manufactured home, or prefabricated building.

Bulletin 71 means Rainfall Frequency Atlas of the Midwest, by Floyd A. Huff and James R. Angel of the Illinois State Water Survey (1992). Furthermore, rainfall distributions shall be in accordance with the minimums as set forth in "Table 1: sectional mean frequency distributions for storm periods of 5 minutes to 10 days and reoccurrence intervals of 2 months to 100 years in Illinois". Durations shall be based upon the 24-hour storm event rainfall intervals for sectional code Number 01 (northwest).

Channel means any river, stream, creek, brook, branch, natural or artificial depression, ponded area, flowage, slough, ditch, conduit, culvert, gully, ravine, wash, or natural or manmade drainageway which has a definite bed and bank or shoreline, in or onto which surface water, groundwater, effluent, or industrial discharges flow.

Channel modification means alteration of a channel by changing the physical dimensions or materials of its beds or banks, and includes damming, rip-rapping (or other armoring), widening, deepening, straightening, relocating, lining, and significant removal of bottom or woody rooted vegetation, but does not include clearing of debris or removal of trash or dredging to previously documented elevations and side slopes.

City means the City of Rochelle, Illinois, or its representatives.

Compensatory storage means an excavated, hydrologically and hydraulically equivalent volume of storage created to offset the loss of existing flood storage.

Control structure means a structure designed to control the rate of flow that passes through the structure given a specific upstream and downstream water surface elevation.

Critical duration means the duration of a storm event that results in the greatest peak runoff.

Dam means any obstruction, wall embankment, or barrier, together with any abutments and appurtenant works, constructed to store or divert water or to create a pool (not including underground water storage tanks).

Depressional storage means the volume contained below a closed contour on a one-foot contour interval topographical map, the upper elevation of which is determined by the invert of a surface gravity outlet.

Detention facility means a facility which stores stormwater runoff with a normally dry basin and a gravity release.

Developer means a person who creates or causes a development.

Development.

- (1) The term "development" means any manmade change to the land and includes:
 - a. Preparation of a plat of subdivision for three or more parcels;
 - b. The construction, reconstruction, repair, or replacement of a building or an addition to a building;
 - c. Redevelopment of a site for commercial and/or industrial purposes;
 - d. The installation of utilities, construction of roads, bridges, or similar projects;
 - e. Drilling and mining;
 - f. The construction of levees, walls, fences, dams, or culverts;
 - g. Channel modifications, filling, dredging, grading, excavating, paving, or other nonagricultural alterations of the ground surface;
 - h. The storage of materials and the deposit of solid or liquid waste;
 - i. Any wetland impact; and
 - j. Any other activity of man that might change the direction, height, or velocity of flood or surface waters, including the extensive removal of vegetation.
- (2) The term "development," however, does not include:
 - a. Maintenance of existing buildings and facilities, such as reroofing or resurfacing of roads, driveways or parking areas where there is no increase in elevation;
 - b. For agricultural uses, maintenance of existing drainage systems for the limited purpose of maintaining cultivated areas and crop production; or
 - c. For agricultural uses, improvements undertaken pursuant to a written NRCS conservation plan;
 - d. Maintenance, construction or rehabilitation of certain city capital improvements infrastructure projects which may include but is not limited to street and/or roadway pavement removal and replacement, resurfacing, overlays, widening, curb and gutter installation, storm sewers, drainage systems and the removal/replacement or addition of sidewalks or other pedestrian paths.

Drainage area means the land area above a given point that may contribute runoff flow at the point from rainfall.

Erosion means the process whereby soil is detached by the action of water or wind.

FEMA means the Federal Emergency Management Agency, Department of Homeland Security, or its duly authorized designee.

Flood means a general and temporary condition of partial or complete inundation of normally dry land areas from overflow of inland or tidal waters or the unusual and rapid accumulation of runoff or surface waters from any source. Refer to additional requirements in chapter 46 flood hazard area development.

Flood frequency means a frequency normally expressed as a period of years, based upon a percent chance of occurrence in any given year from statistical analysis, during which a flood of a stated magnitude may be expected to be equaled or exceeded, as in the two-year flood frequency has a 50 percent chance of occurrence in any given year and the 100-year flood frequency has a one percent chance of occurrence in any given year. Refer to additional requirements in chapter 46 flood hazard area development.

Flood fringe means that portion of the floodplain outside of the designated floodway. Refer to additional requirements in chapter 46 flood hazard area development.

Floodplain means that land typically adjacent to a body of water with ground surface elevations at or below the base flood or the 100-year frequency flood elevation. Refer to additional requirements in chapter 46 flood hazard area development.

Floodway and *designated floodway* mean the channel, on-stream lakes and that portion of the floodplain adjacent to a stream or channel which is needed to store and convey the critical duration 100-year frequency flood discharge with no more than a 0.1 foot increase in flood stage due to the loss of flood conveyance or storage, and no more than a ten percent increase in velocities. Refer to additional requirements in chapter 46 flood hazard area development.

Floodway conveyance means the measure of the flow carrying capacity of the floodway section. Refer to additional requirements in chapter 46 flood hazard area development.

Freeboard means the increment of height added to the 100-year design water surface elevation to provide a factor of safety for uncertainties in calculations, unknown local conditions, wave action, and unpredictable effects such as those caused by ice or debris jams. Refer to additional requirements in chapter 46 flood hazard area development.

Hydrograph means the graph produced by a table of ordinates showing the flow rate, or discharge, with respect to time for a given location in a drainage area.

Hydrology means the science of the behavior of water, including its dynamics, composition, and distribution in the atmosphere, on the surface of the earth, and underground.

IDNR-OWR means the Illinois Department of Natural Resources, Office of Water Resources, or its duly authorized designee.

IEPA means the Illinois Environmental Protection Agency, or its duly authorized designee.

Impervious area means those areas which contain concrete or asphalt ground cover, pavements, structures, rooftops, compacted aggregate surfaces, compacted soils, curbs or other areas of significant impermeability as may be determined by the city engineer.

Infiltration means the passage or movement of water into the soil surfaces.

Major stormwater facility means that portion of a stormwater facility needed to store and convey flows beyond the capacity of the minor stormwater system.

Mass grading means development in which the primary activity is a change in topography affected by the movement of earth materials.

Minor stormwater facility means all infrastructure including curb, gutter, culverts, conduits, roadside ditches and swales, storm sewers, and subsurface drainage systems intended to convey stormwater runoff at less than a ten-year frequency.

Mitigation means measures taken to offset negative impacts from development and includes those measures necessary to minimize the negative effects that stormwater drainage, as a result of development activities, has on the public health, safety, and welfare.

On-stream storage facilities means site runoff storage facilities located within the floodway.

Overland flow path means a design feature of the major stormwater system which carries flows in excess of the minor stormwater system design capacity in an open channel or swale, or as sheet flow or weir flow over a feature designed to withstand the particular erosive forces involved.

Peak flow means the maximum rate of flow of water at a given point in a channel or conduit.

Positive drainage means provision for overland paths for all areas of a property including depressional areas that may also be drained by storm sewer.

Professional engineer means an engineer registered in the state under the Illinois Professional Engineering Practice Act of 1989, 225 ILCS 325/1 et seq.

Professional land surveyor means a land surveyor registered in the state under the Illinois Professional Land Surveyor Act of 1989, 225 ILCS 330/1 et seq.

Record drawings means drawings prepared, signed, and sealed by a professional engineer or professional land surveyor representing the final record of the actual in-place elevations, locations of structures and topography of proposed improvements.

Regional storage facility means a site runoff storage facility that stores stormwater from multiple parcels of land.

Regulatory floodplain means the floodplain depicted on maps recognized by IDNR-OWR for regulatory purposes.

Regulatory floodway means the floodway depicted on maps recognized by IDNR-OWR for regulatory purposes.

Retention facility means a facility which stores stormwater runoff with a normally wet basin and with or without a gravity release.

Runoff means the waters derived from melting snow or rain falling within a tributary drainage basin that exceeds the infiltration capacity of the soils of that basin.

Sedimentation means the process that deposits hydraulically moved soils, debris, and other materials on other ground surfaces or in bodies of water or stormwater drainage systems.

Site means all of the land contemplated to be part of a coordinated development of one or more parcels.

Site runoff storage facility and *storage facility* mean a manmade structure or area for the temporary storage of stormwater runoff with a controlled release rate.

Special flood hazard area or *special management area* means a floodplain, regulatory floodplain or floodway, wetland, wetlands mitigation area, stream, river, or other water body.

Stormwater facility means all ditches, channels, conduits, bridges, culverts, levees, ponds, natural and manmade impoundments, wetlands, riparian environments, tiles, swales, sewers, or other natural or artificial structures or measures which serve as a means of draining surface water and groundwater from land.

Time of concentration means the elapsed time for stormwater to flow from the most hydraulically remote point in a drainage basin to a particular point of interest in that watershed.

Tributary watershed means all of the land surface area that contributes runoff to a given point.

USACE means the U.S. Army Corps of Engineers.

Watershed means all land drained by, or contributing to, the same stream, lake, stormwater facility, or draining to a point.

Wetland retention area means that area of the retention facility that contains permanent shallow waters that commonly support aquatic beds and emergent plants (erect, rooted, non woody plants that are mostly above water). These areas shall be generally free from nonnative and noxious seed and plant growth. The director of community development, upon review of a landscape plan, shall make final determination as to the appropriateness of the proposed plantings.

(Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Secs. 22-224—22-240. - RESERVED

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DIVISION 2. - REQUIREMENTS FOR STORMWATER MANAGEMENT

Sec. 22-241. - Permit required; application for permit.

Sec. 22-242. - General stormwater requirements.

Sec. 22-243. - Site runoff requirements.

Sec. 22-244. - Site runoff storage requirements (detention/retention).

Sec. 22-245. - Accommodating flows from upstream tributary areas.

Sec. 22-246. - Fee in lieu of stormwater site runoff storage facilities.

Secs. 22-247—22-260. - Reserved.

Sec. 22-241. - PERMIT REQUIRED; APPLICATION FOR PERMIT.

(a) No person, firm, corporation, or governmental body not exempted by state law shall commence any development, as defined herein, without first obtaining a stormwater management permit from the director of community development. The director of community development shall not issue a permit if the proposed development does not meet the requirements contained herein.

(b) Every application for a stormwater management permit shall be accompanied by a drainage plan as required herein and such other information as may be required by the city for the proper enforcement of this article. Each applicant shall submit the following information, depending on development size, to ensure that the provisions of this article are met. The submittal shall include sufficient information to evaluate the environmental characteristics of the property, the potential adverse impacts of the development on water resources both on site and downstream, and the effectiveness of the proposed drainage plan in managing stormwater runoff. The applicant shall certify on the drawings that all clearing, grading, drainage, and construction shall be accomplished in strict conformance with the drainage plan.

(Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Sec. 22-242. - GENERAL STORMWATER REQUIREMENTS.

(a) No development shall increase flood elevations or decrease flood conveyance capacity upstream or downstream of the site.

(b) Stormwater facilities shall be functional, where practicable, before any other construction begins on a site.

(c) The design of any development shall incorporate the following specific planning principles, where practicable:

(1) Impervious surfaces are the minimum necessary to satisfy the needs of the project and the current zoning regulations.

(2) Where feasible, allow sufficient right-of-way and easement widths so that stormwater runoff can be conveyed in vegetated swales. Storm sewers may be used for conveyance of nuisance flows and where conveyance in vegetated swales is impractical.

(3) Retention and infiltration of stormwater runoff should be used as much to the extent practicable to reduce the volume of stormwater runoff and the quantity of runoff pollutants.

(4) If retention facilities are impractical or are not used, then detention facilities shall be provided.

(5) Best management practices have been used in the drainage plan.

(6) To effectively filter stormwater pollutants and promote infiltration of runoff, sites should be designed to maximize the use of vegetated filter strips and swales. Wherever practicable, runoff from impervious surfaces should be directed onto vegetated filter strips and swales before being routed to a storm sewer or site runoff storage facility.

(Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Sec. 22-243. - SITE RUNOFF REQUIREMENTS.

(a) Stormwater facilities shall be required and designed so that runoff exits the site at the point where it exited prior to development (unless a change is required and approved in writing by the administrator) and in a manner so as not to increase flood damage downstream. Concentrated discharges from new developments must enter conveyance systems capable of carrying the design flow without increasing flood damage, erosion, or maintenance costs downstream.

(b) Major and minor stormwater facilities shall be sized to convey runoff from the tributary watershed under fully developed conditions.

(c) Major stormwater facilities shall be sized to convey the base flood without causing additional flood damage.

(d) Stormwater facilities shall properly incorporate and be compatible with existing subsurface and surface drainage systems. Designs shall not cause damage to existing drainage systems or to existing adjacent or tributary land uses. The flowing principles and requirements shall be observed in the design:

(1) *Off-site outfall.* Existing subsurface and surface drainage systems shall be evaluated with regard to their capacity and capability to properly convey site runoff storage facility release without damage to downstream structures and land uses. If the outfall drain tile and surface drainage systems prove to be inadequate, it will be necessary to modify the existing systems or construct new facilities which will not conflict with the existing systems and will not impact existing land uses.

(2) *On site.* Existing agricultural drainage systems shall be mapped to the extent practicable. If any existing agricultural drainage tiles continue to upland watersheds, the developer must maintain drainage service so as not to impede the flow of water from the existing drainage tile. The existing upstream agricultural drainage tile may be connected into the proposed on-site drainage system if the invert of the existing drainage tile is higher than the proposed 100-year high water elevation of the stormwater facilities. The proposed stormwater facilities shall not discharge into existing agricultural drainage systems.

(3) The stormwater and site runoff storage facilities shall be designed to control the peak rate of discharge from the property for the two-year, 24-hour and 100-year, 24-hour events to levels which will not cause an increase in flooding or channel instability downstream when considered in aggregate with other developed properties and downstream drainage capacities. The allowable peak discharge from events less than or equal to the two-year, 24-hour event shall not be greater than 0.04 cubic foot per second (cfs) per acre of property drained. The allowable peak discharge from events less than or equal to the 100-year, 24-hour event shall not be greater than 0.20 cfs per acre of property drained. In no case shall the release of site runoff water exceed the existing runoff rate from the development area. Redevelopment or expansion of existing development parcels and impervious areas may instead use the alternate method of site runoff storage areas in subparagraphs (12) and (13) below.

- (4) The allowable peak discharges for both design storms shall take into consideration undetainable areas. If areas of the property cannot be detained because of site limitations, the undetained discharge shall be subtracted from the allowable peak discharge to determine the allowable peak discharge from the detention or retention facility.
- (5) Design runoff rates shall be determined using event hydrograph methods. Acceptable event hydrograph methods are HEC-HMS, HEC-1 (SCS runoff method), TR-20, or TR-55. Design runoff rates for minor conveyance systems may be calculated using the Rational Method.
- (6) All design runoff calculations shall utilize Bulletin 71 rainfall amounts for given storm frequencies. All design runoff calculations, except TR-55, shall utilize Bulletin 71 median time distributions for given storm frequencies. If TR-55 is used, the SCS Type II time distribution shall be used.
- (7) The minor stormwater system shall be designed to safely pass the ten-year reoccurrence interval up to and including the 24-hour storm event duration as per Bulletin 71. The developer shall provide an overland flow route to pass storms greater than a ten-year frequency. All areas of the property must provide an overland flow route that will pass the runoff from the 100-year event at a stage at least one foot below the lowest foundation grade in the vicinity of the flow path. Overland flow paths designed to handle flows in excess of the minor drainage system capacity shall provide drainage easements at least 20 feet in width.
- (8) If streets are to be used as part of the major or minor stormwater systems, ponding depths shall not be greater than the elevation of the top of curbs and shall not remain flooded for more than eight hours for any event less than or equal to the 100-year event.
- (9) Culvert crossings shall be designed according to this article, unless stricter requirements apply from other governmental agencies. Sizing of culvert crossings shall consider entrance and exit losses as well as headwater and tailwater conditions on the culvert.
- (10) Transfers of waters between watersheds (diversions) shall be prohibited except when such transfers will not violate the provisions of subsection 22-242(a) and otherwise lawful.
- (11) All developments shall incorporate all best management practices required under the Clean Water Act, 33 USC 1251—1376, and as required under division 3 of this article. The developer is responsible for obtaining an NPDES permit from the IEPA if the development meets the requirements of this regulation.
- (12) Redevelopment or expansion of impervious area, building and/or site coverage on existing development parcels of less than one-half acre in size, with more than 50 percent existing impervious areas, shall be exempt from the requirements of the site runoff storage facilities in this section except in circumstances where the existing public or private storm sewer or drainage system is incapable of sufficiently handling the increased runoff from this development, a special flood hazard area exist, or the site drains into property or a drainage system, under the jurisdiction of another state or federal agency that may require a permit. In such cases detention shall be required to store that portion of the runoff exceeding the outlet capacity or as may be required by the jurisdictional permitting agency.

(13) For parcels greater than one-half acre in size the redevelopment or expansion of impervious area, buildings and/or site coverage in developments that have common retention areas designed for the entire subdivision or development shall be exempt from the requirements of this article. In all other cases, the redevelopment or expansion of impervious areas, buildings and/or site coverage shall provide site runoff storage facilities for either:

- a. The entire expanded site and/or buildings at a peak discharge rate not to exceed 0.30 cfs per acre of land drained; or
- b. Only the increase in impervious area lot coverage and buildings, at a peak discharge rate not to exceed 0.20 cfs per acre drained;

whichever is less restrictive. In cases where the existing storm sewer or drainage system is incapable of sufficiently handling the increased development, additional stormwater storage shall be required for that portion of the runoff exceeding the outlet capacity.

(14) Eligible redevelopment or expansion areas are still subject to section 22-246 "fee in lieu of stormwater site runoff storage facilities."

(Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Sec. 22-244. - SITE RUNOFF STORAGE REQUIREMENTS (DETENTION/RETENTION).

(a) Event hydrograph routing methods such as HEC-1, HEC-HMS, TR-20, or TR-55 using SCS curve number methodology shall be used to calculate design runoff volumes for all site runoff storage facilities. Event methods shall incorporate the following assumptions:

- (1) A normal antecedent moisture condition (AMC=2) shall be assumed as a minimum;
- (2) Appropriate rainfall distributions from Bulletin 71 shall be utilized except that SCS Type II distribution is acceptable with TR-55 only;
- (3) Twenty-four-hour duration storm with a 50 percent probability (two-year) of occurrence in any one year as specified by Bulletin 71 sectional rainfall statistics; and
- (4) Twenty-four-hour duration storm with a one percent probability (100-year) of occurrence in any one year as specified by Bulletin 71 sectional rainfall statistics.

(b) The design maximum storage to be provided in a site runoff storage facility shall be based on the runoff from the 100-year, 24-hour event and reservoir routing (also called level pool).

(c) Hydraulic computations for the release structure must take into account backwater and tailwater conditions on the site and receiving stream caused by the five-year storm event.

(d) Storage facilities shall be designed and constructed with the following characteristics:

- (1) Water surface depths two feet above the base flood elevation will not damage the storage facility or other site improvements.
- (2) The storage facilities shall be accessible and easily maintained.
- (3) All design site runoff storage volume shall be provided above the seasonal high groundwater table or the invert elevation of the groundwater control system.

(4) Storage facilities shall facilitate sedimentation and catchment of floating material. Unless specifically approved by the city engineer, concrete-lined low flow channels shall not be used in the site runoff storage basins.

(5) Storage facilities shall minimize impacts of stormwater runoff on water quality by incorporating best management practices.

(6) Storage facilities shall maximize the distance between site runoff storage inlets and outlets to the maximum extent possible.

(7) Storage facilities with single pipe outlets shall have a minimum inside diameter of 12 inches. If design release rates necessitate a smaller outlet, structures such as perforated risers or flow control orifices shall be used. Orifices shall have a minimum diameter of three inches in which case the storage volume of the stormwater facility shall be calculated using the release rate generated by the constructed outlet structure.

(8) Detention facilities shall be designed to remove stormwater pollutants (i.e., but not limited to oil/grease, grit, sediments, organic matter, and debris) to be safe, to be aesthetically pleasing and, as much as feasible, available for multiple uses.

(9) Detention facilities shall incorporate velocity dissipation devices to minimize erosion at inlets and outlets and to minimize resuspension of pollutants.

(10) Detention facilities shall be designed such that the portion of the bottom area which is intended to be dry shall have standing water no longer than 48 hours for any runoff event less than the 100-year event. Underdrains directed to the outlet may be used to accomplish this requirement. Grading plans shall clearly distinguish the wet portion of the basin bottom from the dry portion. Ground slopes in the bottom of dry detention facilities shall be 1.0 percent or steeper.

(11) *Underground detention.* Stormwater may be detained in underground pipes, tanks or reservoirs meeting the following requirements:

- a. Access to all chambers shall be provided for maintenance purposes;
- b. Positive gravity outlet shall be provided;
- c. Void space volume of the bedding material shall not be considered as part of the storage volume.

(12) *Parking lot detention.* Parking lots may be used for temporary storage of water, provided vehicles are not endangered and standing water does not exceed six inches for a time not exceeding 24 hours.

(e) Storage facilities located within the regulated floodplain shall comply with all state and federal regulations and shall store the required amount of site runoff to meet the release rate requirement under all streamflow and backwater conditions up to the ten-year flood elevation on the adjacent receiving watercourse.

(f) Storage facilities located within the regulated floodway shall comply with all state and federal regulations and shall be evaluated by performing detailed hydrologic and hydraulic analysis and shall provide a net watershed benefit.

- (g) Site runoff facilities may be located off site if the off-site storage facility meets all of the requirements of the article, adequate storage capacity in the off-site facility is dedicated to the development, and the development includes means to convey stormwater runoff to the off-site storage facility.
- (h) Retention facilities shall be designed and constructed with the following characteristics:
- (1) Retention facilities shall be designed to remove stormwater pollutants (i.e., but not limited to oil/grease, grit, sediments, organic matter, and debris), to be safe, and to be aesthetically pleasing.
 - (2) The minimum depth shall be at least five feet deep, below normal water level, excluding near shore banks and safety ledges. If fish habitat is to be provided, the minimum depth shall be at least ten feet deep, below the normal water level over a minimum of 25 percent of the bottom area to prevent winter freeze-out.
 - (3) Above the normal water elevation, the side slopes shall be no steeper than five to one (horizontal to vertical).
 - (4) At normal depth, permanent pool volume shall be equal to or greater than the runoff volume from its watershed for the two-year event.
 - (5) Safety ledges shall be provided at least four feet in width at a depth not greater than two feet below normal water level.
 - (6) Subsurface drainage systems may be designed as a component of the retention facility to assist in infiltration in accordance with the following criteria:
 - a. The retention volume shall be discharged at a rate no greater than that required to empty the calculated retention volume within five days of the storm event.
 - b. No such subsurface drainage pipe shall be located within ten feet of drainage pipes directly connected to the retention facility.
 - (7) Wherever the water depth is less than three feet the retention facility shall be constructed by over excavating the required retention volume by one foot and replacing such volume with one foot of topsoil suitable for growing wetland plants (wetland retention area). Topsoil used shall be generally free from nonnative and noxious seed bank. Native wetland plantings shall be introduced and shall not be dominated by or contain cumulatively more than 25 percent cover of the following species: buckthorn (*Rhamnus cathartica* or *frangula*), reed canary grass (*Phalaris arundinacea*), purple loosestrife (*Lythrum salicaria*), or giant reed (*Phragmites australis*). Within six months of the completion of the development a qualified wetland review specialist retained by the developer shall verify compliance with this section in a report submitted to the city engineer and the community development director. Wetland retention areas may be provided along 35 percent of the periphery of the retention area. The buffer width shall not exceed 20 feet and shall have a slope no greater than five percent graded and draining towards the retention facility.
 - (8) Maintenance of wetland retention areas shall be provided for in the required "maintenance of stormwater facilities agreement".
- (i) The stormwater facilities shall be designed to protect the safety and well-being of all children and adults coming in contact with the system during storm runoff events.

- (j) The top of berm or area, not along the sideslopes, surrounding the detention and/or retention facility shall be designed and graded as level as practicable to prevent accidental falls into the basin and for stability and ease of maintenance. Side slopes of detention facilities and open channels shall not be steeper than four to one (horizontal to vertical).
- (k) All detention or retention facilities shall be provided with an overflow structure capable of safely passing excess flows at a stage at least two-feet above the base flood elevation. The design flow rate of the overflow structure shall be equivalent to the 100-year inflow rate.
- (l) Velocities throughout the stormwater facilities shall be controlled to safe and non-erosive levels taking into consideration rates and depths of flow.
- (m) The stormwater facilities shall be designed to minimize and facilitate maintenance.
- (n) To effectively reduce runoff volumes, infiltration practices including basins and trenches may be utilized according to the following practices:
 - (1) Infiltration practices should be located on soils in hydrologic soil group "A" or "B" as designated by the U.S. Natural Resources Conservation Service.
 - (2) Infiltration basins and trenches designed to recharge groundwater shall not be located within 75 feet of a water supply well or a building foundation.
 - (3) A sediment settling basin shall be provided to remove coarse sediment from stormwater flows before they reach the infiltration basins or trenches. Stormwater shall not be allowed to stand more than 48 hours over 80 percent of a dry basin's bottom area for the maximum design event to be exfiltrated. The bottom of infiltration facilities shall be a minimum of four feet above seasonally high groundwater and bedrock.

(Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Sec. 22-245. - ACCOMMODATING FLOWS FROM UPSTREAM TRIBUTARY AREAS.

- (a) Stormwater runoff from areas tributary to the property shall be considered in the design of the property's stormwater facilities. Whenever practicable, flows from upstream areas that are not to be detained should be routed around the basin being provided for the site being developed.
- (b) When there are upstream tributary areas not meeting the storage and release rates of this article, regional detention on the applicant's property shall be explored by the applicant by following the following steps:
 - (1) Compute the storage volume needed for the applicant's property using the release rates, the property area, and the procedures described in this article.
 - (2) Identify the upstream areas tributary to the applicant's property that do not meet the storage and release requirements of this article.
 - (3) Compute the storage volume needed for the applicant's property plus the upstream tributary area. If tributary areas are not developed, then a reasonable fully developed land cover, based on local zoning, shall be assumed for the purposes of computing storage.

(4) Once the necessary storage is computed, the city may choose to pay for oversizing the applicant's site runoff storage facility to bring the upstream areas into compliance, thereby making the applicant's site runoff storage facility a regional storage facility.

(5) If regional storage is selected by the city, then the storage facility shall be designed according to the combined property area. The applicant's responsibility shall be limited to the storage volume computed for his property only. If regional storage is not selected by the city, then the storage facility shall be designed according to just the applicant's property and all flows from the upstream area shall be routed around the applicant's storage facility. If the applicant must route flows from the upstream tributary area through his storage facility and the upstream tributary areas exceed one square mile in size, the storage facility shall be considered as an on-stream storage facility.

(c) When there are upstream tributary areas meeting the storage and release rates of this article, the upstream flows shall be bypassed around the applicant's storage facility, or be routed through the applicant's storage facility if it is the only practicable alternative. The required storage for the applicant's property shall be computed in accordance with this article. However, if the city decides to route upstream tributary flows through the applicant's storage facility, the final design of the storage facility shall be based on the combined total of the applicant's property plus the tributary areas draining through it. The applicant shall demonstrate using hydrologic and hydraulic modeling that at no time will the release rate from the applicant's property exceed the allowable release rate for his property alone.

(Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Sec. 22-246. - FEE IN LIEU OF STORMWATER SITE RUNOFF STORAGE FACILITIES.

(a) The developer may pay a fee in lieu of constructing the stormwater runoff detention/retention

facilities, required by this section, when authorized by the city engineer. The fee shall be \$92,000.00 per acre foot (volume) of the required site runoff storage facility and may increase from time to time as approved by the city council. The developer shall submit to the city engineer, for approval, a professional engineer's drainage analysis and report of the site runoff storage requirements in accordance with this chapter associated with the detention/retention improvements.

(b) The developer will not have the option to pay a fee in lieu of constructing the storm water detention facility if, in the opinion of the city engineer, undetained runoff from the development may adversely impact an adjacent or downstream property(s) or the other requirements of subsections 22-243(d)(12) and (13) have not been met.

(c) All fees paid in lieu of constructing stormwater site runoff storage facilities shall be payable to the city prior to the recording of the final plat, or if no plat is required, prior to the issuance of a building permit. The funds collected in accordance with this ordinance shall be held by the City of Rochelle to be used for the construction of storm water management or special flood hazard area mitigation projects designed to serve the immediate or future needs of the City of Rochelle to reduce storm water flooding, control or mitigate erosion, enhance stormwater quality, maintain or improve existing or future stormwater water facilities, drainage or conveyance systems. Furthermore, these funds may be used for other costs associated with stormwater management projects such as land acquisition, and professional service fees, including but not limited to, engineering studies, design and inspection.

(Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Secs. 22-247—22-260. - RESERVED.

DIVISION 3. - EROSION AND SEDIMENT CONTROL

Sec. 22-261. - Required; standards.

Secs. 22-262—22-280. - Reserved.

Sec. 22-261. - REQUIRED; STANDARDS.

(a) Erosion and sediment control planning shall be part of the initial site planning process. In planning the development of the site, the applicant shall consider the sensitivity of existing soils to erosion and topographical features such as steep slopes, stream corridors, and special management areas which must be protected to reduce the amount of erosion and sedimentation which occurs. Where appropriate, existing vegetation shall be protected from disturbance during construction by fencing or other means. In the planning process, the applicant shall also address the following:

(1) For projects that involve phased construction, existing land cover for those areas not under current development shall be addressed. If existing land cover does not consist of appropriate dense vegetation then those phases shall be planted temporarily to reduce erosion from idle land.

(2) In planning the erosion and sediment control strategy, preference shall be given to reducing erosion rather than controlling sediment. In order to accomplish this, the plan must carefully consider the construction sequence of the phases so that the amount of land area exposed to erosive forces is the minimum consistent with completing construction.

(b) Standards and specifications for erosion and sediment control measures shall be in accordance with the Illinois Urban Manual (latest edition).

(c) The runoff from disturbed areas shall not leave the site without first passing through sediment control measures or devices. This requirement shall apply to all phases of construction and shall include an ongoing process of implementation of measures and maintenance of those measures during both the construction season and any construction shutdown periods.

(d) The condition of the construction site for winter shutdown shall be addressed early in the fall growing season so that slopes and other bare earth areas may be stabilized with temporary and/or permanent vegetative cover for proper erosion and sediment control. All open areas that are to remain idle throughout the winter shall receive temporary erosion control measures including temporary seeding, mulching, and/or erosion control blanket prior to the end of the fall growing season. The areas to be worked beyond the end of the growing season must incorporate soil stabilization measures that do not rely on vegetative cover such as erosion control blanket and heavy mulching.

(e) In the hydraulic and hydrologic design of major erosion control measures (those of which the tributary drainage area is greater than five acres) such as sediment basins and traps, diversions and the like, the design frequency shall be commensurate with the risk of the design event being exceeded. The following design frequencies shall be regarded as minimum design frequencies for the construction period:

- (1) If development is estimated to be completed in less than six months, the storm event having a 50 percent chance (two-year event) of being exceeded in any year shall be used for design purposes.
- (2) If development is estimated to be completed in more than six months but less than one year, the design frequency for major sediment basins shall be a rainfall event with a 20 percent chance (five-year event) of being exceeded in any one year.
- (3) If development is estimated to take more than one year to complete, the design frequency for major sediment basins shall be a rainfall event with a ten percent chance (ten-year event) of being exceeded in any one year.
- (4) All sediment basins shall be designed for a minimum residence time of ten hours for detained runoff and shall include a volume for sediment storage reflective of the cleanout schedule for the basin. Appropriate notes shall be included in the plans with instructions to the contractor to maintain the sediment basin at the designated interval.

(f) The erosion and sediment control plan shall designate a series of practices which shall be implemented either at the direction of the applicant or the applicant's representative on site or at the direction of the administrator should an inspection of the site indicate a deficiency in soil erosion and sediment control measures. At a minimum, those measures shall include sedimentation basins, sediment traps, ditch checks, diversion swales, silt fences, temporary seeding, mulching, and erosion control blankets.

(g) The area of disturbance on site at any one time shall be limited to 20 acres. An additional 20 acres (a maximum of 40 acres of disturbance at any one time) may be disturbed if necessary to balance cut and fill on site. The director of community development may approve a larger area of disturbance pursuant to a plan for phased construction or after development has begun, if the developer adequately demonstrates the need and the director of community development finds that adequate temporary and permanent erosion and sediment control measures can be maintained and that the developer is proposing an area of disturbance which at any one time is the smallest practical area consistent with the intent to limit disturbed area and minimize the risk of sediment being introduced into site runoff and being carried off site. No additional area may be disturbed without the permission of the director of community development until previously disturbed areas have been temporarily or permanently stabilized. All disturbed areas shall be stabilized within 14 days of final grading or when left idle for more than seven days. Maintained haul roads and the area of sediment basins, site runoff facilities, utility corridors having a maximum width of 20 feet, and any permanently stabilized areas are excluded from this limitation.

(h) Erosion and sediment control plans shall be in accordance with division 5 of this article and shall include the following:

- (1) Detailed construction phasing plan identifying erosion and sediment control measures to be in place for each phase shall be submitted.
- (2) Erosion and sediment control measures to be installed initially prior to stripping existing vegetation or mass grading shall be indicated on the plans.
- (3) Permanent stabilization measures shall be indicated on a separate plan.
- (4) The expected two-year and ten-year runoff rates from all off-site areas draining into the site shall be identified on the plan.
- (5) Methods for conveying flows through the site during construction shall be indicated. These methods must include the temporary and permanent stabilization measures to be used to reduce velocity and erosion from flow through the construction zone.
- (6) A maintenance schedule of each measure used shall be indicated on the plan. As a minimum, all erosion and sediment control measures on site shall be inspected weekly or after a one-half inch or greater rainfall event and any required repairs shall be made to keep these measures functional as designed.
- (7) A temporary stilling/sedimentation basin should be constructed at each major inlet to a detention or retention facility. The volume of the basin should be at least 500 cubic feet per acre of impervious surface in the drainage area. Side slopes of the basins shall be no steeper than three to one (horizontal to vertical) and basin depths should be at least three feet deep to minimize resuspension of accumulated sediment. A detention facility may be utilized as a temporary stilling/sedimentation basin for its tributary drainage area, as long as the basin is over excavated to provide the additional volume. The required detention volume must be maintained at all times.
- (i) To the extent practicable, proposed ditches and waterways which are to convey off-site flows through the site shall be stabilized upon construction. Where new waterways are constructed, they shall be stabilized to the extent practicable prior to their use to convey flood flows.
- (j) Stockpiles of soil and other building materials (sand, limestone, gravel, etc.) shall not be located in special management areas or required buffers. If a stockpile is to remain in place for more than three days, erosion and sediment control shall be provided.
- (k) Storm sewer inlets shall be protected with sediment trapping and/or filter control devices during construction.
- (l) Water pumped or which is otherwise discharged from the site during construction dewatering shall be filtered and a means provided to reduce erosion.
- (m) Graveled roads, access drives, parking areas of sufficient width and length, and vehicle washdown facilities, if necessary, shall be provided to prevent soil from being tracked onto public or private roadways. Any soil tracked onto a public or private roadway shall be removed before the end of each workday or sooner as directed by the city. Fines may be levied according to division 7 of this article if tracked soil is not cleared from public or private roadways. (Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Secs. 22-262—22-280. - RESERVED.

DIVISION 4. - PROTECTION OF SPECIAL MANAGEMENT AREAS

[Sec. 22-281. - Disclaimer.](#)

[Sec. 22-282. - Statewide and regional permits.](#)

[Sec. 22-283. - Floodplain management.](#)

[Sec. 22-284. - Wetlands and depressional storage areas.](#)

[Secs. 22-285—22-300. - Reserved.](#)

Sec. 22-281. - DISCLAIMER.

Nothing in this article purports to alter or affect the regulatory program administered by the IDNR-OWR. Anything in this article to the contrary notwithstanding, if under the rules and regulations administered by the IDNR-OWR a submittal need not be made to the IDNR-OWR, or a review, approval, or permit from the IDNR-OWR need not be obtained, then nothing in this article shall be construed to impose a requirement that such a submittal be made or such a review, approval, or permit be obtained from the IDNR-OWR. Similarly, if the IDNR-OWR has delegated its regulatory authority to another entity, then anything in this article to the contrary notwithstanding, or required by such entity, such submittal shall be made or such review, approval, or permit shall be obtained from such entity.

(Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Sec. 22-282. - STATEWIDE AND REGIONAL PERMITS.

Developments that qualify for any of the self-issuing statewide or regional permits administered by the IDNR-OWR (Statewide Permits Numbers 1 through 14 and Regional Permit Number 3) are similarly permitted under this division. The developer need only submit to the director of community development such information as shall show the director of community development that the development qualifies for the particular statewide or regional permit in question under the regulations established by the IDNR-OWR for such permit and no further submittal need be made under this division. All other provisions of this article applicable to this development, however, continue to apply.

(Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Sec. 22-283. - FLOODPLAIN MANAGEMENT.

(a) The placement of site runoff storage facilities within the floodplain is strongly discouraged due to unreliable operation during flood events. However, the site runoff storage requirements of this article may be fulfilled by providing site runoff storage within flood fringe areas on the project site provided the following provisions are met:

(1) The placement of a site runoff storage facility in a flood fringe area shall require compensatory storage of 1.5 times the volume, below the base flood elevation occupied by the site runoff storage facility including any berms. The release from the storage facility shall still be controlled in accordance with this article. The operation of the site runoff storage facility during rainfall events and periods of high streamflow and backwater events shall be considered in the design of the storage facility. The applicant shall submit the necessary hydraulic and hydrologic calculations demonstrating the proper operation of the storage facility for all streamflow and floodplain backwater conditions.

(2) Excavations for compensatory storage along watercourses shall be opposite or adjacent to the area occupied by detention. Excavations for compensatory storage shall be at 1.05 times the volume displaced or lost by all other types of fill operations within the floodplain. To the extent possible, all floodplain storage lost below the ten-year flood elevation should be replaced below the ten-year flood elevation and all floodplain storage lost above the ten-year flood elevation should be replaced above the ten-year flood elevation. All compensatory storage excavations shall be designed and constructed to have positive drainage and drain freely and openly to the watercourse. Notwithstanding the forgoing all requirements of the floodplain shall conform to the requirements of the IDNR, FEMA and the NFIP.

(b) Site runoff storage facilities shall only be placed in the floodway provided the following provisions are met:

(1) On-stream storage facilities are discouraged but are allowable if they provide regional public benefits and if they meet the other provisions of this article with respect to water quality and control of the two-year and 100-year, 24-hour events from the property. If on-stream storage facilities are used for watershed greater than one square mile, then the applicant shall use dynamic modeling to demonstrate that the design will not increase the water surface elevation of any properties upstream or downstream of the property.

- (2) Impoundment of the stream as part of on-stream storage shall meet the following provisions:
- a. The migration of indigenous fish species which require access to upstream areas as part of their life cycle, such as for spawning, shall not be prevented.
 - b. The on-stream storage facility shall not cause or contribute to the degradation of water quality or stream aquatic habitat.
 - c. The design shall include gradual bank slopes, appropriate bank stabilization measures, and a sediment control basin placed upstream of the storage facility.
 - d. The design shall not involve any stream channelization or the filling of wetlands.
 - e. The design shall include the implementation of an effective nonpoint source management program throughout the upstream watershed which shall include, as a minimum, runoff reduction best management practices, a permanent sediment control basin for all development sized to hold the volume of the two-year, 24-hour event, and a program to control nonpoint sources at the source for prior development constructed without appropriate stormwater best management practices.
 - f. The storage facility shall not be located downstream of a wastewater discharge.
 - g. The storage facility shall comply with 17 Ill. Admin. Code 3702 and 3708.

(Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Sec. 22-284. - WETLANDS AND DEPRESSIONAL STORAGE AREAS.

Wetlands and other depressional storage areas shall be protected from damaging modifications and adverse changes in runoff quality and quantity associated with land developments. In addition to the other requirements of this article, the following requirements shall be met for all developments whose drainage flows into wetlands and other depressional storage areas (as appropriate):

- (1) Existing wetlands shall not be modified for the purposes of stormwater detention unless it is demonstrated that the existing wetland is low in quality and the proposed modifications will maintain or improve its habitat and ability to perform beneficial functions.
- (2) Existing storage and release rate characteristics of wetlands and other depressional storage areas shall be maintained and the volume of detention storage provided to meet the requirements of this article shall be in addition to this existing storage.
- (3) The existing wetland shall not be filled and shall be protected from soil erosion and sedimentation during construction.
- (4) Site drainage patterns shall not be altered to substantially decrease or increase the existing area tributary to the wetland.
- (5) All runoff from the development shall be routed through a permanent sedimentation basin designed to capture the volume of the two-year, 24-hour storm event and hold it for a minimum of 24 hours before being discharged to the wetlands. This basin shall be constructed before property grading begins. Design and construction of the site shall incorporate the principles listed in subsection 22-242(c) to minimize runoff volumes and rates being discharged to the wetlands.

(6) A buffer strip of at least 25 feet in width, vegetated with native plant species, shall be restored and/or maintained around the periphery of the wetlands. No development, with the exception of recreational trails, shall take place within the buffer strip.

(Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Secs. 22-285—22-300. - RESERVED.

DIVISION 5. - REQUIRED SUBMITTALS FOR STORMWATER MANAGEMENT PERMITS

[Sec. 22-301. - General requirements.](#)
[Sec. 22-302. - Duration and revision of permits.](#)
[Sec. 22-303. - Application and project overview.](#)
[Sec. 22-304. - Required submittals.](#)
[Sec. 22-305. - Stormwater submittal.](#)
[Sec. 22-306. - Floodplain submittal.](#)
[Sec. 22-307. - Wetland submittal.](#)
[Sec. 22-308. - As built record drawings.](#)
[Secs. 22-309—22-330. - Reserved.](#)

Sec. 22-301. - GENERAL REQUIREMENTS.

(a) A stormwater management permit is required if:

- (1) The project requires a building permit, is not a residential building, and the impervious area is increased on the site; or
- (2) The project requires the approval of a plat of subdivision.

(b) All appropriate stormwater management related approvals and permits, including, without limitation, an IDNR-OWR floodway/floodplain construction permit, a U.S. Army Corps of Engineers 404 permit, and an IDNR-OWR dam safety permit, if required, shall be obtained from all federal, state, and regional authorities prior to the issuance of a stormwater management permit.

(c) All permit fees shall be paid prior to the issuance of a stormwater management permit.

(d) The design of stormwater management facilities, calculations for the determination of the regulatory floodway/floodplain and calculations of the impact of development shall meet the standards of this article and shall be prepared by or under the direction of, signed, and sealed by a professional engineer. The signature and seal of such professional engineer shall stand as his opinion that the submittals which accompany the permit application meet the requirements of this article.

- (1) For projects which include earth embankments which are subject to a differential water pressure, the submittal shall include evidence that the embankment design and construction specifications and adequate for the design conditions. This review shall include consideration of the existing foundation soils for the embankment, the materials from which embankment is to be constructed, compaction requirements for the embankment, and protection of the embankment from failure due to overtopping. Specifications for the construction and materials for all such

embankments shall be included in the submittal. When directed by the administrator, or when the impounded water pressure differential exceeds three feet or when appropriate considering the volume of impounded water, and water surface elevation differential to which the embankment is subjected, these calculations may be required to be reviewed, signed, and sealed by a qualified geotechnical or registered structural engineer.

(2) For structures (not including earth embankments) that are subject to differential water pressure greater than three feet, the submittal shall, at a minimum, be reviewed by a professional engineer. Such reviews shall include stability of the structure under design conditions considering the protection of downstream life and property in the event of a failure. When directed by the director of community development, the calculations submitted for such structures shall be reviewed, signed, and sealed by a registered structural engineer.

(3) A topographical map of the site, as built record drawings, and other required drawings shall be prepared, signed, and sealed by a professional land surveyor or professional engineer, and referenced to the National Geodetic Vertical Datum, 1929 adjustment, and any FEMA benchmarks. Plats for new subdivisions more than ten acres in size shall be submitted to the director of community development in one of the electronic formats designated by the city.

(Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Sec. 22-302. - DURATION AND REVISION OF PERMITS.

(a) If construction has not started within 12 months after the date of issuance, the permit shall become null and void. If construction starts within 12 months of the date of issuance, the permit expires on December 31 of the second year following the date of their issuance.

(b) If the permitted activity has begun but is not complete by the expiration date of the permit, the permittee may submit a written request for an extension to the director of community development. Upon receipt of such request, the director of community development may extend the expiration date of the permit for up to two years for permitted activities outside special management areas. Expiration dates for permitted activities within special management areas may also be extended for up to two years provided that the activity is in compliance with the then current requirements of this article. A permittee may apply for only two extensions before reapplication is required.

(c) If the permittee revises the approved plans after issuance of the permit, the permittee shall submit the revised plans to the director of community development along with a written request for approval. If the director of community development determines that the revised plans are in compliance with the then current requirements of this article, an amended permit may be issued.

(Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Sec. 22-303. - APPLICATION AND PROJECT OVERVIEW.

(a) The applicant shall, at a minimum, provide the following information on the approved forms or in a format approved by the director of community development:

(1) The names and legal addresses of all owners of the site;

(2) The names and legal addresses of the developer or developers responsible for completing the development according to the plans submitted, the terms and conditions of the permit, and the requirements of this article;

- (3) The common address, legal description, and parcel identification number (PIN) of all parcels which comprise the site;
- (4) The name of the project, area of the site in acres, and the type of development;
- (5) A general narrative description of the development, existing, and proposed conditions and the project planning principles considered, including best management practices used;
- (6) Copies of all other permits or permit applications as required;
- (7) A subsurface drainage investigation report; and
- (8) An engineer's estimate of probable construction cost of the stormwater facilities and the installation and maintenance of soil erosion and sediment control measures.

(b) The application shall be signed by all owners and developers identified in subsections (a)(1) and (a)(2) of this section and shall contain their attestation that they have read and understand the provisions of this article and agree to bind themselves to the permitting authority to comply therewith. If any time prior to completion and final inspection and approval of the development the identity of the persons required to be disclosed in subsections (a)(1) and (a)(2) of this section changes, an amended application containing the current information shall be filed and the permit shall be amended accordingly.

(Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Sec. 22-304. - REQUIRED SUBMITTALS.

All applicants for a stormwater permit shall provide the following basic plan exhibits: site topographical map, general plan view drawing, sediment/erosion control plan, and vicinity topographical map. Each exhibit may be on more than one drawing for clarity. The specific information to be included on each exhibit shall be as noted below.

- (1) *Site topographical map.*
 - a. Map scale at one inch equals 100 feet (or less) and accurate to ± 1.0 foot;
 - b. Existing and proposed contours on site (maximum contour interval is two feet) and within 100 feet of the site (one-foot contour interval may be required if deemed necessary by the director of community development);
 - c. Existing and proposed drainage patterns and watershed boundaries;
 - d. Delineation of predevelopment regulatory floodplain and floodway limits;
 - e. Delineation of post development regulatory floodplain and floodway limits;
 - f. Location of cross sections and any other hydrologic or hydraulic computer modeled features;
 - g. Location of all on-site drain tiles;
 - h. Boundaries of all watercourses, wetlands, lakes, ponds, etc., with normal water elevations noted (show areas of wetlands to be impacted under permit or otherwise if a permit is not required);

- i. Location of all existing buildings and those to remain on the site noted;
- j. Nearest base flood elevations;
- k. FEMA and reference benchmarks used; and
- l. All contours used in the calculation of depressional storage highlighted.

(2) *General plan view drawing.*

- a. Drawing at the same scale as the site topographical map;
- b. Existing major and minor stormwater systems;
- c. Proposed major and minor stormwater systems;
- d. Design details for stormwater facilities (i.e., structure and outlet detail drawings, etc.);
- e. Scheduled maintenance program for permanent stormwater facilities including BMP;
- f. Planned maintenance tasks and schedule;
- g. Identification of persons responsible for maintenance;
- h. Proposed regulatory floodplain and floodway location (with the base flood elevation noted);
- i. Existing wetlands and required buffers;
- j. All plan areas at elevations below the 100-year high water elevation of site runoff storage facilities highlighted; and
- k. Where a 500-year regulatory floodplain is available, the plan limit of the 500-year floodplain.

(3) *Sediment and erosion control plan.*

- a. Drawings at the same scale as the site topographical map;
- b. Erosion and sediment control installation measures and schedule;
- c. Existing and proposed roadways, structures, parking lots, driveways, sidewalks, and other impervious surfaces;
- d. Limits of clearing and grading;
- e. Special management areas and proposed buffer locations located on the plan;
- f. Existing soil types, vegetation and land cover conditions;
- g. List of maintenance tasks and schedule for erosion and sediment control measures; and
- h. The name, address, and phone number of the person or persons responsible for erosion and sediment control.

(4) *Vicinity topographical map.*

- a. Identify all off-site areas draining into the development and downstream to the receiving stream (a two-foot contour map is preferred at a scale readable by the reviewer but a USGS quadrangle map is acceptable);
- b. Identify the watershed boundaries for areas draining through or from the development;
- c. Identify the soil types related to hydrologic soils group, vegetation, and land cover affecting runoff upstream of the site for any area draining through the site;
- d. Identify the location of the site within the major watershed(s); and
- e. Show the overland flow path from the downstream end of the development to the receiving stream.

(Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Sec. 22-305. - STORMWATER SUBMITTAL.

The stormwater submittal shall include a narrative discussion and calculations to support a finding by the qualified review specialist that the proposed development complies with the technical requirements of this article. The submittal shall consist, at a minimum, of the following material:

- (1) A narrative description of the existing and proposed site drainage patterns and conditions; include description of off-site conditions which help to identify stormwater issues considered in the design;
- (2) A schedule for implementation of the site stormwater plan;
- (3) On-site and off-site runoff calculations which address the following:
 - a. Documentation of the procedures and assumptions used to calculate the hydrologic and hydraulic conditions for sizing major and minor stormwater systems;
 - b. Cross section data for open channels, along with calculated depths of flow and velocities in the channels; and
 - c. The hydraulic grade line calculations may be required for the design flow and base flood flow conditions, if requested by the director of community development.
- (4) Site runoff storage calculations, which address the following:
 - a. Documentation of the procedures and assumptions used to calculate the hydrologic and hydraulic conditions for the site runoff storage facility;
 - b. Calculations for the time of concentration and a drawing showing the location of calculated time of concentration path;
 - c. Calculations for the allowable release rate for the required storm events;
 - d. Calculations for the generation of the inflow hydrographs for the required storm events;

- e. Calculations for the routing of the inflow hydrographs through the storage facility;
- f. Hydraulic and hydrologic computer model input and output;
- g. Elevation area storage data and calculations;
- h. Elevation discharge data and calculations specifically related to the outlet control structure depicted in the plans; and
- i. Calculations for the overflow structure capacity.

(Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Sec. 22-306. - FLOODPLAIN SUBMITTAL.

The applicant shall obtain approval from the IDNR-OWR and FEMA, when required, for all new base flood and floodway determinations or as required by these agencies. Documentation showing evidence of approval by or application to these agencies shall be submitted with the application. At a minimum, the following material shall be submitted for approval with the application:

- (1) Regulatory floodplain determination:
 - a. Provide source of flood profile information; and
 - b. Provide all hydrologic and hydraulic study information for site-specific floodplain studies and floodplain map revisions;
- (2) Floodway hydrologic and hydraulic analyses for the following conditions:
 - a. Existing conditions;
 - b. Proposed conditions;
 - c. Tabular summary of 100-year flood elevations and discharges for existing and proposed conditions;
 - d. Calculations used for development of the hydraulic model; and
 - e. Hydraulic and hydrologic computer model input and output;
- (3) Floodplain fill and compensatory storage calculations for below and above the ten-year flood elevation up to the base flood elevation:
 - a. Tabular summary for below and above the ten-year flood elevation of fill and compensatory storage in the plan; and
 - b. Special flood hazard area easements when required by this article;
- (4) Statewide and regional self-issuing permits (Statewide Permits Numbers 1 through 14 and Regional Permit Number 3): Such information as shall show that the development qualifies for the particular permit in question under the regulations established by the IDNR-OWR.

(Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Sec. 22-307. - WETLAND SUBMITTAL.

(a) The applicant shall obtain a permit for all regulated activities involving waters of the U.S. from the appropriate federal and state agencies. For any activities which will directly impact on-site waters of the U.S. but are not regulated by federal authorities, a narrative description of the wetland size and quality shall be provided to the director of community development, accompanied by a written opinion from a qualified wetlands specialist on the applicability of current federal permits and noting any special procedures which must be followed in connection with the proposed activities. The applicant shall indicate on the plan set the location of any on-site wetland mitigation required by a U.S. Army Corps of Engineers (USACE) permit and, in narrative form, the location of all off-site mitigation.

(b) A wetland submittal in accordance with the requirements of this article shall be required. In general, the submittal will consist of the following material:

- (1) Wetland delineation report (USACE format);
- (2) Calculation of required buffer (including size and quality when calculated); and
- (3) Wetland delineation plan drawing showing:
 - a. All existing and proposed impacted or undisturbed on-site wetlands;
 - b. Location of buffers;
 - c. Planting plan for buffers; and
 - d. Identify all required wetland management activities.
- (4) For all stream modifications, the following shall be submitted:
 - a. A plan and profile of the existing and proposed channel; and
 - b. Supporting calculations for channel width, depth, sinuosity, riffle locations, etc.

(c) If the development will have a wetland impact, the requirements of division 4 of this article shall be met.

(Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Sec. 22-308. - AS BUILT RECORD DRAWINGS.

The permittee is required to submit as built record drawings of all permitted stormwater facilities. The record drawings shall be signed and sealed by a professional engineer or professional land surveyor who shall state that the project as constructed is substantially in conformance with the development as permitted. Record drawings shall also be submitted electronically in AutoCAD format version 2007 or later unless authorized by the city engineer.

(Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Secs. 22-309—22-330. - RESERVED.

DIVISION 6. - LONGTERM MAINTENANCE

Sec. 22-331. - General maintenance responsibility.

Sec. 22-332. - Transfer to permitting authority or other public entity.

Sec. 22-333. - Transfer to homeowners' association or similar association.

Sec. 22-334. - Conveyance to one or more persons.

Sec. 22-335. - Maintenance agreement.

Secs. 22-336—22-350. - Reserved.

Sec. 22-331. - GENERAL MAINTENANCE RESPONSIBILITY.

Unless maintenance responsibility has been delegated to and accepted by another person under this section, the owner shall maintain that portion of the stormwater drainage system, including any special management areas, located upon his land. With the approval of the administrator, the stormwater drainage system and special management areas, or specified portions thereof, may be:

- (1) Dedicated or otherwise transferred to and accepted by the permitting authority or other public entity;
- (2) Conveyed or otherwise transferred to and accepted by a homeowners' association, or similar entity, the members of which are to be the owners of all the lots or parcels comprising the development; or
- (3) Conveyed to one or more persons or in one or more undivided interests to one or more persons.

(Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Sec. 22-332. - TRANSFER TO PERMITTING AUTHORITY OR OTHER PUBLIC ENTITY.

If any portion of the stormwater drainage system or special management areas are to be dedicated or otherwise transferred to the permitting authority or other public entity under section 22-331, appropriate easements for ingress and egress to and maintenance of such portions shall be reserved for the benefit of such entity on the final plat.

(Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Sec. 22-333. - TRANSFER TO HOMEOWNERS' ASSOCIATION OR SIMILAR ASSOCIATION.

If any portion of the stormwater drainage system or special management areas are to be conveyed or otherwise transferred to a homeowners' association or similar association under section 22-331, then:

- (1) Appropriate easements for ingress and egress to and maintenance of such portions shall be reserved for the benefit of such association and the permitting authority on the final plat;
- (2) The association shall be duly incorporated and a copy of the certificate of incorporation, duly recorded, and by laws, and any amendment to either of them, shall be delivered to the administrator;

(3) The bylaws of the association shall, at a minimum, contain:

- a. A provision acknowledging and accepting the association's obligation to maintain those portions of the stormwater drainage system and special management areas conveyed or otherwise transferred to it under this article;
- b. A mechanism for imposing an assessment upon the owners of all of the lots or parcels comprising the development sufficient, at a minimum, to provide for the maintenance of those portions of the stormwater drainage system and special management areas conveyed or otherwise transferred to it under this article; and the payment of all taxed levied thereon;
- c. A provision adopting the plan of long-term maintenance set forth in the application for a stormwater management permit, with approved amendments;
- d. A provision identifying the officer of the association responsible for carrying out the obligations imposed upon the association under this article;
- e. A provision requiring the consent of the permitting authority to any amendment of the bylaws changing any of the provisions of the bylaws required by this article; and
- f. A provision requiring the consent of the permitting authority to the dissolution of the association.

(4) Any conveyance or other instrument of transfer delivered under subsection 22-331(2) shall include a covenant affirmatively imposing upon the association the obligations set forth in this section and the association's affirmative acceptance thereof.

(Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Sec. 22-334. - CONVEYANCE TO ONE OR MORE PERSONS.

If any portion of the stormwater drainage system or special management areas are to be conveyed to one or more persons under subsection 22-331(3), then:

- (1) Appropriate easements for ingress and egress to and maintenance of such portions shall be reserved for the benefit of the permitting authority on the final plat;
- (2) The final plat shall contain a legend imposing the maintenance obligations of this section upon the grantee and his successors in interest as a covenant running with the land and incorporating by reference the plan of long-term maintenance set forth in the application for a stormwater management permit, with approved amendments;
- (3) The final plat shall contain a legend reserving the right of the permitting authority to enter the land to perform the maintenance required in this section if the owner does not do so and to place a lien against the land for the cost thereof; and
- (4) Any conveyance delivered under subsection 22-331(3), and any subsequent conveyance, shall include a covenant affirmatively imposing upon the grantee the obligations, restrictions, and provisions set forth in this section and the grantee's affirmative acceptance thereof.

(Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Sec. 22-335. - MAINTENANCE AGREEMENT.

(a) Maintenance of stormwater facilities located on private property shall be the responsibility of the owner of that property. Before any security is released according to division 10 of this article, the applicant shall execute a maintenance agreement with the city in accordance with the following provisions:

- (1) The maintenance agreement shall guarantee that the applicant and all future owners of the property will maintain its stormwater facilities, which include but is not limited to, site runoff storage facilities (detention/retention areas) and their inlet/outlet or orifice control structures, best management practices, sediment/erosion control systems, special management areas, wetland retention area plantings, and drainage systems and/or structures which are not to be dedicated or maintained by the city.
- (2) The maintenance agreement shall also specifically authorize representatives of the city to enter onto the property for the purpose of inspections and maintenance of the stormwater facilities, sediment control system, and special management areas.
- (3) The maintenance agreement shall be recorded with the county recorder.
- (4) The maintenance agreement shall include a schedule for regular maintenance of each aspect of the property's stormwater facilities, which include but is not limited to, site runoff storage facilities (detention/retention areas) and their inlet/outlet or orifice control structures, best management practices and facilities, sediment/erosion control systems, special management areas, wetland retention area plantings, and drainage systems and/or structures which are not to be dedicated or maintained by the city. In addition, the agreement shall provide for access to the system for inspection by authorized personnel of the city or their representatives.
- (5) The maintenance agreement shall stipulate that if the city notifies the property owner in writing of maintenance problems which require correction, the property owner shall make such corrections within 30 calendar days of such notification. If the corrections are not made within this time period, the city will have the necessary work completed and assess the cost to the property owner.
- (6) The city has the option of requiring a bond to be filed by the property owner for maintenance of the stormwater facilities, which includes but is not limited to, site runoff storage facilities (detention/retention areas) and their inlet/outlet or orifice control structures, best management practice facilities, sediment/erosion control systems, special management areas, wetland retention area plantings, and drainage systems and/or structures which are not to be dedicated or maintained by the city.
- (7) Since the volume of the storage facilities must be maintained in order to be an effective tool in regulating stormwater runoff quantity, upon written request by the city, the applicant shall be responsible for verifying that the volume of the pond meets the permitted volume. Storage facility volume verification shall be performed, signed, and sealed by a professional land surveyor or professional engineer. The city has the right to request storage volume verification at any time after the construction is complete.

(b) Maintenance of stormwater facilities located on public property, or upon easements dedicated to a public authority, shall be the responsibility of the owner of that public property or public agency to whom the easement is dedicated. Before any security is released, the applicant shall deposit an amount equal to 100 percent of an approved professional engineers estimate of probable cost to complete the construction of the stormwater facilities, site runoff storage facilities, sediment control system, or special management areas that lie within the public property or dedicated easement, into an escrow account administered by the city to be utilized by that public property owner or public agency for the future maintenance of the stormwater facilities, site runoff storage facilities, sediment control system, or special management areas.

(Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Secs. 22-336—22-350. - RESERVED.

DIVISION 7. - ENFORCEMENT AND PENALTIES

[Sec. 22-351. - City's inspection and maintenance authority.](#)

[Sec. 22-352. - Required inspections.](#)

[Sec. 22-353. - Offenses.](#)

[Sec. 22-354. - Penalties; additional remedies.](#)

[Secs. 22-355—22-370. - Reserved.](#)

Sec. 22-351. - CITY'S INSPECTION AND MAINTENANCE AUTHORITY.

Pursuant to the authority granted by 55 ILCS 5/5-1104 and 5-1062, the city may, upon 30 days' notice to the owner or occupant, enter upon any lands or waters within the city for the purpose of inspecting and/or maintaining any stormwater facilities or causing the removal of any obstruction to an affected watercourse.

(Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Sec. 22-352. - REQUIRED INSPECTIONS.

Any development constructed pursuant to a stormwater permit may be periodically inspected by the administrator or his representative to ensure its conformity with this article and the terms and conditions of its permit.

(Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Sec. 22-353. - OFFENSES.

(a) Any person who violates, disobeys, omits, neglects, refuses to comply with, or resists the enforcement of any provision of this article (ordinance violation), or any requirement or condition in any permit issued pursuant to this article (permit violation), and, in case of a permit violation, fails to correct such violation, omission, neglect, or cease such disobedience, refusal, or resistance after notice and reinspection as provided below, shall be guilty of an offense under this article.

(b) Whenever the administrator determines that a permit violation exists, he shall serve notice of the violation in the manner prescribed in section 22-393 to the permittee. Such notice shall state the nature of the violation and fix a date not less than ten days after the date of the notice when the site will be reinspected. (Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Sec. 22-354. - PENALTIES; ADDITIONAL REMEDIES.

(a) Any person found guilty of an offense under this article shall pay a civil fine in an amount not more than \$500.00. Each week the violation continues to exist shall constitute a separate offense.

(b) In addition to any fine imposed under this section, the administrator may revoke any stormwater management permit issued to such person.

(c) In addition to any fine imposed or permit revocation undertaken pursuant to this section, the administrator may issue an order requiring the suspension of any further work on the site. Such stop work order shall be in writing, shall indicate the reason for its issuance, and shall specify the action, if any, required to be taken in order to resume work. One copy of the stop work order shall be posted on the site in a conspicuous place and one copy shall be served in the manner prescribed in section 22-393 upon the permittee, if any, or if none, upon the person in whose name the site was last assessed for taxes as disclosed by the records of the supervisor of assessments.

(d) In addition to any fine imposed under this section, the administrator may recover all costs or expenses, including reasonable attorney's fees, incurred in the enforcement of this article.

(e) In the enforcement of this article, the administrator may bring any action, legal or equitable, including an action for injunctive relief, as they deem necessary.

(Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Secs. 22-355—22-370. - RESERVED.**DIVISION 8. - APPLICABILITY, INTERPRETATION AND LEGAL PROVISIONS**

[Sec. 22-371. - Scope.](#)

[Sec. 22-372. - Exemptions.](#)

[Sec. 22-373. - Interpretation.](#)

[Sec. 22-374. - Warning and disclaimer of liability.](#)

[Sec. 22-375. - Severability.](#)

[Secs. 22-376—22-390. - Reserved.](#)

Sec. 22-371. - SCOPE.

This article applies to all developments within the corporate limits of the city or seeking annexation into the city. When a development to which this article applies occurs within an area that is subject to another governmental entity's jurisdiction and that governmental entity has a stormwater management ordinance or regulation, the more restrictive shall apply.

(Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Sec. 22-372. - EXEMPTIONS.

This article does not apply to developments that have been permitted.

(Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Sec. 22-373. - INTERPRETATION.

(a) This article shall be liberally construed to protect the health, welfare, safety, and the environment of the residents of the city and to effectuate the purposes of this article and the enabling legislation.

(b) Nothing in this article shall be deemed to consent to, license, permit to locate, construct or maintain any structure, site, facility, or operation, or to carry on any trade, industry occupation, or activity.

(c) When provisions of this article differ from any other applicable law, statute, ordinance, rule, or regulation, the more stringent provision shall apply.

(d) The provisions of this article are cumulative of all other laws, statutes, ordinances, rules and regulations which relate to the subject matter hereof and, except as otherwise expressly provided herein, nothing in this article shall be construed as a limitation upon the application or enforcement of any such law, statute, ordinance, rule, or regulation. To the greatest extent possible, the provisions of this article shall be construed to be consistent with the provisions of such other laws, statutes, ordinances, rules, or regulations, and with each other, to the end that all such provisions may be given their fullest application.

(Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Sec. 22-374. - WARNING AND DISCLAIMER OF LIABILITY.

(a) The degree of flood protection provided by this article is considered reasonable for regulatory purposes and is based upon engineering experience and scientific methods of study. Increased flooding may result from causes beyond the control of any governmental authority. This article does not, therefore, guarantee that areas outside the floodplain of permitted land uses within the floodplain will be free from flooding and associated damages.

(b) Nothing in this article shall be construed or applied in any manner to create liability on the part of or a cause of action against the city, or any elected official, or any officer, agent, employee of any of the foregoing, or any qualified engineer review specialist or qualified wetland specialist for any flood damage resulting from reliance on the provision of this article.

(Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Sec. 22-375. - SEVERABILITY.

The provisions of this article shall be severable in accordance with the following rules:

(1) If any court of competent jurisdiction shall adjudge any provision of this article to be invalid, such judgment shall not affect any other provision of this article.

(2) If any court of competent jurisdiction shall adjudge to be invalid the application of any provision of this article to a particular parcel of land, a particular structure, or a particular development, such judgment shall not affect the application of said provision to any other land, structure, or development.

(Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Secs. 22-376—22-390. - RESERVED.

DIVISION 9. - ADMINISTRATION

Sec. 22-391. - Responsibility for administration and enforcement.

Sec. 22-392. - Inspections.

Sec. 22-393. - Service of notices.

Secs. 22-394—22-420. - Reserved.

Sec. 22-391. - RESPONSIBILITY FOR ADMINISTRATION AND ENFORCEMENT.

The administration and enforcement of this article shall be the responsibility of the administrator or his duly authorized representative. (Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Sec. 22-392. - INSPECTIONS.

(a) General site grading shall not begin until the administrator or his duly authorized representative has certified in writing to the applicant that any necessary site runoff storage facilities are in place and operational. The administrator or his duly authorized representative will also conduct periodic inspections of the work in progress to be certain that the stormwater facilities are being constructed as designed. If any violations of the provisions or requirements of this article are noted during such inspections, the administrator shall notify the applicant in writing of the items needing correction. The applicant shall have ten calendar days to make such corrections unless given a specific extension of time in writing by the administrator. Failure to complete such corrections within the specified time period shall constitute a violation of this article and the applicant shall be considered in default of any performance surety in place with the city.

(b) Upon notification by the applicant that the stormwater systems are completed, the administrator or his duly authorized representative shall conduct a final inspection. If the stormwater facilities are found to contain deficiencies which require correction, the administrator or his duly authorized representative shall notify the applicant in writing of the necessary corrections. The applicant shall correct such deficiencies within ten calendar days unless given a specific extension of time in writing by the administrator or his duly authorized representative. Failure to complete such corrections within the specified time period shall constitute a violation of this article. Upon finding that the stormwater facilities meet the provisions and requirements of this article, the administrator or his duly authorized representative shall issue in writing a notice of stormwater systems completion to the applicant.

(c) All privately owned stormwater facilities may be inspected by representatives of the city no less than once per year. A written report shall be filed of the results of any inspection and a copy sent to the property owner detailing any problems which need correction. (Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Sec. 22-393. - SERVICE OF NOTICES.

Unless otherwise provided herein, service of any notice or other instrument under this article may be made upon any person:

(1) By first class mail, postage prepaid, addressed to address then on file for such person, if any, or, if none, to such person's last known address; or

(2) By any method prescribed under the Illinois Code of Civil Procedure, 735 ILCS 5/1-101 et seq.

(Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Secs. 22-394—22-420. - RESERVED.

DIVISION 10. - SECURITIES AND FEES

Sec. 22-421. - General security requirements.

Sec. 22-422. - Plan review fee.

Sec. 22-423. - Development security.

Sec. 22-424. - Construction inspection fee.

Sec. 22-425. - Stormwater impact fee.

Secs. 22-426—22-450. - Reserved.

Sec. 22-421. - GENERAL SECURITY REQUIREMENTS.

(a) To secure the performance of the developer's obligation to complete the construction of the stormwater facilities required by the stormwater management permit, and to pay all costs, fees, and charges due under this article, and to fully and faithfully comply with all of the provisions of this article, the applicant shall, prior to the issuance of a stormwater management permit:

(1) Post the security provided in section 22-422; and

(2) Post the security provided in section 22-423 if an erosion and sediment control plan is required under this article.

(b) The applicant shall bear the full cost and responsibility of obtaining and maintaining the security required by this article.

(Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Sec. 22-422. - PLAN REVIEW FEE.

The applicant shall be responsible for paying a plan and as built review fee established under separate resolution by city council in a form acceptable to the administrator.

(Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Sec. 22-423. - DEVELOPMENT SECURITY.

(a) In all cases, the applicant shall post:

(1) A schedule, agreed upon by the applicant and the administrator, for the completion of the stormwater facilities, site runoff storage facilities, the erosion and sediment control systems, and special management areas required by the permit;

(2) A statement of the estimated probable cost to complete the construction of any stormwater facilities, site runoff storage facilities, the erosion and sediment control systems, and special management areas required by the permit, which statement is subject to the approval of the administrator;

(3) A surety, in a form acceptable to the city in an amount equal to 110 percent of the approved estimated probable cost to complete the construction of the stormwater facilities, site runoff storage facilities, the erosion and sediment control systems, and special management areas.

(b) Upon completion of the stormwater facilities, site runoff storage facilities, erosion and sediment control systems, and special management areas, the security may be reduced by 90 percent of the amount of the estimated probable cost to complete the construction of the stormwater facilities.

(c) The administrator may approve periodic reductions in the amount of the security based upon the progress of construction. At no time, however, shall more than 90 percent of the total security be released prior to approval of as built record drawings and final inspection. The security required by this section shall be maintained by the applicant in favor of the permitting authority until construction has been completed, vegetation has been established, sediment has been removed from all stormwater facilities, as built record drawings are received, and the final inspection has been performed on the development and approved by the administrator, at which time it shall be reduced. A minimum of ten percent of the original amount of the security shall be retained for a period of one year after completion of all required stormwater facilities and erosion and sediment control systems. (Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Sec. 22-424. - CONSTRUCTION INSPECTION FEE.

Prior to issuance of the stormwater management permit, the applicant shall post a security in the amount equal to four percent of the approved estimated probable cost to complete the construction of the stormwater facilities and the erosion and sediment control system. The security shall be posted in form acceptable to the city. This fee shall serve to offset the cost of inspections performed in association with this article. (Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Sec. 22-425. - STORMWATER IMPACT FEE.

(a) Applicants shall be responsible for paying a stormwater impact fee established under separate resolution by the city council in a form acceptable to the administrator. Applicants will be in one of two classes. The administrator or his designee will determine the class.

(1) *Class 1.* This class of applicant includes those seeking to have or who have had property annexed into the city after the effective date of the ordinance from which this section is derived. In addition, this class of applicant includes those whose land is in the city and is being developed or is being demolished and redeveloped.

(2) *Class 2.* This class of applicant includes those who have developed property in the city and are seeking to have that development extended, i.e., the existing building, structure, paved surface, or development foot print is remaining, but is being expanded.

(b) All fees paid shall be payable prior to the recording of the final plat, or if no plat is required, prior to the issuance of a building permit. The funds collected in accordance with this chapter shall be accounted for separately and held by the City of Rochelle to be used for the construction of storm water management or special flood hazard area mitigation projects designed to serve the immediate or future needs of the City of Rochelle to reduce storm water flooding, control or mitigate erosion, enhance stormwater quality, and maintain or improve existing or future stormwater water management, drainage or conveyance systems. Furthermore, these funds may be used for other costs associated with stormwater management projects such as land acquisition and professional service fees, including but not limited to, engineering studies, design and inspection. (Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Secs. 22-426—22-450. - RESERVED.**ARTICLE XIV. - PRODIVERSITY CONSTRUCTION STANDARDS**

Sec. 22-451. - Definitions; regulations.

Sec. 22-452. - Single-family dwelling units.

Sec. 22-453. - Administration.

Sec. 22-454. - Variances and appeals.

Sec. 22-455. - Fees.

Sec. 22-451. - DEFINITIONS; REGULATIONS.

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Adjacent lots means lots which adjoin or share side property lines or lots in which, although separated by a street, front property lines overlap another by more than 30 percent.

Diverse section means the front elevations of single-family dwellings on both sides of a street. The length of a diverse section shall be limited to no more than 20 lots per side of street. When more than 20 lots per street side exist without an intervening cross street, the community development director shall establish those lots which shall constitute a separate diverse section. In making such determination, the community development director shall consider the configuration of lots which shall be most influenced and affected by adjacent lots. Where possible, the community development director shall use physical demarcations such as topography, road configuration, or landscaping in establishing the appropriate diverse sections. In general, the front elevation of the residence shall determine the applicable diverse section.

(Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Sec. 22-452. - SINGLE-FAMILY DWELLING UNITS.

(a) *Generally.* No two single-family dwellings of similar front elevation or facade shall be constructed or located on adjacent lots, and there shall not be constructed or located single-family dwellings of similar front elevation or facade constituting more than 20 percent of the single-family dwellings in any diverse section. To be diverse, the front elevations or facades shall meet all of the following conditions:

- (1) Substantial difference in rooflines;
- (2) Substantial change in windows of either size, location, or type; and
- (3) Either a change in the color of exterior building materials used (rather than a change in shade) or a substantial change in the kind of exterior building materials.

(b) *Rooflines.*

- (1) For the purpose of this article, the following differences in the rooflines of single-family dwellings, as seen from the front of the dwelling, shall be deemed sufficient to render buildings containing such changes and built on adjacent lots to be diverse:

- a. Changing gable roofs to hip roofs;
- b. Changing hip roofs to gable roofs;
- c. Providing an intersecting gable roof on the main gable roof, provided that the height of the intersection roof is at least 50 percent of the height of the main roof;
- d. Providing an intersecting hip roof on the main hip roof, provided that the height of the intersecting hip roof is at least 50 percent of the height of the main roof;
- e. Subject to review by the director of community development, a shed roof, when used as a front porch roof for a minimum of 50 percent of the entire width of the house, excluding area of garage;
- f. Subject to review by the director of community development, a substantial difference in roofline shall be deemed to exist if the front soffit is increased significantly and is combined with columns at least six inches in width or other architectural features of a similar magnitude which reach the roofline of the highest story;
- g. Rotating gable roofs 90 degrees on the building; or
- h. On a tri-level residence or other building type which has three independent major roof areas, the changing of two out of three rooflines shall be acceptable as a substantial change. Acknowledging certain design elements may prevent the changing of all three rooflines, it is desired that the roofs with the greatest impact on the diverse section be changed.

(2) Standing by themselves, the following changes shall not be deemed sufficient to make adjacent structures diverse, but in combination may, as determined by the director of community development:

- a. Gable roof stop hip roof;
- b. Hip roof stop gable roof;
- c. Small gable or hip projections above windows;
- d. Window dormers;
- e. Change in soffit overhang or minor variation in eave height; or
- f. Skylight and cupola.

(c) *Windows.*

(1) For the purpose of this section, the following differences in the size, location, or type of windows shall be deemed sufficient to render buildings containing such changes and built on adjacent to be diverse:

- a. Changing from single windows to a multiple window arrangement (ganged units);
- b. Changing from multiple window arrangement to single window; or
- c. Providing a bay or bow window in the area of the predominant window.

(2) The addition or subtraction of muntin bars, dividing lights, mirrored surfaces, or tinted surfaces shall not be deemed sufficient to constitute a substantial change in windows.

(3) Where, because of its size, location, or design, one window is the predominant window on the front elevation, if the size, location or type of that window is changed to render the dwelling diverse, then no other window need be changed.

(d) *Exterior building materials, colors, and garage placement.*

(1) For the purpose of this section, the following differences in exterior building material and garage placement between adjacent single-family dwellings, as seen from the front of the dwellings, shall be deemed sufficient to render buildings containing such changes and built on adjacent lots to be diverse: garage placement in combination with:

- a. Four-inch exposure horizontal siding;
- b. Eight-inch exposure horizontal siding;
- c. Brick facing;
- d. Vertical siding;
- e. Stone facing;
- f. Stucco/staccato board and trim;
- g. Combinations of the above materials provided diversity is maintained within the diverse section;

(2) When materials are changed, the change must occur throughout the front elevation for a minimum of one story in height with the exception of a wainscot design.

(3) Color change shall be made by significant changes in adjacent colors. The change must be one of color rather than merely of the shade.

(Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Sec. 22-453. - ADMINISTRATION.

The provisions of this article shall initially be administered by the director of community development of the city. The director of community development shall find single-family dwellings to be similar or diverse using the general standards of this article. The examples of similarity or diversity set forth in this article are not intended to categorize all dwelling designs which may be presented to the director of community development. To aid the director of community development and applicants in the interpretation of the provisions of this article, the director of community development may prepare illustrative drawings and written descriptions of the manner in which those provisions have or will be administered.

(Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Sec. 22-454. - VARIANCES AND APPEALS.

(a) In the event a building permit is denied to any applicant by reason of this article, the applicant shall have the right to request a variance from the planning and zoning commission.

(b) Applications or petitions for a variance from the provisions of this article shall follow the requirements of chapter 110, article II, division 3 of this Code.

(Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Sec. 22-455. - FEES.

Any person who petitions the planning and zoning commission regarding matters of this article shall accompany the respective petition with a fee as established and modified from time to time by city council resolution.

(Ord. No. 10-3971, §§ 1, 2(Exh. A), 11-8-2010)

Chapters 23—25 - RESERVED

Chapter 26 - BUSINESSES AND BUSINESS REGULATIONS

ARTICLE I. - IN GENERAL

ARTICLE II. - LICENSING GENERALLY

ARTICLE III. - SALES OF GOODS IN RESIDENTIAL AREAS

ARTICLE I. - IN GENERAL

Secs. 26-1—26-30. - Reserved.

Secs. 26-1—26-30. - RESERVED.

ARTICLE II. - LICENSING GENERALLY ^[3]

⁽³⁾ **Editor's note—** Ord. No. 07-3538, adopted April 9, 2007, amended article II in its entirety to read as herein set out. Former article II, §§ 26-31—26-44, pertained to similar subject matter and derived from §§ 5.05.010—5.05.100, 5.05.160—5.05.190.

Sec. 26-31. - Applicability of license requirements.
Sec. 26-32. - Application for licenses and permits.
Sec. 26-33. - Investigation and inspection.
Sec. 26-34. - Preparation and filing of forms and applications.
Sec. 26-35. - Payment, proration and disposition of fees.
Sec. 26-36. - Expiration of license.
Sec. 26-37. - Signatures required on license or permit.
Sec. 26-38. - Condition and location of licensed building and premises.
Sec. 26-39. - Change of location.
Sec. 26-40. - Business constituting nuisance prohibited.
Sec. 26-41. - Right of entry for inspection.
Sec. 26-42. - Posting of license.
Sec. 26-43. - Revocation of license or permit.
Sec. 26-44. - Schedule of license, permit or registration fees.
Sec. 26-45. - Penalty.
Secs. 26-46—26-70. - Reserved.

Sec. 26-31. - APPLICABILITY OF LICENSE REQUIREMENTS.

Whenever in this chapter or other ordinances of the city a license is required for the maintenance, operation or conduct of any business or establishment, or for doing business or engaging in any activity or occupation, the owner and any person acting on behalf of the owner shall meet the license requirements as set forth herein, including but not limited to agents, employees, partners and other person

s engaged in the business or occupation. Existing businesses which are required to obtain a license shall promptly take all steps necessary to obtain the license.

(Ord. No. 07-3538, 4-9-2007; Ord. No. 08-3767, 12-8-2008)

26-32. - APPLICATION FOR LICENSES AND PERMITS.

Applications for all licenses and permits required by this chapter or other ordinances of the city shall be made in writing, under oath, to the city clerk in the absence of provision to the contrary. Each application shall state the name of the applicant, the permit or license desired, the location to be used, if any, the time covered and the fee to be paid; and each application shall contain such additional information as may be needed for the proper guidance of the city officials in the issuing of the permit or license applied for.

(Ord. No. 07-3538, 4-9-2007; Ord. No. 08-3767, 12-8-2008)

Sec. 26-33. - INVESTIGATION AND INSPECTION.

Upon the receipt of an application for a license or permit when the provisions of this chapter or other ordinances of the city necessitate an inspection or investigation before the issuance of such permit or license, the city clerk shall refer such application to the proper officer for making such investigation within two business days of the time of such receipt. The officer charged with the duty of making the investigation or inspection shall make a report thereon, favorable or otherwise, within 21 days after receiving the application or a copy thereof. The building official shall make or cause to be made an inspection in regard to such licenses in connection with the care and handling of food and the prevention of nuisances and the spread of disease, for the protection of health. The building inspector shall make or cause to be made inspections relative to the construction of buildings or other structures. All other investigations except where otherwise provided, shall be made by the chief of police or by some other officer designated by the city manager. Initial inspections made by the building official for business registrations shall be without charge. Additional inspections or re-inspections resulting from change of ownership, relocation, or name of a business shall require payment of an inspection/re-inspection fee, the amount of which shall be set by resolution of the city council.

(Ord. No. 07-3538, 4-9-2007; Ord. No. 08-3767, 12-8-2008)

Sec. 26-34. - PREPARATION AND FILING OF FORMS AND APPLICATIONS.

Forms for all licenses and permits required by this chapter and other ordinances of the city and applications therefor shall be prepared and kept on file by the city clerk.

(Ord. No. 07-3538, 4-9-2007; Ord. No. 08-3767, 12-8-2008)

Sec. 26-35. - PAYMENT, PRORATION AND DISPOSITION OF FEES.

In the absence of provision to the contrary, all fees and charges for licenses or permits issued under the provisions of this chapter or other ordinances of the city shall be paid in advance at the time the application therefor is made to the city clerk. When an applicant has not engaged in the business until after the expiration of part of the current license year, the license fee shall be prorated. Except as otherwise provided, all license fees shall become a part of the corporate fund.

(Ord. No. 07-3538, 4-9-2007; Ord. No. 08-3767, 12-8-2008)

Sec. 26-36. - EXPIRATION OF LICENSE.

(a) All annual licenses, except for liquor licenses, required under the provisions of this chapter or other ordinances of the city shall terminate on April 30 of each year.

(b) The city clerk shall mail to all licensees of the city a statement of the time of expiration of the license held by the licensee, if an annual license, three weeks prior to the date of such expiration; provided that a failure to send out such notice or the failure of the licensee to receive it shall not excuse the licensee from a failure to obtain a new license or a renewal thereof; nor shall it be a defense in an action for operation without a license.

(Ord. No. 07-3538, 4-9-2007; Ord. No. 08-3767, 12-8-2008)

Sec. 26-37. - SIGNATURES REQUIRED ON LICENSE OR PERMIT.

Each license or permit issued under the provisions of this chapter or other ordinances of the city shall bear the signatures of the mayor and/or city clerk in the absence of any provision to the contrary.

(Ord. No. 07-3538, 4-9-2007; Ord. No. 08-3767, 12-8-2008)

Sec. 26-38. - CONDITION AND LOCATION OF LICENSED BUILDING AND PREMISES.

No license shall be issued for the conduct of any business, and no permit shall be issued for any thing or act if the premises and building to be used for the purpose do not fully comply with the requirements of the city. No such license or permit shall be issued for the conduct of any business or performance of any act which would involve a violation of this Code, or state or federal law.

(Ord. No. 07-3538, 4-9-2007; Ord. No. 08-3767, 12-8-2008)

Sec. 26-39. - CHANGE OF LOCATION.

The location of any business or occupation licensed under the provisions of this chapter or other ordinances of the city, or of any permitted act, may be changed; provided that ten days' notice thereof is given to the city clerk in the absence of any provision to the contrary; and provided further that the building, zoning and frontage consent requirements of the provisions of this Code pertaining to the new location are complied with.

(Ord. No. 07-3538, 4-9-2007; Ord. No. 08-3767, 12-8-2008)

Sec. 26-40. - BUSINESS CONSTITUTING NUISANCE PROHIBITED.

No business, licensed or not, shall be so conducted or operated as to amount to a nuisance in fact.

(Ord. No. 07-3538, 4-9-2007; Ord. No. 08-3767, 12-8-2008)

Sec. 26-41. - RIGHT OF ENTRY FOR INSPECTION.

(a) Whenever inspections of the premises used for or in connection with the operation of a licensed business or occupation are provided for or required by the provisions of this chapter or other ordinances

of the city or are reasonably necessary to secure compliance therewith or to detect violations thereof, it shall be the duty of the licensee, or the person in charge of the premises to be inspected, to admit thereto for the purpose of making the inspection any officer or employee of the city who is authorized or directed to make such inspection at any reasonable time that admission is requested.

(b) Whenever an analysis of any commodity or material is reasonably necessary to secure conformance with any provision of this Code or other ordinances of the city or to detect violations thereof, it shall be the duty of the licensee whose business is governed by such provision to give to any authorized officer or employee of the city requesting the same sufficient samples of such material or commodity for such analysis upon request.

(c) In addition to any other penalty which may be provided, the mayor may revoke the license of any licensed proprietor of any licensed business in the city who refuses to permit any such officer or employee, who is authorized to make such inspection or take such sample, to make the inspection or take an adequate sample of the commodity, or who interferes with such officer or employee while in the performance of his duty in making such inspection; provided that no license shall be revoked for such cause unless written demand is made upon the licensee or person in charge of the premises, in the name of the city, stating that such inspection or sample is desired at the time it is sought to make the inspection or obtain the sample.

(Ord. No. 07-3538, 4-9-2007; Ord. No. 08-3767, 12-8-2008)

Sec. 26-42. - POSTING OF LICENSE.

It shall be the duty of any person conducting a licensed business in the city to keep his license posted in a prominent place on the premises used for such business at all times.

(Ord. No. 07-3538, 4-9-2007; Ord. No. 08-3767, 12-8-2008)

Sec. 26-43. - REVOCATION OF LICENSE OR PERMIT.

Any license or permit issued under this chapter or other ordinances of the city (other than liquor licenses) may be revoked by the city manager at any time during the life of such license or permit for any violation by the licensee or permittee of the provisions of this Code relating to the license or permit, the subject matter of the license or permit, or to the premises occupied. Such revocation may be in addition to any fine imposed. The licensee or permittee shall be sent notice and shall have an opportunity for a hearing prior to revocation or suspension; provided, however, that nothing in this section shall prohibit the city from summarily abating a nuisance in appropriate cases.

(Ord. No. 07-3538, 4-9-2007; Ord. No. 08-3767, 12-8-2008)

Sec. 26-44. - SCHEDULE OF LICENSE, PERMIT OR REGISTRATION FEES.

(a) All businesses, trades and occupations set forth in this section are required to obtain a license, permit or registration certificate prior to operation in the city.

(b) The amount and the period covered required by this section shall be as follows:

Classification		Amount	Period
Alcoholic beverages:			
	Initial fee (all licenses)	\$500.00	One time (covers all fingerprinting for initial application)
	Tavern	900.00	Annual
	Restaurant/recreation	1,100.00	Annual
	Package	550.00	Annual
	Package beer and wine	450.00	Annual
	Restaurant	800.00	Annual
	Restaurant/beer and wine	600.00	Annual
	Club	1,100.00	Annual
	One-day non-profit beer and wine	25.00	Per day
	Fingerprinting	50.00	For each person fingerprinted after initial application
Peddlers/itinerant merchants		25.00	Five days
Industrial peddlers		100.00	Three months
Solicitors and canvassers		25.00	Five days
	Peddler/solicitors badge	15.00	Week
	Industrial peddlers badge	15.00	Three months
	Fingerprints	50.00	Annual
Taxicabs and limousines		50.00 plus 5.00 per driver	Annual
All other businesses		None	Initial registration (see section 26-33 for inspection/re-inspection fees)

(Ord. No. 07-3538, 4-9-2007; Ord. No. 08-3677, § 3, 5-12-2008; Ord. No. 08-3767, 12-8-2008; Ord. No. 08-3767, 12-8-2008; Ord. No. 10-3905, § 2(Exh. A), 3-22-2010; Ord. No. 12-4131, § 1(Exh. B), 1-9-2012); Ord. No. 12-4169 04/23/201; Ord. No. 12-4208, 7/23/2012;)

Sec. 26-45. - PENALTY.

Whoever violates any provision of this article, for which no penalty is otherwise provided, shall be subject to punishment as provided in section 1-15. A separate offense shall be deemed committed on each day that a violation occurs or continues.

(Ord. No. 08-3767, 12-8-2008)

Secs. 26-46—26-70. - RESERVED.

ARTICLE III. - SALES OF GOODS IN RESIDENTIAL AREAS

[Sec. 26-71. - Sales of goods by garage and yard sales regulated.](#)

[Sec. 26-72. - Penalty.](#)

Sec. 26-71. - SALES OF GOODS BY GARAGE AND YARD SALES REGULATED.

The selling to the general public of new or used personal property in an area zoned residential shall be limited to no longer than three consecutive days with no more than three such sales per calendar year and at least one month between such three-day selling period.

(Code 1996, § 5.60.010)

Sec. 26-72. - PENALTY.

A person convicted of a violation of this article shall be subject to punishment as provided in section 1-5.

(Code 1996, § 5.60.020; Ord. No. 03-3205, § 1(5.60.020), 11-24-2003)

Chapters 27—29 - RESERVED

Chapter 30 - CEMETERIES

ARTICLE I. - IN GENERAL

ARTICLE II. - MUNICIPAL CEMETERY

ARTICLE I. - IN GENERAL

Secs. 30-1—30-30. - Reserved.

Secs. 30-1—30-30. - RESERVED.

ARTICLE II. - MUNICIPAL CEMETERY

Sec. 30-31. - Appointment of cemetery superintendent; supervision of cemetery.
Sec. 30-32. - Powers and duties of cemetery superintendent.
Sec. 30-33. - Interment requirements.
Sec. 30-34. - Rules and regulations.
Sec. 30-35. - Valuation of lots; sales discrimination prohibited.
Sec. 30-36. - Fees and charges.
Sec. 30-37. - Procedure for purchasing lots.
Sec. 30-38. - Records.

Sec. 30-31. - APPOINTMENT OF CEMETERY SUPERINTENDENT; SUPERVISION OF CEMETERY.

The director of public works shall appoint a superintendent of the cemetery with the approval of the city manager. The superintendent shall be under the administrative authority of the director of public works and have supervisory powers over the municipal cemetery.

(Code 1996, § 2.60.020)

Sec. 30-32. - POWERS AND DUTIES OF CEMETERY SUPERINTENDENT.

(a) The superintendent's supervisory responsibilities include administering and enforcing the ordinances, rules, regulations, and policies related to the city-owned cemetery.

(b) All fees and charges as provided in this article shall be collected by the superintendent for duties and services performed in connection with the cemetery, shall be for the use of the city, and shall be turned over to the city treasurer.

(c) The superintendent shall be responsible for seeing that graves are dug and to properly inter the dead when called upon to do so.

(d) The superintendent shall have such other duties as the director of public works may designate.

(Code 1996, § 2.60.030)

Sec. 30-33. - INTERMENT REQUIREMENTS.

No deceased person shall be interred in the cemetery until the superintendent has found that:

- (1) A burial permit has been obtained from the health officer as required by law;
- (2) The lot in which burial is to be made has been fully paid for;
- (3) The person arranging for such burial has the right to the use of such lot;
- (4) Such lot is not used beyond its capacity;
- (5) Proper record is made of the name and age of the deceased person and of the exact location of the grave;
- (6) If interment is to be underground, the minimum requirements are that the burial container be placed in a separate concrete box except in the cases of cremation and infant burials when a combination type box may be used.

(Code 1996, § 2.60.040)

Sec. 30-34. - RULES AND REGULATIONS.

The rules and regulations pertaining to any cemetery owned and operated by the city pursuant to this article shall be established and modified from time to time by city council resolution.

(Code 1996, § 2.60.045)

Sec. 30-35. - VALUATION OF LOTS; SALES DISCRIMINATION PROHIBITED.

The city council, with the advice of the city manager, shall place a value upon all unsold lots in the cemetery, and such valuation shall be recorded on an official map or plan of such cemetery by the superintendent that shall be kept on file, open to public inspection, in the office of the superintendent. Such valuations shall be the fixed and established value of such lots and the price at which such lots shall be sold. There shall be no discrimination in the sale of lots, on any basis.

(Code 1996, § 2.60.050)

Sec. 30-36. - FEES AND CHARGES.

All fees and charges for lot sales and for duties and services performed in connection with the cemetery shall be established and modified from time to time by city council resolution.

(Code 1996, § 2.60.055)

Sec. 30-37. - PROCEDURE FOR PURCHASING LOTS.

Any person desiring to purchase a particular lot shall tender the purchase price and deed transfer fee for said lot to the city clerk. On days during which the city clerk's office is not open, payment may be received by the cemetery superintendent who shall then deposit the moneys received with the city treasurer the next day the treasurer's office is open.

(Code 1996, § 2.60.060)

Sec. 30-38. - Records.

(a) The superintendent and the city clerk shall keep full and complete records of the ownership of all lots in the cemetery and of the burial capacity of each lot, sold or unsold.

(b) The superintendent and the city clerk shall keep a complete record of the location of each grave, of the name of the person buried in each grave that has been or shall hereafter be used, and of the date of burial of each.

(Code 1996, § 2.60.070)

Chapters 31—33 - RESERVED

Chapter 34 - CIVIL EMERGENCIES

ARTICLE I. - IN GENERAL

ARTICLE II. - EMERGENCY SERVICES AND DISASTER AGENCY

ARTICLE I. - IN GENERAL

Secs. 34-1—34-30. - Reserved.

Secs. 34-1—34-30. - RESERVED.

ARTICLE II. - EMERGENCY SERVICES AND DISASTER AGENCY

Sec. 34-31. - Created.

Sec. 34-32. - Composition.

Sec. 34-33. - Functions.

Sec. 34-34. - Compensation of members.

Sec. 34-35. - Mutual aid agreements.

Sec. 34-36. - Cooperation with state organization.

Sec. 34-37. - Appropriations and levy of taxes.

Sec. 34-38. - State reimbursement of certain expenses.

Sec. 34-39. - Purchases and contracts.

Sec. 34-31. - CREATED.

There is hereby created the municipal emergency services and disaster agency to prevent, minimize, repair and alleviate injury or damage resulting from disasters manmade or natural, in accordance with 20 ILCS 3305/10.

(Code 1996, § 2.125.010)

Sec. 34-32. - COMPOSITION.

The municipal emergency services and disaster agency shall consist of a director, appointed by the city manager, and additional members to be selected by the director and approved by the city manager.

(Code 1996, § 2.125.020)

Sec. 34-33. - FUNCTIONS.

The municipal emergency services and disaster agency shall perform such functions within the municipality as shall be needed to restore order through mitigation and remediation, and in addition, shall perform such duties outside the corporate limits as may be required pursuant to any mutual aid agreement with any other political subdivision, or quasi-municipality entered into as provided by 20 ILCS 3305/13.

(Code 1996, § 2.125.030)

Sec. 34-34. - COMPENSATION OF MEMBERS.

Members of the emergency services and disaster agency who are paid employees or officers of the municipality, if called for training, shall receive for the time spent in such training the same rate of pay as is attached to the position held. Members who are not municipal employees or officers shall receive for such training time such compensation as may be established by the city council.

(Code 1996, § 2.125.040)

Sec. 34-35. - MUTUAL AID AGREEMENTS.

The director of emergency services may negotiate mutual aid agreements with other municipal corporations or political subdivisions of the state, but no such agreement shall be effective until it has been approved by the city council and by the city manager.

(Code 1996, § 2.125.050)

Sec. 34-36. - COOPERATION WITH STATE ORGANIZATION.

If the governor declares that an emergency exists or the occurrence within the state of a major disaster, it shall be the duty of the municipal emergency services and disaster agency to cooperate fully with the state office and with the governor in the exercise of emergency powers as provided by law.

(Code 1996, § 2.125.060)

Sec. 34-37. - APPROPRIATIONS AND LEVY OF TAXES.

The city council may make an appropriation for emergency services purposes in the manner provided by law for making appropriations, and may levy, in addition, for emergency services purposes only, a tax not to exceed \$0.05 per \$100.00 of the assessed value of all taxable property in addition to all other taxes, as provided by 20 ILCS 3315/9.

(Code 1996, § 2.125.070)

Sec. 34-38. - STATE REIMBURSEMENT OF CERTAIN EXPENSES.

State reimbursement of certain expenses shall be in accordance with the current ESDA rules for compensation.

(Code 1996, § 2.125.080)

Sec. 34-39. - PURCHASES AND CONTRACTS.

The city manager may, on the recommendation of the municipal director of emergency services, authorize any purchases or contracts necessary to place the municipality in a position to protect the public health and safety, protect property and provide emergency assistance to victims in the case of disaster.

(Code 1996, § 2.125.090)

Chapters 35—37 - RESERVED

Chapter 38 - EMERGENCY SERVICES

ARTICLE I. - IN GENERAL

ARTICLE II. - ALARM SYSTEMS

ARTICLE I. - IN GENERAL

Secs. 38-1—38-30. - Reserved.

Secs. 38-1—38-30. - Reserved.

ARTICLE II. - ALARM SYSTEMS

Sec. 38-31. - Definitions.

Sec. 38-32. - Permit required.

Sec. 38-33. - Application for permit.

Sec. 38-34. - Permit fee.

Sec. 38-35. - Expiration of permit.

Sec. 38-36. - Transfer of permit.

Sec. 38-37. - Violations; penalties; excessive false alarms.

Sec. 38-31. - DEFINITIONS.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alarm includes and means any device known as a burglary, telephone dialer, holdup, panic, smoke, fire or medical alarm.

Burglary alarm means a security system designed to protect a building or area by a mechanical or electrical device designed to detect or enable a person to notify others of an unauthorized intrusion. The system emits a sound or transmits a signal or message when activated.

False alarm means the activation of an alarm which results in a response by the police or fire department where an emergency does not exist. False alarms fall into two categories; they are:

(1) *Class 1 alarms*. Class 1 alarms are those alarms that the permit holder can demonstrate were caused by acts of nature, such as storms, high winds, lightning or the loss of electrical power from the supplier.

(2) *Class 2 alarms*. Class 2 alarms are those alarms related directly to human error, malfunction of the alarm, or failure of the permit holder to adequately inform and train his personnel with the operating instruction and workings of the security system.

Holdup or panic alarm means a security system designed to allow notification to the police department during normal business or occupancy by authorized persons.

Permit holder means the person, business or entity to which an alarm has been issued.

Smoke, fire or medical alarm means a security system designed to allow notification to the fire department. (Code 1996, § 9.10.010)

Sec. 38-32. - PERMIT REQUIRED.

No person shall install, connect, operate or maintain, or cause to be installed, connected, operated or maintained an alarm system upon any property which such person owns, operates out of, or rents/leases without first obtaining an alarm permit in accordance with the provisions of this article. Any such person who fails to comply with these provisions will be subject to a violation of this section and this article.

(Code 1996, § 9.10.020)

Sec. 38-33. - APPLICATION FOR PERMIT.

All applications for alarm permits shall be filed with the chief of police on such forms as he prescribes. Such applications will contain the names, addresses, and telephone numbers of the person who will respond to the alarm or render service, repairs and maintenance to that alarm system during any hour of the day or night. It will also furnish any other relevant information as the chief of police may require for the evaluation and processing of that application. If any person operates or maintains more than one alarm system, he may have the option of applying for a single permit for a particular property or for separate permits for each property or business. The alarm system provided must meet police and fire department inspection, be UL-approved, or equivalent.

(Code 1996, § 9.10.030)

Sec. 38-34. - PERMIT FEE.

Every application for an alarm system permit shall be accompanied by a nonrefundable fee of such amount as established from time to time by the council by resolution. The fee is established to cover part of the cost of processing the applications and permits and shall be in addition to any other permit fee established by the city.

(Code 1996, § 9.10.040)

Sec. 38-35. - EXPIRATION OF PERMIT.

Each alarm permit that is issued shall expire one year after the date of issuance. New permits will be issued as stipulated in this article. The renewal fee is established from time to time by the council by resolution.

(Code 1996, § 9.10.050; Ord. No. 11-4019, 3-14-2011)

Sec. 38-36. - TRANSFER OF PERMIT.

No alarm system permit shall be transferred or assigned without the written approval of the chief of police. The transfer fee shall be as established from time to time by the council by resolution.

(Code 1996, § 9.10.060)

Sec. 38-37. - Violations; penalties; excessive false alarms.

(a) *Class 1 alarms.* If three or more Class 1 alarms occur in a one-year period, it will be the responsibility of the permit holder to have the alarm system repaired and a copy of said repairs sent to the police or fire chief of the city.

(b) *Class 2 alarms.*

- (1) After the third Class 2 alarm at any one location for which a permit has been issued within any given calendar year, whether the false alarms are intentional or unintentional and a police or fire department response is requested by the activation of said alarm system, the permit holder will be notified by United States mail of the infractions of said alarm system and a warning will be given to the permit holder.
 - (2) Upon the occurrence of the fourth through the eighth infraction of said alarm system within any given calendar year, the permit holder will be charged a penalty of \$50.00 for each infraction.
 - (3) Upon the occurrence of the ninth through the 13th infraction of the alarm system within any given calendar year, the permit holder will be charged a penalty of \$100.00 for each infraction.
 - (4) Upon the occurrence of the 14th infraction within any given calendar year, the permit holder will be charged a penalty of \$500.00 for the 14th infraction and each infraction after the 14th which occurs through the end of the fiscal year.
- (c) *Failure to obtain permit.* Any person connecting any alarm which when activated contacts the police and/or fire department by phone or any other method without first obtaining a permit shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding \$500.00.

(Code 1996, § 9.10.070)

Chapters 39—41 - RESERVED

Chapter 42 - FIRE PREVENTION AND PROTECTION

ARTICLE I. - IN GENERAL
ARTICLE II. - FIRE DEPARTMENT
ARTICLE III. - FIRE PREVENTION CODE
ARTICLE IV. - SMOKING

ARTICLE I. - IN GENERAL

Secs. 42-1—42-30. - Reserved.

Secs. 42-1—42-30. - RESERVED.

ARTICLE II. - FIRE DEPARTMENT

Sec. 42-31. - Created; composition.
Sec. 42-32. - Purpose; duties.
Sec. 42-33. - Residency requirements.
Sec. 42-34. - Election of officers to foreign fire insurance board; use of foreign fire insurance tax funds.
Sec. 42-35. - Duties of chief.
Sec. 42-36. - Powers of chief.
Sec. 42-37. - Rules and regulations.
Sec. 42-38. - Services outside city limits.
Sec. 42-39. - Emergency service fees and charges.
Sec. 42-40. - Obedience to orders of firefighters at scene of fire.
Sec. 42-41. - Custody of property removed from scene of fire.
Sec. 42-42. - Investigation of cause of fire.
Sec. 42-43. - Arrest authority.
Sec. 42-44. - Pension fund established.
Sec. 42-45. - Board of trustees of pension fund.
Sec. 42-46. - Deposits to pension fund.
Secs. 42-47—42-70. - Reserved.

Sec. 42-31. - Created; composition.

There is created the fire department, which shall consist of the chief and of such members as may be provided from time to time by the city council.

(Code 1996, § 2.50.020)

Sec. 42-32. - Purpose; duties.

It shall be the function of the fire department, and the duty of the members thereof, to provide ambulance and rescue service, prevent and extinguish accidental or destructive fires and to abate hazardous material discharges occurring within the city, and to enforce all ordinances relating to fire hazards and hazardous material discharges.

(Code 1996, § 2.50.010; Ord. No. 03-3197, § 1, 10-27-2003)

Sec. 42-33. - RESIDENCY REQUIREMENTS.

There shall be no residency requirements to be eligible to take an examination for original appointment to the fire department; however, on appointment, the employee will be required to meet the applicable residency requirements as set forth in the union contract.

(Code 1996, § 2.50.030)

Sec. 42-34. - ELECTION OF OFFICERS TO FOREIGN FIRE INSURANCE BOARD; USE OF FOREIGN FIRE INSURANCE TAX FUNDS.

Pursuant to 65 ILCS 5/11-10-2 the city fire department is empowered to elect officers within its department to the foreign fire insurance board, said election to be made by all members of the fire department. Any monies received pursuant to the foreign fire insurance tax, 65 ILCS 5/11-10-2, shall be paid to the city treasurer and used for the maintenance, use and benefit of the fire department.

(Code 1996, § 2.50.040)

Sec. 42-35. - DUTIES OF CHIEF.

The fire chief shall be the chief of the fire department, and shall be responsible for the care of the apparatus belonging thereto and for the performance of their duties by members of the department. He shall keep such records and make such reports regarding the activities of his department as may be required.

(Code 1996, § 2.50.050)

Sec. 42-36. - POWERS OF CHIEF.

The fire chief, and in his absence such person as he may designate by department rule, shall have charge of the activities of the department. All members of the department shall obey the orders and directions of the fire chief and other superiors in the department.

(Code 1996, § 2.50.060)

Sec. 42-37. - RULES AND REGULATIONS.

The fire chief may make or prescribe such rules and regulations for the conduct and guidance of the members of the department as he shall deem advisable; and such rules, when approved by the city manager, shall be binding on such members.

(Code 1996, § 2.50.070)

Sec. 42-38. - SERVICES OUTSIDE CITY LIMITS.

Ambulance, rescue and fire protection services may be offered to persons, businesses and others outside of the city limits consistent with mutual aid agreements entered into between the city and other fire protection districts, together with other emergencies which are responded to by the city fire department with the approval of the fire chief or the city manager.

(Code 1996, § 2.50.080)

Sec. 42-39. - EMERGENCY SERVICE FEES AND CHARGES.

All fees and charges for emergency services, including ambulance, rescue, fire protection, and other selective department services, including without limitation the costs of abatement of hazardous material discharge performed by fire department personnel, shall be established and modified from time to time by city council resolution.

(Code 1996, § 2.50.085; Ord. No. 03-3197, § 2, 10-27-2003)

Sec. 42-40. - OBEDIENCE TO ORDERS OF FIREFIGHTERS AT SCENE OF FIRE.

It shall be the duty of all spectators at fires to obey all orders of the members of the fire department on duty there with respect to keeping away from the scene of the fire or the handling of or interference with the apparatus of the department.

(Code 1996, § 2.50.090)

Sec. 42-41. - CUSTODY OF PROPERTY REMOVED FROM SCENE OF FIRE.

The members of the fire department shall have charge of the custody of property removed by them from the scene of a fire to avoid loss or damage, until the same is turned over to the owner or agent for the owner thereof.

(Code 1996, § 2.50.100)

Sec. 42-42. - INVESTIGATION OF CAUSE OF FIRE.

It shall be the duty of the chief of the fire department to investigate into the cause of any accidental or destructive fire occurring in the city; and, in case there is reason to suspect that there was any criminal act in connection therewith, he shall report the same to the police department and city manager.

(Code 1996, § 2.50.110)

Sec. 42-43. - ARREST AUTHORITY.

The fire chief and members of the fire department shall have the power to arrest any person at or near the scene of an accidental or destructive fire for interference with the fire department in the performance of its duties, or for the commission of any crime or ordinance violation in connection therewith.

(Code 1996, § 2.50.120)

Sec. 42-44. - PENSION FUND ESTABLISHED.

There shall be a firefighters' pension fund established in the municipality, as provided by 40 ILCS 5/4-101 et seq.

(Code 1996, § 2.50.130)

Sec. 42-45. - BOARD OF TRUSTEES OF PENSION FUND.

The board of trustees of the firefighters' pension fund shall consist of those members as provided by applicable state law, including two members appointed by the mayor, two members who are active participants of the pension fund who are elected by the active participants of the fund, and one member who is a person retired under the fund who is elected by persons retired under the fund; provided, however, that in the event there are no retired firefighters under the Fund or if none is willing to serve on the board, then an additional active firefighter shall be elected to the board in lieu of the retired firefighter that would otherwise be elected.

(Code 1996, § 2.50.140; Ord. No. 07-3553, 5-14-2007)

Sec. 42-46. - DEPOSITS TO PENSION FUND.

There shall be deposited in the pension fund the sums required by law (40 ILCS 5/4-133).

(Code 1996, § 2.50.150)

Secs. 42-47—42-70. - RESERVED.

ARTICLE III. - FIRE PREVENTION CODE

Sec. 42-71. - Adopted by reference.

Sec. 42-72. - Amendments.

Secs. 42-73—42-100. - Reserved.

Sec. 42-71. - ADOPTED BY REFERENCE.

The International Code Council (ICC) Fire Code, 2003 edition, together with any supplements and appendices or amendments thereto, as published by the ICC, is adopted in its entirety by reference as the fire code for the city as though fully set forth herein. A copy of said code will remain on file at the office of the city clerk and building division of the public works department for public review and inspection.

(Ord. No. 04-3253, § 1(15.40.010), 7-26-2004)

Sec. 42-72. - AMENDMENTS.

The following sections of the ICC Fire Code, 2003 edition, as adopted in section 42-71, are hereby revised as follows:

- (1) *Section 101.1.* Insert "City of Rochelle, Illinois."
- (2) *Section 109.3, violation penalties.*
 - a. Insert "petty offense" for the name of the specific offense.
 - b. Insert "punishable by a fine per the general penalty of section 1-15 for each offense and each day that said offense occurs or continues to occur" for the amount.
 - c. Insert "zero" for the number of days of imprisonment.
- (3) *Section 111.4, failure to comply.*
 - a. Insert "\$200.00" for the minimum penalty.
 - b. Insert "not more than the maximum amount allowed by state statute" for the maximum penalty.
- (4) *Section 3204.3.1.1, location of stationary containers.* Delete the parenthetical section and insert "in all districts except industrial districts."
- (5) *Section 3404.2.9.5.1, location of aboveground tanks.* Delete the parenthetical section and insert "in all districts except industrial districts and municipal facilities."
- (6) *Section 3406.2.4.4, location where above ground tanks and prohibited,* Delete the parenthetical section and insert "in all districts except industrial districts."
- (7) *Section 3804.2, location of liquefied petroleum gases, maximum capacity.* Delete the parenthetical section and insert "in all districts except industrial districts."
- (8) Illinois Public Act 094-0741, the Carbon Monoxide Alarm Detector Act, is hereby adopted by reference. (Ord. No. 04-3253, § 1(15.40.020), 7-26-2004; Ord. No. 07-3580, 6-25-2007)

Secs. 42-73—42-100. - Reserved.

ARTICLE IV. - SMOKING

[Sec. 42-101. - Negligently setting fire.](#)

[Sec. 42-102. - Penalty.](#)

Sec. 42-101. - NEGLIGENCELY SETTING FIRE.

It is unlawful for any person to, by smoking or attempting to light or smoke cigarettes, cigars, pipes or tobacco in any manner in which lighters or matches are employed, in any careless, reckless or negligent manner whatsoever, whether willfully or wantonly or not, set fire to any bedding, furniture, curtains, drapes, house or any household fittings, or any part of any building whatsoever, so as to endanger life or property in any way or to any extent.

(Code 1996, § 8.20.010; Ord. No. 03-3205, § 3(8.20.010), 11-24-2003)

Sec. 42-102. - PENALTY.

A penalty as provided in section 1-15 of this Code shall be assessed to violators of this article.

(Ord. No. 03-3205, § 3(8.20.020), 11-24-2003)

Chapters 43—45 - RESERVED

Chapter 46 - FLOODS

ARTICLE I. - IN GENERAL

ARTICLE II. - FLOOD HAZARD AREA DEVELOPMENT

ARTICLE I. - IN GENERAL

~~Secs. 46-1—46-30. - Reserved.~~

Secs. 46-1—46-30. - RESERVED.

ARTICLE II. - FLOOD HAZARD AREA DEVELOPMENT ^[4]

⁽⁴⁾ **Editor's note**— Ord. No. 10-3991, adopted Dec. 13, 2010, amended Art. II in its entirety to read as herein set out. Former Art. II, §§ 46-31—46-44, pertained to the same subject matter, and derived from Ord. No. 03-3206, § 1(15.45.010—15.45.140), adopted Nov. 24, 2003 and Ord. No. 08-3676, § 3(Exh. B), adopted May 12, 2008.

Sec. 46-31. - Purpose.

Sec. 46-32. - Definitions.

Sec. 46-33. - Base flood elevation.

Sec. 46-34. - Duties of the director of community development.

Sec. 46-35. - Development permit.

Sec. 46-36. - Preventing increased flood heights and resulting damages.

Sec. 46-37. - Protecting buildings.

Sec. 46-38. - Subdivision requirements.

Sec. 46-39. - Public health and other standards.

Sec. 46-40. - Carrying capacity and notification.

Sec. 46-41. - Variances.

Sec. 46-42. - Disclaimer of liability.

Sec. 46-43. - Violations; penalty.

Sec. 46-44. - Abrogation and greater restrictions.

Sec. 46-45. - Severability.

Sec. 46-46. - Effective date.

Sec. 46-31. - PURPOSE.

This article is enacted pursuant to the police powers granted to this City of Rochelle by the Illinois Municipal Code (65 ILCS 5/1-2-1, 5/11-12-12, 5/11-30-2, 5/11-30-8 and 5/11-31-2) in order to accomplish the following purposes:

- (1) To prevent unwise developments from increasing flood or drainage hazards to others;
- (2) To protect new buildings and major improvements to buildings from flood damage;
- (3) To promote and protect the public health, safety, and general welfare of the citizens from the hazards of flooding;
- (4) To lessen the burden on the taxpayer for flood control, repairs to public facilities and utilities, and flood rescue and relief operations;
- (5) Maintain property values and a stable tax base by minimizing the potential for creating blight areas;
- (6) Make federally subsidized flood insurance available, and
- (7) To preserve the natural characteristics and functions of watercourses and floodplains in order to moderate flood and stormwater impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits and enhance community and economic development.

(Ord. No. 10-3991, 12-13-2010)

Sec. 46-32. - DEFINITIONS.

For the purposes of this article, the following definitions are adopted:

Base flood means the flood having a one percent probability of being equaled or exceeded in any given year. The base flood is also known as the 100-year flood. The base flood elevation at any location is as defined in section 46-33 of this article.

Base flood elevation (BFE) means the elevation in relation to mean sea level of the crest of the base flood.

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

Building means a walled and roofed structure, including gas or liquid storage tank, that is principally above ground, including manufactured homes, prefabricated buildings and gas or liquid storage tanks. The term also includes recreational vehicles and travel trailers installed on a site for more than 180 days per year.

Critical facility means any new facility which is critical to the health and welfare of the population and, if flooded, would create an added dimension to the disaster. Damage to these critical facilities can impact the delivery of vital services, can cause greater damage to other sectors of the community, or can put special populations at risk.

Examples of critical facilities where flood protection should be required include but are not limited to: emergency services facilities (such as fire and police stations), public emergency operations centers or facilities, public works facilities, schools, hospitals, public health facilities, retirement homes and senior care facilities, major arterial roads and bridges, critical utility sites (i.e., telephone switching stations, electrical transformers or substations, communications, water and wastewater treatment facilities) and hazardous material storage facilities (i.e., chemicals, petrochemicals, hazardous or toxic substances).

Development means any manmade change to real estate including, but not necessarily limited to:

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

"Development" does not include routine maintenance of existing buildings and facilities, resurfacing or repairing roads, minor landscaping or gardening, plowing, and similar practices that do not involve filling, grading, or construction of levees.

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

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FEMA means Federal Emergency Management Agency.

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

Flood fringe means that portion of the floodplain outside of the regulatory floodway.

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

Flood insurance study means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

Floodplain and special flood hazard area (SFHA). These two terms are synonymous. Those lands within the jurisdiction or corporate limits of the City of Rochelle, the extraterritorial jurisdiction of the City of Rochelle, or that may be annexed into the City of Rochelle, that are subject to inundation by the base flood. The floodplains of the City of Rochelle are generally identified as such on panel number(s) 17103C0150F of the countywide Flood Insurance Rate Map of Lee County, Illinois and panel number(s) 17141C0479D, 17141C0483D, 17141C0485D, 17141C0486D, 17141C0487D, 17141C0488D, 17141C0489D, 17141C0491D of the countywide Flood Insurance Rate Map of Ogle County, Illinois prepared by the Federal Emergency Management Agency and dated April 5, 2010 and December 17, 2010 respectively. Floodplain also includes those areas of known flooding as identified by the community or that may be hydraulically or topographically connected.

The floodplains of those parts of unincorporated Lee County, Illinois and Ogle County, Illinois that are within the extraterritorial jurisdiction of the City of Rochelle or that may be annexed into the City of Rochelle are generally identified as such on the Flood Insurance Rate map prepared for Lee County, Illinois and Ogle County, Illinois by the Federal Emergency Management Agency and dated April 5, 2010 and December 17, 2010 respectively.

Floodproofing means any combination of structural or nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate, property and their contents.

Floodproofing certificate means a form published by the Federal Emergency Management Agency that is used to certify that a building has been designed and constructed to be structurally dry floodproofed to the flood protection elevation.

Flood protection elevation (FPE) means the elevation of the base flood plus one foot of freeboard at any given location in the floodplain.

Floodway means that portion of the floodplain required to store and convey the base flood. The floodway for the floodplains of the City of Rochelle shall be according to the best data available from federal, state, or other sources.

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

Historic structure means any structure that is:

- (1) Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the national register.
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historic district or a district preliminarily determined by the secretary to qualify as a registered historic district.
- (3) Individually listed on the state inventory of historic places by the Illinois Historic Preservation Agency.
- (4) Individually listed on a local inventory of historic places that has been certified by the Illinois Historic Preservation Agency.

IDNR/OWR means Illinois Department of Natural Resources/Office of Water Resources.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor. Provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of section 46-37 of this article.

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

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more lots for rent or sale.

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

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

NFIP means National Flood Insurance Program.

Recreational vehicle or travel trailer means a vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred square feet or less in size;
- (3) Designed to be self-propelled or permanently towable by a light duty truck and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

Repetitive loss means flood related damages sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event on the average equals or exceeds 25 percent of the market value of the structure before the damage occurred.

SFHA. See definition of floodplain.

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

Structure. See "building".

Substantial damage means damage of any origin sustained by a structure whereby the cumulative percentage of damage subsequent to the adoption of this ordinance equals or exceeds 50 percent of the market value of the structure before the damage occurred regardless of actual repair work performed. Volunteer labor and materials must be included in this determination. The term includes "repetitive loss buildings" (see definition).

Substantial improvement means any reconstruction, rehabilitation, addition or improvement of a structure taking place subsequent to the adoption of this article in which the cumulative percentage of improvements:

Equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started, or

Increases the floor area by more than 20 percent.

"Substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or

other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. This term includes structures which have incurred repetitive loss or substantial damage, regardless of the actual repair work done.

The term does not include:

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

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

(Ord. No. 10-3991, 12-13-2010)

Sec. 46-33. - BASE FLOOD ELEVATION.

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

- (1) The base flood elevation for the floodplains of Steward Creek, Kyte River, Kyte River Tributary, Ryley Ditch, Unnamed Tributary Number 1 and other associated tributaries shall be as delineated on the 100-year flood profiles in the countywide flood insurance study(s) of Lee County, Illinois and Ogle County, Illinois and incorporated areas of the City of Rochelle prepared by the Federal Emergency Management Agency and dated April 5, 2010 and December 17, 2010 respectively.
- (2) The base flood elevation for each floodplain delineated as an "AH Zone" or AO Zone" shall be that elevation (or depth) delineated on the countywide flood insurance rate map of Lee County, Illinois and Ogle County, Illinois and incorporated areas of the City of Rochelle.
- (3) The base flood elevation for each of the remaining floodplains delineated as an "A Zone" on the countywide flood insurance rate map of Lee County, Illinois and Ogle County, Illinois and incorporated areas of the City of Rochelle shall be according to the best data available from federal, state or other sources. Should no other data exist, an engineering study must be financed by the applicant to determine base flood elevations.
- (4) The base flood elevation for the floodplains of those parts of unincorporated Lee County, Illinois and Ogle County, Illinois that are within the extraterritorial jurisdiction of the City of Rochelle, or that may be annexed into the City of Rochelle, shall be as delineated on the 100-year flood profiles in the Flood Insurance Study of Lee County, Illinois and Ogle County, Illinois prepared by the Federal Emergency Management Agency and dated April 5, 2010 and December 17, 2010 respectively.

(Ord. No. 10-3991, 12-13-2010)

Sec. 46-34. - DUTIES OF THE DIRECTOR OF COMMUNITY DEVELOPMENT.

The director of community development, or his/her authorized agent, shall be responsible for the general administration of this article and ensure that all development activities within the floodplains under the jurisdiction of the City of Rochelle meet the requirements of this article. Specifically, the director of community development shall:

- (1) Process development permits in accordance with section 46-35
- (2) Ensure that all development in a floodway (or a floodplain with no delineated floodway) meets the damage prevention requirements of section 46-36
- (3) Ensure that the building protection requirements for all buildings subject to section 46-37 are met and maintain a record of the "as-built" elevation of the lowest floor (including basement) or floodproof certificate;
- (4) Assure that all subdivisions and annexations meet the requirements of section 46-38
- (5) Ensure that water supply and waste disposal systems meet the public health standards of section 46-39
- (6) If a variance is requested, ensure that the requirements of section 46-41 are met and maintain documentation of any variances granted;
- (7) Inspect all development projects and take any and all penalty actions outlined in section 46-43 as a necessary to ensure compliance with this article;
- (8) Assure that applicants are aware of and obtain any and all other required local, state, and federal permits;
- (9) Notify IDNR/OWR and any neighboring communities prior to any alteration or relocation of a watercourse;
- (10) Provide information and assistance to citizens upon request about permit procedures and floodplain construction techniques;
- (11) Cooperate with state and federal floodplain management agencies to coordinate base flood data and to improve the administration of this article;
- (12) Maintain for public inspection base flood data, floodplain maps, copies of state and federal permits, and documentation of compliance for development activities subject to this article;
- (13) Perform site inspections to ensure compliance with this article and make substantial damage determinations for structures within the floodplain; and
- (14) Maintain the accuracy of floodplain maps including notifying IDNR/OWR and/or submitting information to FEMA within six months whenever a modification of the floodplain may change the base flood elevation or result in a change to the floodplain map.

(Ord. No. 10-3991, 12-13-2010)

Sec. 46-35. - DEVELOPMENT PERMIT.

No person, firm, corporation, or governmental body not exempted by law shall commence any development in the floodplain without first obtaining a development permit from the director of community development. The director of community development shall not issue a development permit if the proposed development does not meet the requirements of this article.

(1) The application for development permit shall be in accordance with applicable sections of the Rochelle Municipal Code and shall be accompanied, at a minimum, by:

- a. Drawings of the site, drawn to scale showing property line dimensions;
- b. Existing grade elevations and all changes in grade resulting from excavation or filling;
- c. The location and dimensions of all buildings and additions to buildings;
- d. The elevation of the lowest floor (including basement) of all proposed buildings subject to the requirements of section 46-37 of this article; and
- e. Cost of project or improvements as estimated by a licensed engineer or architect. A signed estimate by a contractor may also meet this requirement.

(2) Upon receipt of an application for a development permit, the director of community development shall compare the elevation of the site to the base flood elevation. Any development located on land that can be shown by the base flood elevation. Any development located on land that can be shown by survey data to be higher than the current base flood elevation and which has not been filled after the date of the site's first flood insurance rate map is not in the floodplain and therefore not subject to the requirements of this article. Conversely, any development located on land shown to be below the base flood elevation and hydraulically connected, but not shown on the current flood insurance rate map, is subject to the provisions of this article.

The director of community development shall maintain documentation of the existing ground elevation at the development site and certification that this ground elevation existed prior to the date of the site's first flood insurance rate map identification.

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

(Ord. No. 10-3991, 12-13-2010)

Sec. 46-36. - PREVENTING INCREASED FLOOD HEIGHTS AND RESULTING DAMAGES.

Within any floodway identified on the countywide flood insurance rate map, and within all other floodplains where a floodway has not been delineated, the following standards shall apply:

(1) Except as provided in subsection 46-36(2) of this section, no development shall be allowed which, acting in combination with existing and anticipated development will cause any increase in flood heights or velocities or threat to public health and safety. The following specific development activities shall be considered as meeting this requirement:

a. Bridge and culvert crossings of streams in rural areas meeting the following conditions of the Illinois Department of Natural Resources, Office of Water Resources Statewide Permit Number 2:

1. The crossing will not result in an increase in water surface profile elevation in excess of 1.0 feet, and
2. The crossing will not result in an increase in water surface profile elevation in excess of one-half feet at a point 1,000 feet upstream of the proposed structure.
3. There are no buildings in the area impacted by the increases in water surface profile.
4. The proposed bridge or culvert crossing will not involve straightening, enlarging, or relocating the existing channel.
5. The design must be certified by a licensed Illinois professional engineer in the State of Illinois and the designs must meet the conditions of an IDNR/OWR permit.
6. The design must be certified by a second licensed Illinois professional engineer.

b. Barge fleeting facilities meeting the following conditions of IDNR/OWR Statewide Permit Number 3:

1. The permit is only applicable when deadmen, pier cells, or other similar anchorage devices have been permitted by the U.S. Army Corps of Engineers.

c. Aerial utility crossings meeting the following conditions of IDNR/OWR Statewide Permit Number 4;

1. The utility line must be constructed above the existing 100-year flood elevation or attached to an existing bridge.
2. A utility line attached to an existing bridge shall be constructed above the low cord elevation of the bridge.
3. No supporting towers or poles shall be located in a river, lake or stream.
4. Supporting towers including foundation and poles shall be designed and located so as to not cause an obstruction of flood flows by trapping debris.
5. All disturbed areas shall be returned to pre-construction grades and re-vegetated.
6. All Illinois Commerce Commission, National Electrical Safety Code, and federal requirements must be met.

d. Minor boat docks meeting the following conditions of IDNR/OWR Statewide Permit Number 5:

1. The boat dock must not extend more than 50 feet into a waterway and no more than one quarter of the width of the waterway and shall not extend beyond the navigational limited established by the IDNR and Corps of Engineers.
2. The width of the boat dock shall not be more than ten feet.

3. For L-Shaped or T-shaped docks, the length of that portion parallel to the shoreline must not exceed 50 percent of the landowner's shoreline frontage nor 50 feet.
 4. Docks must be aligned so as not to cross the projection of property lines into the waterway or come within ten feet of the projected property line.
 5. Dock posts must be marked by reflective devices.
 6. The boat dock must be securely anchored to prevent detachment during times of high wind or water.
 7. Metal drums or containers may not be used as buoyancy units unless they are filled with floatation foam. Containers which previously stored pesticides, herbicides, or any other toxic chemicals are not permissible.
 8. This permit does not authorize any other related construction activity such as shore protection or fill.
 9. Non-floating boat docks must be constructed in a manner which will minimize obstruction to flow.
 10. At any future date, the permittee must agree to make necessary modifications to the dock as determined by the IDNR or Corp of Engineers.
- e. Minor, non-obstructive activities meeting the following conditions of IDNR/OWR Statewide Permit Number 6:
1. The following activities (not involving fill or positive change in grade) are covered by this permit:
 - i. The construction of underground utility lines, wells, or septic tanks not crossing a lake or stream.
 - ii. The construction of light poles, sign posts, and similar structures.
 - iii. The construction of sidewalks, driveways, athletic fields (excluding fences), patios, and similar structures.
 - iv. The construction of properly anchored, unwallled, open structures such as playground equipment, pavilions, and carpports.
 - v. The placement of properly anchored buildings not exceeding 70 square feet in size, nor ten square feet in any dimension. Only one such building on a property is authorized by this statewide permit.
 - vi. The raising of existing buildings, provided no changes are made to the outside dimensions of the building and the placement of fill is not involved.

f. Outfall structures and drainage ditch outlets meeting the following conditions of IDNR/OWR Statewide Permit Number 7:

1. Any outfall structure, including any headwall or end-section, shall not extend riverward or lakeward of the existing adjacent natural bank slope or adjacent bank protection.
2. The velocity of the discharge shall not exceed the scour velocity of the channel soil, unless channel erosion would be prevented by the use of riprap or other design measures.
3. Outlets from drainage ditches shall not be opened to a stream until the ditch is vegetated or otherwise stabilized to minimize stream sedimentation.
4. Disturbance of streamside vegetation shall be kept to a minimum during construction to prevent erosion and sedimentation. All disturbed floodway areas, including the stream banks, shall be restored to their original contours and seeded or otherwise stabilized upon completion of construction.

g. Underground pipeline and utility crossings meeting the conditions of IDNR/OWR Statewide Permit Number 8:

1. In all cases, the crossing shall be placed beneath the bed of the river, lake or stream and, unless the crossing is encased in concrete or entrenched in bedrock, a minimum of three feet of cover shall be provided. The river, lake or stream bed shall be returned to its original condition.
2. Disturbance of streamside vegetation shall be kept to a minimum during construction to prevent erosion and sedimentation. All disturbed floodway areas, including stream banks, shall be restored to their original contours and seeded or otherwise stabilized upon completion of construction.
3. Any utility crossing carrying material which may cause water pollution, as defined by the Environmental Protection Act (415 ILCS 5), shall be provided with shut-off valves on each side of the body of water to be crossed.
4. If blasting is to be utilized in the construction of the crossing, the permittee shall notify the IDNR/OWR at least ten days prior to the blasting date to allow monitoring of any related fish kills.

h. Bank stabilization projects meeting the conditions of IDNR/OWR Statewide Permit Number 9:

1. Only the following materials may be utilized in urban areas: stone and concrete riprap, steel sheet piling, cellular blocks, fabric-formed concrete, gabion baskets, rock and wire mattresses, sand/cement filled bags, geotechnical fabric materials, natural vegetation and treated timber. Urban areas are defined as: areas of the state where residential, commercial, or industrial development currently exists or, based on comprehensive land use plans or controls, is expected to occur within ten years. (The department should be consulted if there is a question of whether or not an area is considered urban).

2. In addition to the materials listed in subsection 46-36(1)h.1., other materials (e.g. tire revetments) may be utilized in rural areas provided all other conditions of this permit are met.
3. The following materials shall not be used in any case: auto bodies, garbage or debris, scrap lumber, metal refuse, roofing materials, asphalt or other bituminous materials, or any material which would cause water pollution as defined by the Environmental Protections Act (415 ILCS 5).
4. The affected length of shoreline, stream bank, or channel to be protected shall not exceed, either singularly or cumulatively, 1,000 feet.
5. All material utilized shall be properly sized or anchored to resist anticipated forces of current and wave action.
6. Materials shall be placed in a way which would not cause erosion or the accumulation of debris on properties adjacent to or opposite the project.
7. Materials shall not be placed higher than the existing top of the bank.
8. Materials shall be placed so that the modified bank full-width and cross-sectional area of the channel will conform to or be no more restrictive than that of the natural channel upstream and downstream of the site.

For projects involving continuous placement of riprap along the bank, toe of the bank or other similar applications, in no case shall the cross-sectional area of the natural channel be reduced by more than ten percent nor the volume of material placed exceed two cubic yards per lineal foot of the stream bank or shoreline. The bank may be graded to obtain a flatter slope and to lessen the quantity of material required.
9. If broken concrete is used, all protruding materials such as reinforcing rods shall be cut flush with the surface of the concrete and removed from the construction area.
10. Disturbance of vegetation shall be kept to a minimum during construction to prevent erosion and sedimentation. All disturbed areas shall be seeded or otherwise stabilized upon completion of construction.
11. In the case of seawalls and gabion structures on lakes, the structure shall be constructed at or landward of the water line as determined by the normal pool elevation, unless:
 - i. It is constructed in alignment with an existing seawall(s) or gabion structure(s), and
 - ii. The volume of material placed, including the structure, would not exceed two cubic yards per lineal foot.
12. Excess material excavated during the construction of the bank or shoreline protection shall be placed in accordance with local, state, and federal laws and rules, and shall not be placed in a floodway.

i. Accessory structures and additions to existing residential buildings meeting the conditions of IDNR/OWR Statewide Permit Number 10:

1. The accessory structure or building addition must comply with the requirements of the local floodplain ordinance.
2. The principle structure to which the project is being added must have been in existence on the effective date of this permit (July 25, 1988).
3. The accessory structure or addition must not exceed 500 square feet in size and must not deflect floodwaters onto another property, and
4. Must not involve the placement of any fill material.
5. No construction shall be undertaken in, or within 50 feet of the bank of the stream channel.
6. The accessory structure or addition must be properly anchored to prevent its movement during flood conditions.
7. Only one accessory structure or addition to an existing structure shall be authorized by this permit; plans for any subsequent addition must be submitted to IDNR/OWR for review.
8. Disturbances of vegetation shall be kept to a minimum during construction to prevent erosion and sedimentation. All disturbed floodway areas shall be seeded or otherwise stabilized upon completion of construction.

j. Minor maintenance dredging activities meeting the following conditions of IDNR/OWR Statewide Permit Number 11:

1. The affected length of the stream shall not either singularly or cumulatively exceed 1,000 feet.
2. The project shall not include the construction of any new channel; all work must be confined to the existing channel or to reestablishing flows in the natural stream channel, and
3. The cross-sectional area of the dredged channel shall conform to that of the natural channel upstream and down stream of the site.
4. Dredged or spoil material shall not be disposed of in a wetland and shall be either:
 - i. Removed from the floodway;
 - ii. Used to stabilize an existing bank provided no materials would be placed higher than the existing top of bank and provided the cross-sectional area of the natural channel would not be reduced by more than ten percent, nor the volume of material placed exceed two cubic yards per lineal foot of streambank;
 - iii. Used to fill an existing washed out or scoured floodplain area such that the average natural floodplain elevation is not increased;

- iv. Used to stabilize and existing levee provided the height of the levee would not be increased nor its alignment changed;
 - v. Placed in a disposal site previously approved by the department in accordance with the conditions of the approval, or
 - vi. Used for beach nourishment, provided the material meets all applicable water quality standards.
- 5. Disturbance of streamside vegetation shall be kept to a minimum during construction to prevent erosion and sedimentation. All disturbed floodway areas, including the stream banks, shall be seeded or otherwise stabilized upon completion of construction.
- k. Bridge and culvert replacement structures and bridge widening meeting the following conditions of IDNR/OWR Statewide Permit Number 12:
 - 1. A licensed Illinois professional engineer shall determine and document that the existing structure has not been the cause of demonstrable flood damage. Such documentation shall include, at a minimum, confirmation that:
 - i. No buildings or structures have been impacted by the backwater induced by the existing structure, and
 - ii. There is no record of complaints of flood damages associated with the existing structure.
 - 2. A licensed Illinois professional engineer shall determine that the new structure will provide the same or greater effective waterway opening as the existing structure. For bridge widening projects the existing piers and the proposed pier extensions must be in line with the direction of the approaching flow upstream of the bridge.
 - 3. The project shall not include any appreciable raising of the approach roads. (This condition does not apply if all points on the approaches exist at an elevation equal to or higher than the 100-year frequency flood headwater elevation as determined by a FEMA flood insurance study completed or approved by IDNR/OWR).
 - 4. The project shall not involve the straightening, enlargement or relocation of the existing channel of the river or stream except as permitted by the Department's Statewide Permit Number 9 (Minor Shoreline, channel and Streambank Protection Activities) or Statewide Permit Number 11 (Minor Maintenance Dredging Activities).
 - 5. The permittee shall maintain records of projects authorized by this permit necessary to document compliance with the above conditions.
- l. Temporary construction activities meeting the following conditions of IDNR/OWR Statewide Permit Number 13:
 - 1. No temporary construction activity shall be commenced until the individual permittee determines that the permanent structure (if any) for which the work is being performed has received all required federal, state and local authorizations.

2. The term "temporary" shall mean not more than one construction season. All temporary construction materials must be removed from the stream and floodway within one year of their placement and the area returned to the conditions existing prior to the beginning of construction. Any desired subsequent or repetitive material placement shall not occur without the review and approval of the IDNR/OWR.
 3. The temporary project shall be constructed such that it will not cause erosion or damage due to increases in water surface profiles to adjacent properties. For locations where there are structures in the upstream floodplain, the temporary project shall be constructed such that all water surface profile increases, due to the temporary project, are contained within the channel banks.
 4. This permit does not authorize the placement or construction of any solid embankment or wall such as a dam, roadway, levee, or dike across any channel or floodway.
 5. No temporary structure shall be placed within any river or stream channel until a licensed Illinois professional engineer determines and documents that the temporary structure will meet the requirements of Special Condition Number 3 of this statewide permit. Such documentation shall include, at a minimum, confirmation that no buildings or structures will be impacted by the backwater induced by the temporary structure.
 6. The permittee shall maintain records of projects authorized by this permit necessary to document compliance with the above condition.
 7. Disturbance of vegetation shall be kept to a minimum during construction to prevent erosion and sedimentation. All disturbed areas shall be seeded or otherwise stabilized upon completion of the removal of the temporary construction.
 8. Materials used for the project shall not cause water pollution as defined by the Environmental Protection Act (415 ILCS 5).
- m. Any development determined by IDNR/OWR to be located entirely within a flood fringe area shall be exempt from state floodway permit requirements.
- (2) Other development activities not listed in subsection 46-36(1) may be permitted only if:
- a. Permit has been issued for the work by IDNR/OWR (or written documentation is provided that an IDNR/OWR permit is not required), or
 - b. Sufficient data has been provided to FEMA when necessary, and approval obtained from FEMA for a revision of the regulatory map and base flood elevation (Ord. No. 10-3991, 12-13-2010)

Sec. 46-37. - PROTECTING BUILDINGS.

(a) *Applicability.* In addition to the damage prevention requirements of section 46-36 of this article, all buildings located in the floodplain shall be protected from flood damage below the flood protection elevation. This building protection requirement applies to the following situations:

- (1) Construction or placement of a new building or alteration or addition to an existing building valued at more than \$1,000.00 or 70 square feet.

(2) Substantial improvements or structural alterations made to an existing building that increase the floor area by more than 20 percent or equal or exceed the market value by 50 percent. Alteration shall be figured cumulatively, subsequent to the adoption of this article. If substantially improved, the existing structure and the addition must meet the flood protection standards of this section.

(3) Repairs made to a substantially damaged building. These repairs shall be figured cumulatively, subsequent to the adoption of this article. If substantially damaged the entire structure must meet the flood protection standards of this section.

(4) Installing a manufactured home on a new site or a new manufactured home on an existing site. (The building protection requirements do not apply to returning a manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage).

(5) Installing a travel trailer or recreational vehicle on a site for more than 180 days per year.

(6) Repetitive loss to an existing building as defined in section 46-32

(b) *Methods of building protection.* Residential or nonresidential buildings can meet the building protection requirements by one of the following methods:

(1) The building may be constructed on permanent fill (embankment material) in accordance with the following:

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

(2) The building may be elevated on solid walls in accordance with the following:

- a. The building or improvements shall be elevated on stilts, piles, walls, crawlspace, or other foundation that is permanently open to floodwaters.
- b. The lowest floor and all electrical, heating, ventilating, plumbing, and air conditioning equipment and utility meters shall be located at or above the flood protection elevation.

- c. If walls are used, all enclosed areas below the flood protection elevation shall address hydrostatic pressures by allowing the automatic entry and exit of floodwaters. Designs must either be certified by a licensed Illinois professional engineer or by having a minimum of one permanent opening on each wall no more than one foot above grade with a minimum of two openings. The openings shall provide a total net area of not less than one square inch for every one square foot of enclosed area subject to flooding below the base flood elevation, and
- d. The foundation and supporting members shall be anchored, designed, and certified so as to minimize exposure to hydrodynamic forces such as current, waves, ice, and floating debris.
 - i. All structural components below the flood protection elevation shall be constructed of materials resistant to flood damage.
 - ii. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other service facilities may be located below the flood protection elevation provided they are waterproofed.
 - iii. The area below the flood protection elevation shall be used solely for parking or building access and not later modified or occupied as habitable space, or
 - iv. In lieu of the above criteria, the design methods to comply with these requirements may be certified by a licensed Illinois professional engineer or architect.

(3) The building may be constructed with a crawlspace located below the flood protection elevation provided that the following conditions are met:

(4) The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

(5) Any enclosed area below the flood protection elevation shall have openings that equalize hydrostatic pressures by allowing for the automatic entry and exit of floodwaters. A minimum of one opening on each wall having a total net area of not less than one square inch per one square foot of enclosed area. The openings shall be no more than one foot above grade.

(6) The interior grade of the crawlspace below the flood protection elevation must not be more than two feet below the lowest adjacent exterior grade.

(7) The interior height of the crawlspace measured from the interior grade of the crawl to the top of the foundations wall must not exceed four feet at any point.

(8) An adequate drainage system must be installed to remove floodwaters from the interior area of the crawlspace within a reasonable period of time after a flood event.

(9) Portions of the building below the flood protection elevation must be constructed with materials resistant to flood damage, and

(10) Utility systems within the crawlspace must be elevated above the flood protection elevation.

(c) Nonresidential buildings may be structurally dry floodproofed (in lieu of elevation) provided a licensed Illinois professional engineer or architect certifies that:

- (1) Below the flood protection elevation the structure and attendant utility facilities are watertight

and capable of resisting the effects of the base flood.

(2) The building design accounts for flood velocities, duration, rate of rise, hydrostatic and hydrodynamic forces, the effects of buoyancy, and the impact from debris and ice.

(3) Floodproofing measures will be incorporated into the building design and operable without human intervention and without an outside source of electricity.

(4) Levees, berms, floodwalls and similar works are not considered floodproofing for the purpose of this subsection.

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

(1) Elevated to or above the flood protection elevation in accordance with subsection 46-37(b), and

(2) Anchored to resist flotation, collapse, or lateral movement by being tied down in accordance with the rules and regulations for the Illinois Mobile Home Tie-Down Act issued pursuant to 77 Ill. Adm. Code § 870.

(e) Travel trailers and recreational vehicles on site for more than 180 days per year shall meet the elevation requirements of subsection 46-37(d) unless the following conditions are met:

(1) The vehicle must be either self-propelled or towable by a light duty truck.

(2) The hitch must remain on the vehicle at all times.

(3) The vehicle must not be attached to external structures such as decks and porches.

(4) The vehicle must be designed solely for recreation, camping, travel, or seasonal use rather than as a permanent dwelling.

(5) The vehicles largest horizontal projections must be no larger than 400 square feet.

(6) The vehicle's wheels must remain on axles and inflated.

(7) Air conditioning units must be attached to the frame so as to be safe for movement of the floodplain.

(8) Propane tanks as well as electrical and sewage connections must be quick-disconnect and above the 100-year flood elevation.

(9) The vehicle must be licensed and titled as a recreational vehicle or park model, and

(10) Must either:

a. Entirely be supported by jacks, or

b. Have a hitch jack permanently mounted, have the tires touching the ground and be supported by block in a manner that will allow the block to be easily removed by used of the hitch jack.

(f) Garages, sheds or other minor accessory structures constructed ancillary to an existing residential

use may be permitted provided the following conditions are met:

- (1) The garage or shed must be non-habitable.
- (2) The garage or shed must be used only for the storage of vehicles and tools and cannot be modified later into another use.
- (3) The garage or shed must be located outside of the floodway or have the appropriate state and/or federal permits.
- (4) The garage or shed must be on a single family lot and be accessory to an existing principle structure on the same lot.
- (5) Below the base flood elevation, the garage or shed must be built of materials not susceptible to flood damage.
- (6) All utilities, plumbing, heating, air conditioning and electrical must be elevated above the flood protection elevation.
- (7) The garage or shed must have at least one permanent opening on each wall not more than one foot above grade with one square inch of opening for every one square foot of floor area.
- (8) The garage or shed must be less than \$10,000.00 in market value or replacement cost whichever is greater or less than 500 square feet.
- (9) The structure shall be anchored to resist floatation and overturning.
- (10) All flammable or toxic materials (gasoline, fuel, paint, insecticides, fertilizers, etc.) shall be stored above the flood protection elevation.
- (11) The lowest floor elevation should be documented and the owner advised of the flood insurance implications. (Ord. No. 10-3991, 12-13-2010)

Sec. 46-38. - SUBDIVISION REQUIREMENTS.

The city council shall take into account hazards, to the extent that they are known, in all official actions related to land management use and development.

- (1) New subdivisions, manufactured home parks, annexation agreements, planned unit developments, and additions to manufactured home parks and subdivisions shall meet the damage prevention and building protections standards of sections 46-36 and 46-37 of this article. Any proposal for such development shall include the following data:
 - a. The base flood elevation and the boundary of the floodplain, where the base flood elevation is not available from an existing study, the applicant shall be responsible for calculating the base flood elevation;
 - b. The boundary of the floodway when applicable, and
 - c. A signed statement by a licensed Illinois professional engineer that the proposed plat or plan accounts for changes in the drainage of surface waters in accordance with the Plat Act (765 ILCS 205/2).

Furthermore, streets, blocks, lots, parks and other public grounds shall be located and laid out in such a manner as to preserve and utilize natural streams and channels. Wherever possible the floodplains shall be included within parks or other similar public or private grounds, located on special flood hazard area or drainage easements, as approved by the City of Rochelle.

(Ord. No. 10-3991, 12-13-2010)

Sec. 46-39. - Public health and other standards.

(a) Public health standards must be met for all floodplain development. In addition to the requirements of sections 46-36 and 46-37 of this article the following standards apply:

(1) No development in the floodplain shall include locating or storing chemicals, explosives, buoyant materials, flammable liquids, pollutants, or other hazardous or toxic materials below the flood protection elevation unless such materials are stored in a floodproofed and anchored storage tank and certified by an licensed Illinois professional engineer or floodproofed building constructed according to the requirements of section 46-37 of this article.

(2) Public utilities and facilities such as sewer, gas and electric shall be located and constructed to minimize or eliminate flood damage.

(3) Public sanitary sewer systems and water supply systems shall be located and constructed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.

(4) New and replacement on-site sanitary sewer lines or waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding. Manholes or other above ground openings located below the flood protection elevation shall be watertight.

(5) Construction of new or substantially improved critical facilities shall be located outside the limits of the floodplain. Construction of new critical facilities shall be permissible within the floodplain if no feasible alternative site is available. However, critical facilities constructed within the SFHA shall have the lowest floor (including basement) elevated or structurally dry floodproofed to the 500-year flood frequency elevation or three feet above the level of the 100-year flood frequency elevation whichever is greater. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes, elevated to or above the level of the flood protection elevation (FPE), shall be provided to all critical facilities.

(b) Additional requirements in Northwest Sewer Extension Project Area. All parties proposing to develop property located within the city's "project boundary" delineated in the Northwest Area Sanitary Sewer Facilities Planning Report, dated March 3, 1994 and as may be updated from time to time, shall submit any development proposal to the United States Army Corps of Engineers for review of any permits and associated mitigative measures which may be necessary due to potential impacts on wetlands as a result of subsequent development.

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

(Ord. No. 10-3991, 12-13-2010)

Sec. 46-40. - CARRYING CAPACITY AND NOTIFICATION.

For all projects involving channel modification, fill, or stream maintenance (including levees), the flood-carrying capacity of the watercourse shall be maintained.

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

(Ord. No. 10-3991, 12-13-2010)

Sec. 46-41. - Variances.

Whenever the standards of this article place undue hardship on a specific development proposal, the applicant may apply to the planning and zoning commission for a variance. The planning and zoning commission shall review the applicant's request for a variance and shall submit its recommendation to the city council. The city council may attach such conditions to granting of a variance as it deems necessary to further the intent of this article.

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

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

(2) The city council shall notify an applicant in writing that a variance from the requirements of the building protections standards of section 46-37 that would lessen the degree of protection to a building will:

- a. Result in increased premium rates for flood insurance up to \$25.00 per \$100.00 of insurance coverage;
- b. Increase the risk to life and property, and
- c. Require that the applicant proceed with knowledge of these risks and that the applicant acknowledge in writing the assumption of the risk and liability.

(3) Variances to the building protection requirements of section 46-37 of this article which are requested in connection with reconstruction, repair, or alteration of a historic site or historic structure as defined in "historic structures", may be granted using criteria more permissive than the requirements of sections 46-36 and 46-37 of this article subject to the conditions that:

- a. The repair or rehabilitation is the minimum necessary to preserve the historic character and design of the structure.
- b. The repair or rehabilitation will not result in the structure being removed as a certified historic structure.

(Ord. No. 10-3991, 12-13-2010)

Sec. 46-42. - DISCLAIMER OF LIABILITY.

The degree of protection required by this article is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods may occur or flood heights may be increased by manmade or natural causes. This article does not imply that development either inside or outside of the floodplain will be free from flooding or damage. This article does not create liability on the part of the City of Rochelle or any officer or employee thereof for any flood damage that results from proper reliance on this ordinance or any administrative decision made lawfully there under.

(Ord. No. 10-3991, 12-13-2010)

Sec. 46-43. - VIOLATIONS; PENALTY.

Failure to obtain a permit for development in the floodplain or failure to comply with the conditions of a permit or a variance shall be deemed to be a violation of this article. Upon due investigation, the community development director or municipal attorney may determine that a violation of the minimum standards of this article exists. The community development director or municipal attorney shall notify the owner in writing of such violation.

(1) If such owner fails after ten days' notice to correct the violation:

- a. The City of Rochelle shall make application to the circuit court for an injunction requiring conformance with this article or make such other order as the court deems necessary to secure compliance with the ordinance.
- b. Any person who violates this article shall upon conviction thereof be fined not less than \$50.00 or more than \$750.00 for each offense.
- c. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues, and
- d. The City of Rochelle shall record a notice of violation on the title of the property.

(2) The community development director or municipal attorney shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a standard flood insurance policy to be suspended.

The community development director or municipal attorney is authorized to issue an order requiring the suspension of the subject development. The stop-work order shall be in writing, indicate the reason for the issuance, and shall order the action, if necessary, to resolve the circumstances requiring the stop-work order. The stop-work order constitutes a suspension of the permit.

No site development permit shall be permanently suspended or revoked until a hearing is held by the planning and zoning commission. Written notice of such hearing shall be served on the permittee and shall state:

- a. The grounds for the complaint, reasons for suspension or revocation, and
- b. The time and place of the hearing.

At such hearing the permittee shall be given an opportunity to present evidence on their behalf. At the conclusion of the hearing, the planning and zoning commission shall determine whether the permit shall be suspended or revoked.

(3) Nothing herein shall prevent the City of Rochelle from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

(Ord. No. 10-3991, 12-13-2010)

Sec. 46-44. - ABROGATION AND GREATER RESTRICTIONS.

This article repeals and replaces other ordinances adopted by the city council to fulfill the requirements of the National Flood Insurance Program including: Ordinance Number 03-3206 dated 11/24/2003 and Ordinance Number 10-3906 dated 3/22/2010. However, this article does not repeal the original resolution or ordinance adopted to achieve eligibility in the program. Nor does this article repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. Where this article and other ordinance easements, covenants or deed restrictions conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (Ord. No. 10-3991, 12-13-2010)

Sec. 46-45. - SEVERABILITY.

The provisions and sections of this article shall be deemed separable and the invalidity of any portion of this article shall not affect the validity of the remainder.

(Ord. No. 10-3991, 12-13-2010)

Sec. 46-46. - EFFECTIVE DATE.

This article shall be in full force and effect from and after its passage, approval, and publication as required by law.

(Ord. No. 10-3991, 12-13-2010)

Chapters 47—49 - RESERVED

chapter 50 - HEALTH AND SANITATION

ARTICLE I. - IN GENERAL
ARTICLE II. - NUISANCES
ARTICLE III. - LOT MAINTENANCE
ARTICLE IV. - SMOKE-FREE PREMISES

ARTICLE I. - IN GENERAL

Sec. 50-1. - Endangering public health or creating annoyance to public.
Sec. 50-2. - Expectoration in public place.
Sec. 50-3. - Dense smoke.
Secs. 50-4—50-30. - Reserved.

Sec. 50-1. - ENDANGERING PUBLIC HEALTH OR CREATING ANNOYANCE TO PUBLIC.

It is unlawful to commit or do any act which endangers the public health or results in annoyance or discomfort to the public.

(Code 1996, § 8.10.010)

Sec. 50-2. - Expectoration in public place.

It is unlawful to expectorate on any public sidewalk or street or other public place, or on the floor or walls of any store, theater, hall, public vehicle or other place frequented by the public or to which the public is invited.

(Code 1996, § 8.10.030)

Sec. 50-3. - DENSE SMOKE.

(a) It is unlawful to cause or permit the emission of dense smoke from any fire, chimney, engine, oil burner or any other agency in the city so as to cause annoyance or discomfort to the occupants thereof.

(b) For the purpose of testing and grading the density of smoke, the Ringelmann Smoke Chart, as published and used by the United States Geological Survey, is adopted as a standard for such grading, and smoke is defined as and declared to be "dense" when it is of a degree of density of Number 3 of the chart or greater, for more than six minutes in any one hour, whether such period of time is consecutive or not.

(Code 1996, § 8.10.040)

Secs. 50-4—50-30. - RESERVED.

ARTICLE II. - NUISANCES

Sec. 50-31. - Permitting or maintaining prohibited; abatement.

Sec. 50-32. - Stagnant pools.

Sec. 50-33. - Hazardous material discharges.

Secs. 50-34—50-60. - Reserved.

Sec. 50-31. - PERMITTING OR MAINTAINING PROHIBITED; ABATEMENT.

It is unlawful for any person to permit or maintain the existence of any nuisance on any property under his control. The chief of police and the building officer are each authorized to abate any such nuisances existing in the city, whether such nuisances are specifically recognized by ordinance or not.

(Code 1996, § 8.05.010)

Sec. 50-32. - STAGNANT POOLS.

Any stagnant pool of water in the city is declared to be a nuisance. It is unlawful for any person to permit any such nuisance to remain or exist on any property under his control.

(Code 1996, § 8.05.020)

Sec. 50-33. - HAZARDOUS MATERIAL DISCHARGES.

(a) *Definitions.* As used in this section, the following terms shall have the following meanings:

Discharge means leakage, seepage or other release, whether intentional or unintentional.

Hazardous material means a substance or material in a quantity and form determined by the United States Department of Transportation to be capable of posing an unreasonable risk to health and safety or property when transported in commerce.

Person means an individual, a corporation, a partnership, a limited partnership, a limited liability company, an unincorporated association, a trust, an estate, any other legal entity, and any unit of federal, state or local government.

(b) *Declaration of nuisance.* The actual or threatened discharge of hazardous material within the city is hereby declared to be a nuisance.

(c) *Liability for costs.* Any persons who own or have custody of hazardous material which is subject of a discharge, or who own or have custody of a transport vehicle that contains hazardous material which is the subject of a discharge, or who cause or substantially contribute to a hazardous material discharge, shall be liable, jointly and severally, to the city for any and all costs incurred by the city in responding to such hazardous material discharge, including without limitation all hourly fees for vehicles and/or personnel as set forth by resolution of the city council, and all costs incurred by the city for equipment and materials damaged, lost, spent, destroyed or rendered unrepairable, including the cost of time of employees spent in replacing or repairing said equipment and materials, all costs of cleanup and removal, and all third party costs incurred by the city.

(d) *Collection of costs.* The city shall prepare and forward to the person(s) liable under subsection (c) of this section a bill for the total costs and expenses incurred for which such person(s) are liable to the city; provided, however, that any third party costs may be billed directly to the person(s) liable by said third party. Any bill or portion of such bill remaining unpaid after 30 days of receipt shall accrue interest on the unpaid balance at the rate of 1½ percent per month or fraction of a month thereafter. In the event of a lawsuit for collection of any portion of said amounts, such person(s) shall be liable to pay a penalty in the amount of the city's reasonable attorney's fees for such lawsuit, in addition to any other relief granted.

(Ord. No. 03-3197, § 3(8.05.030), 10-27-2003)

Secs. 50-34—50-60. - RESERVED.

ARTICLE III. - LOT MAINTENANCE

Sec. 50-61. - Definitions.
Sec. 50-62. - Maximum height of plants and weeds.
Sec. 50-63. - Certain weeds declared nuisance.
Sec. 50-64. - Refuse, waste material and inoperable vehicles.
Sec. 50-65. - Unsafe buildings.
Sec. 50-66. - Notice to abate weeds or plants.
Sec. 50-67. - Abatement by city authorized.
Sec. 50-68. - Administrative fees for abatement by city.
Sec. 50-69. - Collection of costs of abatement by city.
Sec. 50-70. - Penalty.
Secs. 50-71—50-99. - Reserved.

Sec. 50-61. - DEFINITIONS.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Debris means the remains of something broken down or destroyed and can be the accumulation of material or parts that taken as a whole are not usable or functional in the current location.

Inoperable vehicle means, per 65 ILCS 5/11-40-3, any motor vehicle from which, for a period of at least seven days, the engine, wheels, or other parts have been removed, or on which the engine, wheels or other parts have been altered, damaged, or otherwise so treated that the vehicle is incapable of being driven under its own motor power, including a vehicle that is incapable of being moved by another vehicle designed to move it; this includes vehicles that are propped up such that the wheels cannot be used to move the vehicle. An inoperable vehicle also means a motor vehicle which is not permitted to be operated on a public road because of an expired state license plate. However, nothing in this section shall apply to any motor vehicle that is kept within a building when not in use, to operable historic vehicles over 25 years of age, or to a motor vehicle on the premises of a place of business engaged in the wrecking or junking of motor vehicles as permitted to do so under the zoning regulations (chapter 110). Also, an inoperable vehicle shall not apply to a vehicle that has been rendered temporarily incapable of being driven under its own motor power in order to perform ordinary service or repair operations, such temporary period being no longer than 48 hours.

(Ord. No. 03-3189, § 1(8.15.010), 10-14-2003)

Sec. 50-62. - MAXIMUM HEIGHT OF PLANTS AND WEEDS.

It is unlawful for anyone to permit any weeds, grass or plants, other than trees, bushes, flowers or other ornamental plants, to grow to a height exceeding eight inches anywhere in the city. Any plants or weeds exceeding such height are declared to be a nuisance.

(Ord. No. 03-3189, § 1(8.15.020), 10-14-2003)

Sec. 50-63. - CERTAIN WEEDS DECLARED NUISANCE.

Any weeds such as jimson, burdock, ragweed, thistle, cocklebur, or other weeds of the like kind found growing in any lot or tract of land in the city are declared to be a nuisance, and it is unlawful to permit any such weeds to grow or remain in any such place.

(Ord. No. 03-3189, § 1(8.15.030), 10-14-2003)

Sec. 50-64. - REFUSE, WASTE MATERIAL AND INOPERABLE VEHICLES.

All waste material, vehicles in an inoperable condition, and debris shall be kept in an enclosed building. All refuse or garbage shall be properly contained in a closed container designed for such purposes. The owner of the real estate shall be responsible for keeping it free of all waste material, inoperable vehicles, debris, refuse or garbage.

(Ord. No. 03-3189, § 1(8.15.040), 10-14-2003)

Sec. 50-65. - UNSAFE BUILDINGS.

Any building or structure which the building official has determined to be in violation of the city's property maintenance code to the extent that it is dangerous to the public is declared a nuisance.

(Ord. No. 03-3189, § 1(8.15.050), 10-14-2003)

Sec. 50-66. - NOTICE TO ABATE WEEDS OR PLANTS.

It shall be the duty of the property maintenance official to serve or to cause to be served a notice upon the owner of any premises on which weeds or plants are permitted to grow in violation of the provisions of this article, and to demand the abatement of the nuisance within seven days. The notice shall be served by first class mail to the address shown on the township assessor's record. Failure to receive such notice shall not be a defense to any action by the city to collect abatement costs, administrative costs or impose penalties authorized by this section. The notice to abate shall inform the owner of:

- (1) The nature of the violation.
- (2) The time within which the violation must be abated, being not less than three days nor more than seven days from the date of the notice.
- (3) That the city shall act to abate the violation if it is not abated by the owner.
- (4) That the actual cost of such action by the city, plus an administrative fee of \$350.00, shall be a personal debt of the owner which may be assessed as a lien against the property until paid.
- (5) That a bill will be sent to the owner for the cost of the abatement. If payment is not received

within 30 days a ten percent penalty will be added to the bill and a lien for the total amount will be filed against the property in the county recorder's office. Notice, stating the substance of 65 ILCS 5/11-20-7 and the substance of this article and identifying the property, by common description, and the location of the weeds cut, shall be personally served on, or sent by certified mail to, the person to whom was sent the tax bill for the general taxes on the property for the last preceding year.

(6) That refusal to allow the city to abate an uncorrected violation shall result in prosecution as prescribed in section 50-70

(Ord. No. 03-3189, § 1(8.15.060), 10-14-2003)

Sec. 50-67. - ABATEMENT BY CITY AUTHORIZED.

If the person served with notice to abate a nuisance, as required by section 50-66, does not abate the nuisance within seven days, the property maintenance official may proceed to abate such nuisance, keeping an account of the expense of the abatement, and such expense shall be charged and paid by such owner or occupant and collected as other taxes are collected. The city shall prosecute any owner who refuses access to the cited property for purposes of abatement.

(Ord. No. 03-3189, § 1(8.15.070), 10-14-2003)

Sec. 50-68. - ADMINISTRATIVE FEES FOR ABATEMENT BY CITY.

The following administrative fees shall be billed to the property owner for the following circumstances: \$350.00 when the city has ordered and paid for abatement of a cited nuisance.

(Ord. No. 03-3189, § 1(8.15.080), 10-14-2003)

Sec. 50-69. - COLLECTION OF COSTS OF ABATEMENT BY CITY.

When the city has caused to be abated and paid for the abatement of a cited violation, the cost of abatement and the authorized administrative fee shall be billed to the property owner. Such billing shall be a personal debt of the owner to the city. If not paid within 30 days, a ten percent penalty will be added and the city may file a lien for the total amount against the property with the county recorder.

(Ord. No. 03-3189, § 1(8.15.090), 10-14-2003)

Sec. 50-70. - PENALTY.

In addition to the foregoing provisions, if the city cites the owner with an ordinance violation, the owner, upon being found guilty in the circuit court, shall be punished as provided in section 1-15 of this Code, together with the repayment of abatement costs, administrative costs, and interest.

(Ord. No. 03-3189, § 1(8.15.100), 10-14-2003)

Secs. 50-71—50-99. - RESERVED.

ARTICLE IV. - SMOKE-FREE PREMISES

- Sec. 50-100. - Definitions.
- Sec. 50-101. - Smoking in public places, places of employment, and governmental vehicles prohibited.
- Sec. 50-102. - Posting of signs; removal of ashtrays.
- Sec. 50-103. - Smoking prohibited in student dormitories.
- Sec. 50-104. - Designation of other non-smoking areas.
- Sec. 50-105. - Exemptions.
- Sec. 50-106. - Enforcement; complaints.
- Sec. 50-107. - Violations.
- Sec. 50-108. - Injunctions.
- Sec. 50-109. - Discrimination prohibited.
- Sec. 50-110. - Severability.
- Sec. 50-111. - Entrances, exits, windows, and ventilation intakes.
- Secs. 50-112—50-149. - Reserved.

Sec. 50-100. - DEFINITIONS.

In this article:

Bar means an establishment that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and that derives no more than ten percent of its gross revenue from the sale of food consumed on the premises. Bar includes, but is not limited to, taverns, nightclubs, cocktail lounges, adult entertainment facilities, and cabarets.

Department means the department of public health.

Employee means a person who is employed by an employer in consideration for direct or indirect monetary wages or profits or a person who volunteers his or her services for a non-profit entity.

Employer means a person, business, partnership, association, or corporation, including a municipal corporation, trust, or non-profit entity that employs the services of one or more individual persons.

Enclosed area means all space between a floor and a ceiling that is enclosed or partially enclosed with (i) solid walls or windows, exclusive of doorways, or (ii) solid walls with partitions and no windows, exclusive of doorways, that extend from the floor to the ceiling, including, without limitation, lobbies and corridors.

Enclosed or partially enclosed sports arena means any sports pavilion, stadium, gymnasium, health spa, boxing arena, swimming pool, roller rink, ice rink, bowling alley, or other similar place where members of the general public assemble to engage in physical exercise or participate in athletic competitions or recreational activities or to witness sports, cultural, recreational, or other events.

Gaming equipment or supplies means gaming equipment/supplies as defined in the Illinois Gaming Board Rules of the Illinois Administrative Code.

Gaming facility means an establishment utilized primarily for the purposes of gaming and where gaming equipment or supplies are operated for the purposes of accruing business revenue.

Healthcare facility means an office or institution providing care or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions, including, but not limited to, hospitals, rehabilitation hospitals, weight control clinics, nursing homes, homes for the aging or chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, dentists, and all specialists within these professions. Healthcare facility includes all waiting rooms, hallways, private rooms, semiprivate rooms, and wards within healthcare facilities.

Place of employment means any area under the control of a public or private employer that employees are required to enter, leave, or pass through during the course of employment, including, but not limited to entrances and exits to places of employment, including a minimum distance, as set forth in section 50-111, of 15 feet from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited; offices and work areas; restrooms; conference and classrooms; breakrooms and cafeterias; and other common areas. A private residence or home-based business, unless used to provide licensed child care, foster care, adult care, or other similar social service care on the premises, is not a place of employment.

Private club means a not-for-profit association that (1) has been in existence and continuous existence for at least three years prior to January 1, 2008, whether incorporated or not, (2) is the owner, lessee, or occupant of a building or portion thereof used exclusively for club purposes at all times, (3) is operated solely for a recreational, fraternal, social, patriotic, political, benevolent, or athletic purpose, but not for pecuniary gain, and (4) only sells alcoholic beverages incidental to its operation. For purposes of this definition, private club means an organization that is managed by a board of directors, executive committee, or similar body chosen by the members at an annual meeting, has established bylaws, a constitution, or both to govern its activities, and has been granted an exemption from the payment of federal income tax as a club under 26 U.S.C. 501.

Private residence means the part of a structure used as a dwelling, including, without limitation: a private home, townhouse, condominium, apartment, mobile home, vacation home, cabin, or cottage. For the purposes of this definition, a hotel, motel, inn, resort, lodge, bed and breakfast or other similar public accommodation, hospital, nursing home, or assisted living facility shall not be considered a private residence.

Public place means that portion of any building or vehicle used by and open to the public, regardless of whether the building or vehicle is owned in whole or in part by private persons or entities, the State of Illinois, or any other public entity and regardless of whether a fee is charged for admission, including a minimum distance, as set forth in section 50-111, of 15 feet from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited. A public place does not include a private residence unless the private residence is used to provide licensed child care, foster care, or other similar social service care on the premises. A public place includes, but is not limited to, hospitals, restaurants, retail stores, offices, commercial establishments, elevators, indoor theaters, libraries, museums, concert halls, public conveyances, educational facilities, nursing homes, auditoriums, enclosed or partially enclosed sports arenas, meeting rooms, schools, exhibition halls, convention facilities, polling places, private clubs, gaming facilities, all government owned vehicles and facilities, including buildings and vehicles owned, leased, or operated by the state or state subcontract, healthcare facilities or clinics, enclosed shopping centers, retail service establishments, financial institutions, educational facilities, ticket areas, public hearing facilities, public restrooms, waiting areas, lobbies, bars, taverns, bowling alleys, skating rinks, reception areas, and no less than 75 percent of the sleeping quarters within a hotel, motel, resort, inn, lodge, bed and breakfast, or other similar public accommodation that are rented to guests, but excludes private residences.

Restaurant means (i) an eating establishment, including, but not limited to, coffee shops, cafeterias, sandwich stands, and private and public school cafeterias, that gives or offers for sale food to the public, guests, or employees, and (ii) a kitchen or catering facility in which food is prepared on the premises for serving elsewhere. Restaurant includes a bar area within the restaurant.

Retail tobacco store means a retail establishment that derives more than 80 percent of its gross revenue from the sale of loose tobacco, plants, or herbs and cigars, cigarettes, pipes, and other smoking devices for burning tobacco and related smoking accessories and in which the sale of other products is merely incidental. Retail tobacco store does not include a tobacco department or section of a larger commercial establishment or any establishment with any type of liquor, food, or restaurant license.

Smoke or *smoking* means the carrying, smoking, burning, inhaling, or exhaling of any kind of lighted pipe, cigar, cigarette, hookah, weed, herbs, or any other lighted smoking equipment.

State agency has the meaning formerly ascribed to it in subsection (a) of Section 3 of the Illinois Purchasing Article (now repealed).

Unit of local government has the meaning ascribed to it in Section 1 of Article VII of the Illinois Constitution of 1970.

(Ord. No. 07-3631, § 1, 12-10-2007)

Sec. 50-101. - SMOKING IN PUBLIC PLACES, PLACES OF EMPLOYMENT, AND GOVERNMENTAL VEHICLES PROHIBITED.

No person shall smoke in a public place or in any place of employment or within 15 feet of any entrance to a public place or place of employment. No person may smoke in any vehicle owned, leased, or operated by the state or a political subdivision of the state. Smoking is prohibited in indoor public places and workplaces unless specifically exempted by section 50-105.

(Ord. No. 07-3631, § 1, 12-10-2007)

Sec. 50-102. - POSTING OF SIGNS; REMOVAL OF ASHTRAYS.

(a) "No smoking" signs or the international "no smoking" symbol, consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it, shall be clearly and conspicuously posted in each public place and place of employment where smoking is prohibited by this article by the owner, operator, manager, or other person in control of that place.

(b) Each public place and place of employment where smoking is prohibited by this article shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited.

(c) All ashtrays shall be removed from any area where smoking is prohibited by this article by the owner, operator, manager, or other person having control of the area.

(Ord. No. 07-3631, § 1, 12-10-2007)

Sec. 50-103. - SMOKING PROHIBITED IN STUDENT DORMITORIES.

Notwithstanding any other provision of this article, smoking is prohibited in any portion of the living quarters, including, but not limited to, sleeping rooms, dining areas, restrooms, laundry areas, lobbies, and hallways, of a building used in whole or in part as a student dormitory that is owned and operated or otherwise utilized by a public or private institution of higher education.

(Ord. No. 07-3631, § 1, 12-10-2007)

Sec. 50-104. - DESIGNATION OF OTHER NON-SMOKING AREAS.

Notwithstanding any other provision of this article, any employer, owner, occupant, lessee, operator, manager, or other person in control of any public place or place of employment may designate a non-enclosed area of a public place or place of employment, including outdoor areas, as an area where smoking is also prohibited provided that such employer, owner, lessee or occupant shall conspicuously post signs prohibiting smoking in the manner described in subsections (a) and (b) of section 50-102.

(Ord. No. 07-3631, § 1, 12-10-2007)

Sec. 50-105. - EXEMPTIONS.

Notwithstanding any other provision of this article, smoking is allowed in the following areas:

- (1) Private residences or dwelling places, except when used as a child care, adult day care, or healthcare facility or any other home-based business open to the public.
- (2) Retail tobacco stores as defined in section 50-100, in operation prior to January 1, 2008. The retail tobacco store shall annually file with the department by January 31st an affidavit stating the percentage of its gross income during the prior calendar year that was derived from the sale of loose tobacco, plants, or herbs and cigars, cigarettes, pipes, or other smoking devices for smoking tobacco and related smoking accessories. Any retail tobacco store that begins operation after January 1, 2008, may only qualify for an exemption if located in a freestanding structure occupied solely by the business and smoke from the business does not migrate into an enclosed area where smoking is prohibited.
- (3) Private and semi-private rooms in nursing homes and long-term care facilities that are occupied by one or more persons, all of whom are smokers and have requested in writing to be placed or to remain in a room where smoking is permitted and the smoke shall not infiltrate other areas of the nursing home.
- (4) Hotel and motel sleeping rooms that are rented to guests and are designated as smoking rooms, provided that all smoking rooms on the same floor must be contiguous and smoke from these rooms must not infiltrate into non-smoking rooms or other areas where smoking is prohibited. Not more than 25 percent of the rooms rented to guests in a hotel or motel may be designated as rooms where smoking is allowed. The status of rooms as smoking or non-smoking may not be changed, except to permanently add additional non-smoking rooms.

(Ord. No. 07-3631, § 1, 12-10-2007)

Sec. 50-106. - ENFORCEMENT; COMPLAINTS.

- (a) The city police department shall enforce the provisions of this article and may assess fines pursuant to section 50-107
- (b) Any person may register a complaint with the city police department for a violation of this article. The city police department shall establish a telephone number that a person may call to register a complaint under this section.

(Ord. No. 07-3631, 12-10-2007)

Sec. 50-107. - VIOLATIONS.

(a) A person, corporation, partnership, association or other entity who violates this article shall be fined pursuant to this section. Each day that a violation occurs is a separate violation.

(b) A penalty equal to the minimum fine for the violation, as set forth in this section, shall be assessed to violators of this article if payment is made within ten days of the violation, after which a violation shall result in a fine as set forth in this section.

(c) A person who smokes in an area where smoking is prohibited under section 50-101 or section 50-103 shall be fined in an amount that is not less than \$100.00 and not more than \$250.00. A person who owns, operates, or otherwise controls a public place or place of employment that violates section 50-101 or section 50-102 or section 50-103 shall be fined:

- (1) Not less than \$250.00 for the first violation,;
- (2) Not less than \$500.00 for the second violation within one year after the first violation; and
- (3) Not less than \$2,500.00 for each additional violation within one year after the first violation.

(Ord. No. 07-3631, § 1, 12-10-2007)

Sec. 50-108. - INJUNCTIONS.

The city, a state-certified local public health department, or any individual personally affected by repeated violations may institute, in a circuit court, an action to enjoin violations of this article.

(Ord. No. 07-3631, § 1, 12-10-2007)

Sec. 50-109. - DISCRIMINATION PROHIBITED.

No individual may be discriminated against in any manner because of the exercise of any rights afforded by this article. (Ord. No. 07-3631, § 1, 12-10-2007)

Sec. 50-110. - SEVERABILITY.

If any provision, clause or paragraph of this article shall be held invalid by a court of competent jurisdiction, such validity shall not affect the other provisions of this article. (Ord. No. 07-3631, § 1, 12-10-2007)

Sec. 50-111. - ENTRANCES, EXITS, WINDOWS, AND VENTILATION INTAKES.

Smoking is prohibited within a minimum distance of 15 feet from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited under this article so as to ensure that tobacco smoke does not enter the area through entrances, exits, open windows, or other means. (Ord. No. 07-3631, § 1, 12-10-200)

Secs. 50-112—50-149. - RESERVED.

Chapters 51—53 - RESERVED

Chapter 54 - HISTORIC PRESERVATION ^[5]

⁽⁵⁾ **State Law reference—** Preservation of historical and other special areas, 65 ILCS 5/11-48.2-1 et seq.

ARTICLE I. - IN GENERAL
ARTICLE II. - HISTORIC PRESERVATION COMMISSION
ARTICLE III. - LANDMARKS
ARTICLE IV. - HISTORIC PRESERVATION DISTRICT
ARTICLE V. - CERTIFICATE OF APPROPRIATENESS

ARTICLE I. - IN GENERAL

Sec. 54-1. - Title.
Sec. 54-2. - Purpose; scope.
Sec. 54-3. - Definitions.
Sec. 54-4. - Violations; penalty; additional remedies.
Sec. 54-5. - Relation to other ordinances and laws.
Secs. 54-6—54-30. - Reserved.

Sec. 54-1. - TITLE.

The ordinance codified in this chapter shall be known, referred to and cited as "The Historic Preservation Ordinance of the City of Rochelle."

(Code 1996, § 2.120.010)

Sec. 54-2. - PURPOSE; SCOPE.

The purpose of this chapter is to provide a mechanism whereby landmarks and districts in the city identified as having historical and/or architectural significance may be identified and enjoyed in a suitable harmonious environment through voluntary compliance; and to promote the educational, cultural, economic and general welfare of the community by:

- (1) Protecting, enhancing and perpetuating the distinctive historical and/or architectural characteristics of the city's cultural, social, economic, political and architectural history;
- (2) Fostering civic pride in the beauty and noble accomplishments of the past as represented in city landmarks and historic districts;
- (3) Stabilizing and improving property values of the city's landmarks and historic districts;
- (4) Protecting and enhancing the city's attractiveness to tourists and visitors and the support of business and industry thereby provided.

(Code 1996, § 2.120.020)

Sec. 54-3. - DEFINITIONS.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alteration means any act or process which changes one or more of the exterior architectural features of a building or structure designated for voluntary preservation.

Architectural significance means:

- (1) The building(s) or structure(s) is the work of, or associated with, a nationally or locally noted architect, builder or architectural firm;
- (2) The building(s) or structure(s) is an example of a particular style, whether local or typical, in terms of detail, material, workmanship, and with no negligible alteration to the original structure;
- (3) The building(s) or structure(s) is one of the few remaining examples of a particular style, use or an example which does not clearly represent a major style and has undergone little or no alteration since its construction;
- (4) The building(s) or structure(s) is one of a contiguous grouping of such which have a sense of cohesiveness expressed through a similarity of characteristics of a style, period or method of construction and accenting the architectural significance of the area;
- (5) The detail, material and workmanship can be valued in and of themselves as reflective of or similar to those of the majority of the other visual elements in the area.

Building means any structure created for the support shelter or enclosure of persons, animals or property of any kind and which is permanently affixed to the land.

Certificate of appropriateness means a certificate from the historic preservation commission authorizing plans for alterations, construction, removal or demolition of a landmark or site within a designated historic district.

Commission means the city historic preservation commission.

Council means the city council of the City of Rochelle, Illinois.

Demolition means any act or process which destroys, in part or in whole, a building, structure or object.

Design criteria means a standard of appropriate activity that will preserve the historical and architectural character of the building, structure, object or area.

Exterior architectural appearance means and includes the architectural character, general composition and general arrangement of the exterior of a building or structure, including the kind and texture of the building material and the type and character of all windows, doors, light fixtures, signs and appurtenant elements visible from outside the building.

Historic preservation district means any area which has building improvements which have a significant historical and/or architectural character; constitutes a distinct section of the city; and which has been designated a historic preservation district in compliance with the provisions of this chapter.

Historical significance means:

- (1) The building has a strong association with the life or activities of a person or persons who have significantly contributed to or participated in the historic events of the nation, state or community;
- (2) The building(s) and/or structure(s) is associated with an organization or group (whether formal or informal) from which they have significantly contributed to or participated in the historic events of the nation, state or community;
- (3) The buildings(s) or structure(s) is associated with an antiquated use due to technological or social changes in the nation, state or community such as, but not limited to, a blacksmith shop or hitching post;
- (4) The object(s) is a monument to or a cemetery of historic personages.

Improvement means any building, structure, object, parking facility, fence, gate wall, work of art or other object constituting a physical betterment of real property, or part of such betterment.

Landmark means any improvement which has special character or special historical and/or architectural interest or value as part of the development, heritage or cultural characteristics of the city, the state or the nation, which has been designated as a landmark in compliance with the provisions of this chapter.

Structural change means any change in the structure or repair of a roof or repair in the supporting members of a building, structure, roof or exterior walls which would expand the building or structure in height, width or bulk.

Structure means anything constructed or erected, the use of which requires permanent or temporary location on or in the ground.

(Code 1996, § 2.120.030)

Sec. 54-4. - VIOLATIONS; PENALTY; ADDITIONAL REMEDIES.

- (a) Any person who fails to perform any act required by this chapter, or performs any act prohibited by this chapter, shall be fined, upon conviction, not less than \$100.00 or not more than \$750.00 for each offense. Every day such violation exists shall constitute a separate violation and a separate offense.
- (b) In addition to the penalty provided in this section, the city may bring an appropriate action in the circuit court to enjoin any action undertaken by any person in violation of this chapter and to restore any property to its condition prior to such unauthorized action.

(Code 1996, § 2.120.140)

Sec. 54-5. - RELATION TO OTHER ORDINANCES AND LAWS.

- (a) *Building and zoning regulations.*

- (1) Nothing in this chapter is to be construed as repealing any requirement relating to the proper wiring, plumbing and construction of any building or structure, all work to be in conformity with the building codes and ordinances of the city as now in effect or as provided by ordinance. If such a permit would otherwise be required, an application for a building or demolition permit shall be submitted in conjunction with the application for a certificate of appropriateness.
- (2) In all zoning districts lying within the boundaries of an historic preservation district, the

regulations for both the zoning district and the historic preservation district shall apply. Whenever there is a conflict between the regulations of the zoning district and the regulations of the historic preservation district, the more restrictive shall apply.

(b) *Issuance of permits.* No building permit nor any demolition permit shall issue with respect to any property or improvement thereon which is subject to any provision of this chapter until the city council either accepts or rejects the recommendation(s) of the commission with respect to the subject property or improvement. Fees shall be waived for all building permits within a historic district.

(c) *Property rights.* Nothing in this chapter is intended to in any way deprive any property owner, legal or equitable, of any interest in such property. In interpreting and applying this chapter, the commission, the city council, and all courts of competent jurisdiction shall interpret and apply this chapter in conformity with the legislative intent set forth in this chapter.

(Code 1996, § 2.120.150)

Secs. 54-6—54-30. - RESERVED.

ARTICLE II. - HISTORIC PRESERVATION COMMISSION

[Sec. 54-31. - Organization; meetings; conflict of interest.](#)

[Sec. 54-32. - Powers and duties—Identification of landmarks and historic preservation districts.](#)

[Sec. 54-33. - Same—Landmarks.](#)

[Sec. 54-34. - Same—Historic preservation districts.](#)

[Secs. 54-35—54-60. - Reserved.](#)

Sec. 54-31. - ORGANIZATION; MEETINGS; CONFLICT OF INTEREST.

(a) There is created a historic preservation commission which shall consist of seven voting members, all of whom shall be residents of the city or own real estate therein. Commission members should be persons who have interest, knowledge or expertise in historic preservation or related fields. The mayor shall appoint, subject to council approval, historic preservation commission members who shall serve respectively for the following terms: three for one year; two for two years; and two for three years. The successor of each initial member so appointed shall serve for a term of three years. Vacancies shall be filled by the mayor, subject to confirmation by the city council, for the unexpired term. Members may serve for more than one term.

(b) The commission shall elect from its membership a chairperson and a secretary who shall serve for terms of one year. The chairperson shall not serve consecutive one-year terms. The chairperson shall preside over meetings. In the absence of the chairperson, the secretary shall perform the duties of the chairperson.

(c) A quorum shall consist of a majority of the voting membership. All recommendations to the city council shall be made by a majority vote of those members present at any meeting where a quorum exists.

(d) Meetings shall be held at regularly scheduled times in the city or at the call of the chairperson. Proceedings of each meeting shall be recorded by the secretary of the commission.

(e) No member of the commission shall vote on any matter that may materially or apparently affect the property, income or business interest of that member, or someone from that member's immediate family.

(Code 1996, § 2.100.010)

Sec. 54-32. - POWERS AND DUTIES—IDENTIFICATION OF LANDMARKS AND HISTORIC PRESERVATION DISTRICTS.

(a) The commission shall establish standards and criteria for identification of landmarks and historic preservation districts.

(b) The commission shall conduct, within the corporate limits of the city and the immediate surrounding area, a survey from which all buildings and structures shall be classified and designated on a historical and architectural building map to be reviewed and approved by the city council and made part of the official maps created and updated by the city. Such buildings and structures shall be divided into three categories, the first two of which are not mutually exclusive:

(1) Historically significant;

(2) Architecturally significant;

(3) Noncompatible building(s), structure(s) or object(s) which has (have) no historical and architectural significance.

(c) The office of the city clerk will be the depository for all maps and reports created by and for the commission. This historic preservation material shall be available to the public.

(d) The commission shall work for the continuing education of the citizens of the city with respect to the historical and architectural heritage of the city and the landmarks and historic preservation districts designated under the provisions of this chapter. It shall keep current and publish a register of landmarks and historic preservation districts.

(Code 1996, § 2.100.020)

Sec. 54-33. - SAME—LANDMARKS.

(a) The commission shall keep a register of all buildings, structures and objects within the corporate limits and immediate surrounding area of the city which have been designated a landmark as set forth by procedures in this chapter. This register will include the information required for each landmark designation and appropriate maps.

(b) The commission shall hold public hearings and make subsequent recommendations to the city council on applications for buildings and structures to be designated as landmarks within the corporate limits of the city. Designation is subject to the guidelines and procedures set forth by this chapter.

(c) The commission shall hold public hearings and make recommendations to the city council on all matters relating to certificates of appropriateness concerning landmarks under its jurisdiction subject to the standards set forth in this chapter.

(d) The commission shall act as a resource consultant for owners of designated landmarks. The commission will keep a file of architects, historians, preservationists and restorationists concerned with historic preservation.

(Code 1996, § 2.100.030)

Sec. 54-34. - SAME—HISTORIC PRESERVATION DISTRICTS.

- (a) The commission shall hold public hearings and make subsequent recommendations for areas within the corporate limit of the city to be designated as historic preservation districts, subject to the guidelines and procedures set forth by this chapter.
- (b) The commission shall keep a register of all areas within the corporate limits of the city which have been designated as historic preservation districts as set forth by the guidelines and procedures in this chapter. This register will include all information and reports required for district designation.
- (c) The commission, when dealing with certificates of appropriateness in historic preservation districts, shall:
 - (1) Review all applications for certificates of appropriateness according to the design criteria for that district; then
 - (2) Hold public hearings; then
 - (3) Make recommendations to the city council on all matters relating to the applications for certificates of appropriateness subject to the guidelines and procedures set forth in this chapter.
- (d) The commission shall assist citizens interested in historic preservation districts by:
 - (1) Maintaining a file of available architects, historians, preservationists and restorationists;
 - (2) Assisting in the preparation of applications for state and/or federal historic preservation grants;
 - (3) Providing information concerning the designation procedure of local historic preservation districts;
 - (4) Assisting in the preparation of information necessary for designation;
 - (5) Assisting in preparation for certificates of appropriateness. Any assistance is subject to the guidelines and procedures set forth by this chapter.

(Code 1996, § 2.100.040)

Secs. 54-35—54-60. - RESERVED.

ARTICLE III. - LANDMARKS

[Sec. 54-61. - Designation criteria.](#)

[Sec. 54-62. - Designation procedures.](#)

[Secs. 54-63—54-80. - Reserved.](#)

Sec. 54-61. - DESIGNATION CRITERIA.

- (a) Nominations shall be made to the commission on a form provided by the commission. A filing fee may be required.
- (b) The commission shall, upon such investigation as it deems necessary, make a preliminary determination as to whether a building, structure or area possesses the integrity of design, workmanship, materials, location, setting and feeling that meets one or more of the following criteria:
- (1) Significant value as part of the historic, heritage or cultural characteristics of the community, county, state or nation;
 - (2) Its identification with a person or persons who significantly contributed to the development of the community, county, state or country;
 - (3) Representative of the distinguishing characteristics of architecture inherently valuable for the study of a period, type, method of construction or use of indigenous materials;
 - (4) Notable work of a master builder, designer, architect or artist whose individual work has influenced the development of the community, county, state or country;
 - (5) Its unique location or singular physical characteristics make it an established or familiar visual feature;
 - (6) Its character as a particularly fine or unique example of a utilitarian structure, including but not limited to gas stations or other commercial structures, with a high level of integrity or architectural significance;
 - (7) Area that has yielded or may be likely to yield information important in history or prehistory.
- (c) A preliminary determination as to whether a building, structure, or area meets one or more of the foregoing criteria shall be made within 15 days of the filing of a nomination with the commission.

(Code 1996, § 2.120.040)

Sec. 54-62. - DESIGNATION PROCEDURES.

- (a) Any person, group of persons or association may request a historic landmark designation for any improvement within the corporate limits of the city which may have historic or architectural significance as set forth in this chapter. The secretary of the commission shall supply, upon request, the application forms. Completed forms shall be submitted to the secretary of the commission.
- (b) The commission shall thereafter notify the owner of such real property of the proposed designation. In the event that said owner shall refuse or decline to give his written consent to the proposed designation, the commission shall require a petition requesting this designation be submitted with a minimum of 25 signatures of real property owners or residents of the city.
- (c) Upon receipt of said application or petition, the secretary of the commission shall schedule a public hearing to be held within 60 days from the receipt of said application or petition, on the question of the proposed designation, setting forth a date, time and place and causing written notice to be given to the owner or any person having legal or equitable interest in said property being proposed for designation (not including people with a leasehold interest). The commission shall cause a legal notice to be

published in a newspaper of general circulation in the city setting forth the nature of the hearing, the property involved and the date, time and place of the scheduled meeting. Notice by publication shall be not more than 30 nor less than ten days prior to the scheduled hearing.

(d) During the public hearing, the commission shall review and evaluate the application or petition according to the criteria set forth in this chapter for landmarks.

(e) Following the public hearing, the secretary of the commission shall prepare the commission's evaluation, recommendation and all available information for submission to the city council.

(f) A simple majority vote by the city council is necessary for the approval of a landmark designation. If the corporate authorities approve the application or petition for designation, a notice will be sent to the property owner and recorded with the county recorder of deeds. If the city council deny the petition or application, no petitioner or applicant can file for landmark designation as to the same property for at least one year.

(g) The consideration period for landmark designation shall commence at the time of the submission of the application or petition to the secretary of the commission and continue until the final decision of the city council.

(Code 1996, § 2.120.050)

Secs. 54-63—54-80. - RESERVED.

ARTICLE IV. - HISTORIC PRESERVATION DISTRICT

[Sec. 54-81. - Designation criteria.](#)

[Sec. 54-82. - Designation procedure.](#)

[Secs. 54-83—54-100. - Reserved.](#)

Sec. 54-81. - DESIGNATION CRITERIA.

(a) The historic preservation district shall contain one or more landmarks along with such other buildings, places or areas within its definable geographic boundaries which, while not of such historic significance to be designated as landmarks, nevertheless contribute to the overall visual characteristics of the landmark or landmarks located in such district.

(b) The area designated as a historic preservation district shall contain buildings and improvements that have a significant historical and/or architectural character, and constitute a distinct section of the city.

(Code 1996, § 2.120.060)

Sec. 54-82. - DESIGNATION PROCEDURE.

(a) Any person, group of persons or association may request the designation of a historic preservation district by submitting to the secretary of the commission a petition for designation. This petition must include the following:

- (1) The signatures of the owners of not less than 60 percent of all tracts located within the boundaries of the proposed district in favor of designation;
 - (2) A map delineating the proposed boundaries;
 - (3) A visual presentation of the significant buildings and improvement contained in the area proposed for designation; and
 - (4) A written statement of significance setting forth the character of the area and reasons the proposed area should be designated an historic preservation district.
- (b) Upon receipt of this petition, the secretary of the commission shall:
- (1) Notify the commission of the need for a preliminary conference prior to a public hearing. The preliminary conference shall be held at the next regular meeting of the commission;
 - (2) Notify the park district and the city planning and zoning commission to separately review the area under consideration, in a manner they see fit, to assess any current proposals for that area by their respective organizations. The review of these organizations should be sent to the commission prior to the public hearing; and
 - (3) Notify the city building official to post a sign on the premises for which a petition for a historic preservation district is requested not less than ten days before the public hearing is called, giving notice of the proposed designation and the time, date and place of the hearing.
- (c) At the preliminary hearing the commission shall review the petition and any other matters pertinent to the hearing.
- (d) Upon the completion of the preliminary conference, the secretary of the commission shall schedule a public hearing to be held within 30 days from the completion of the preliminary conference, on the question of proposed district designation, setting forth a date, time and place and causing written notice to be given to the owners or any person(s) having a legal or equitable interest in said property being proposed for designation (not including people having a leasehold interest). The commission shall cause a legal notice to be published in a newspaper of general circulation in the city setting forth the nature of the hearing, the property involved and the date, time and place of the scheduled meeting. All notices hereunder shall be mailed or published not more than 30 nor less than ten days prior to the public hearing.
- (e) Following the public hearing, the secretary of the commission shall prepare the commission's evaluation, recommendation and all available information for submission to the city council.
- (f) At the next regularly scheduled meeting of the city council following the public hearing, the chairperson of the commission shall submit in writing the commission's evaluation, recommendation and all available information to the city clerk.
- (g) The city council may approve all or part of the area requested for designation, make boundary revisions or deny the petition. A simple majority vote by the city council is necessary for approval of the designation. If the city council approve the petition for designation, a notice will be sent to all property owners in the district, and recorded with the county recorder of deeds. If the city council deny the petition, no petitioner or applicant can file another petition for one year to the secretary of the commission as to the same area (or part thereof).

(h) The consideration period on the proposed historic preservation district shall commence at the submission of the petition to the secretary of the commission and continue until the city council decision on the petition.

(i) Any increase in the boundaries of an existing historic preservation district will require the same owner notification procedures, public hearings and council approval as provided heretofore for the original creation of such district.

(Code 1996, § 2.120.070; Ord. No. 08-3676, § 2 (Exh. B), 5-12-2008)

Secs. 54-83—54-100. - RESERVED.

ARTICLE V. - CERTIFICATE OF APPROPRIATENESS

Sec. 54-101. - Generally.

Sec. 54-102. - Application.

Sec. 54-103. - Criteria for granting certificates for landmarks.

Sec. 54-104. - Criteria for granting certificates in historic districts.

Sec. 54-105. - Finality of decision; appeals.

Sec. 54-106. - Demolition or removal of landmark, building or structure in historic preservation district.

Sec. 54-101. - GENERALLY.

(a) Actions for which required.

(1) A certificate of appropriateness, issued by the commission, shall be required before a landmark or any improvement within a historic preservation district is:

- a. Changed or modified;
- b. Reconstructed;
- c. Erected, wholly or in part;
- d. Moved; or
- e. Demolished, wholly or in part.

(2) No individual, group, organization or city department shall commence any action which is described in subsection (a)(1) of this section without first obtaining a certificate of appropriateness.

(3) A certificate of appropriateness shall be required for any action described in subsection (a)(1) of this section, even when the action does not require a building or demolition permit.

(4) Notwithstanding the foregoing, an exception shall be made to the requirement of a certificate of appropriateness if the applicant shows to the commission that a failure to grant the permit will cause an imminent threat to life, liberty or property or will cause great economic hardship to the applicant.

(5) The secretary of the interior's Standards for Rehabilitation as in effect from time to time are adopted as design guidelines to be considered by the commission in approving an application for a certificate of appropriateness. In order for a certificate of appropriateness to be issued, the applicant should substantially comply with these design standards.

(b) Exemptions. A certificate shall not be required for:

- (1) Any painting;
- (2) Maintenance and repairs;
- (3) Any other work that does not structurally expand or alter the principal building's appearance

visible from the street fronting the property.

(Code 1996, § 2.120.080)

Sec. 54-102. - APPLICATION.

(a) The application for the certificate of appropriateness, available from the city building inspector and returned to the city building inspector, shall include the following information:

- (1) Street address of property involved;
- (2) Legal description of property involved;
- (3) Brief description of the existing improvements situated on the property;
- (4) Detailed description of the construction, alteration, demolition or use proposed, together with any architectural drawings or sketches, if these services have been utilized by the applicant; and if not, a sufficient description of the construction, alteration, demolition and use to enable anyone to determine what the final appearance of the real estate will be;
- (5) Name of the property owner;
- (6) Name of the developer, if different from the owner;
- (7) Architect, if utilized or retained;
- (8) Each application shall be accompanied by such sketches, drawings, photographs, descriptions or other information not to exceed the size of 8½ by 14 inches, as may be reasonably required by the commission to make a decision.

(b) The city building inspector shall, within five working days, submit copies of the completed application for a certificate of appropriateness to the city engineer and the secretary of the commission.

(c) The application for a certificate of appropriateness shall be reviewed and approved or disapproved by the commission within 30 days following its receipt by the secretary of the commission from the building inspector.

(d) The secretary of the commission shall submit to the building inspector a current list from time to time of the landmarks and historical preservation districts within the city limits.

(Code 1996, § 2.120.090)

Sec. 54-103. - CRITERIA FOR GRANTING CERTIFICATES FOR LANDMARKS.

(a) If the commission finds that the activity proposed by the applicant:

- (1) Will not adversely affect the significant historical or architectural character cited in the application for landmark designation for this property and as called for by section 54-61(b); and
- (2) Is appropriate and consistent with the design criteria for landmarks as established by this chapter; or
- (3) Will remedy conditions imminently dangerous to life, health and property as determined in writing by the city building inspector;

then the commission shall issue a certificate of appropriateness.

(b) If the historical preservation commission finds the activity proposed by the applicant as not meeting any of the conditions set forth in subsections (a)(1)—(a)(3) of this section, then the commission shall recommend design changes and so advise the applicant, building inspector and city council of the recommendation.

(c) The secretary of the commission shall transmit to the owner a letter within five working days, stating the changes recommended by the commission. The applicant may accept the recommended changes or appeal to the city council.

(Code 1996, § 2.120.100)

Sec. 54-104. - CRITERIA FOR GRANTING CERTIFICATES IN HISTORIC DISTRICTS.

(a) The application for a certificate of appropriateness shall be reviewed by the commission not less than 30 days following its receipt by the secretary of the commission from the building inspector.

(b) If the commission finds that the activity proposed by the applicant:

(1) Will not adversely affect the significant historical or architectural character of the historic preservation district as set forth in the original petition for designation; and

(2) Is appropriate and consistent with the design criteria established for historic preservation districts as set forth in this chapter; or

(3) Will remedy conditions imminently dangerous to life, health or property as determined in writing by the building inspector;

then the commission shall issue a certificate of appropriateness.

(c) If the commission finds that activity proposed by the applicant as not meeting any of the conditions set forth in subsections (b)(1), (2) and (3) of this section, the commission shall recommend design changes and so advise the applicant and the building inspector in writing of the recommendation.

(d) The secretary of the commission shall transmit to the owner a letter within five working days, stating the changes recommended by the commission. The applicant may accept the recommended changes or appeal to the city council.

(Code 1996, § 2.120.110)

Sec. 54-105. - FINALITY OF DECISION; APPEALS.

(a) The applicant for said certificate may appeal to the city council. Such appeal must be filed with the city clerk within 15 days after notification to the applicant by the commission. The city council shall consider the appeal at the next regularly scheduled meeting of the city council. On appeal, a majority vote of the city council shall be sufficient to grant or deny a certificate of appropriateness.

(b) Where the commission has recommended the issuance of a certificate of appropriateness, this decision shall be final without further consideration by the city council.

(Code 1996, § 2.120.120)

Sec. 54-106. - DEMOLITION OR REMOVAL OF LANDMARK, BUILDING OR STRUCTURE IN HISTORIC PRESERVATION DISTRICT.

(a) The commission secretary shall notify the commission of any application for a certificate of appropriateness involving the demolition, partial demolition or removal of a building, structure or significant accessory structure; the commission shall schedule a public hearing within 30 days of the receipt of the application for a certificate of appropriateness for demolition or removal with proper notification through the newspaper, and shall notify the applicant in writing. At the hearing the commission shall request the following information:

- (1) A report from the building inspector on the state of repair and structural stability of the building or structure under consideration;
- (2) Information and graphics on the extent and process of demolition or removal, including information on any proposed changes in landscaping;
- (3) Evidence of any hardship that would result in substantial economic loss to the applicant from denial of the petition;
- (4) An assessment of any alterations in the essential character of the area which would occur as a result of demolition or removal action.

(b) If the commission disapproves demolition or removal, the commission shall notify the owner in writing to postpone the requested action and the commission shall explore alternatives to demolition or removal. Such alternatives may include consultation with civic groups, other public boards or agencies, and interested private citizens in an effort to find a persuasive means of preserving the building or structure. If sale of the property is considered a feasible alternative to the owner, the building must remain on the open market, depending on its classification, for the following lengths of time:

- (1) Historically and architecturally significant: six months;
- (2) Noncompatible: no waiting period.

(c) If, after a period not to exceed six months, no alternative agreement has been reached, the commission shall recommend issuance of a certificate of appropriateness for demolition or removal of the building or structure in question.

(d) In recommending to grant the certificate of appropriateness for demolition or removal of a building or structure, the commission shall recommend conditions necessary to minimize the adverse impact of the demolition or removal.

(Code 1996, § 2.120.130)

Chapters 55—57 - RESERVED

Chapter 58 - HUMAN RELATIONS

ARTICLE I. - IN GENERAL

ARTICLE II. - EQUAL HOUSING

ARTICLE I. - IN GENERAL

[Secs. 58-1—58-30. - Reserved.](#)

Secs. 58-1—58-30. - RESERVED.

ARTICLE II. - EQUAL HOUSING

Sec. 58-31. - Declaration of policy.

Sec. 58-32. - Definitions.

Sec. 58-33. - Unlawful practices.

Sec. 58-34. - Exemptions.

Sec. 58-35. - Complaint procedure.

Sec. 58-36. - Additional remedies.

Sec. 58-37. - Penalty.

Sec. 58-31. - DECLARATION OF POLICY.

It is declared to be the policy of the city in the exercise of its police power for the public safety, public health, and general welfare to assure equal opportunity to all persons to live in decent housing facilities regardless of race, color, religion, national origin, ancestry, age, sex, marital status, handicap, military status, or unfavorable discharge from military service as those terms are defined in 775 ILCS 5/1-103, and familial status, as defined in 775 ILCS 5/3-101(E), and, to that end, to prohibit discrimination in housing by any persons.

(Code 1996, § 2.115.010)

Sec. 58-32. - DEFINITIONS.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Discrimination or discriminatory housing practice means any difference in treatment based upon race, color, religion, national origin, ancestry, age, sex, marital status, handicap, military status, or unfavorable discharge from military service as those terms are defined in 775 ILCS 5/1-103, and familial status, as defined in 775 ILCS 5/3-101(E), or any act that is unlawful under this article.

Financial institution includes any bank, credit union, insurance company, mortgage banking company or savings and loan association which operates or has a place of business in this state.

Housing accommodation or dwelling means any improved or unimproved real property, or part thereof, which is used or occupied, or is intended, arranged or designed to be used or occupied, as the home or residence of one or more individuals.

Mortgage broker means an individual who is engaged in or who performs the business or services of a mortgage broker as the same are defined by statutes.

Open market means the market which is informed of the availability for sale, purchase, rental or lease of any housing accommodation, whether informed through a real estate broker or by advertising by publication, signs or by any other advertising methods directed to the public or any portion thereof, indicating that the property is available for sale, purchase, rental or lease.

Owner includes a lessee, sublessee, cotenant, assignee, managing agent or other person having the

right of ownership or possession, or the right to sell, rent or lease any housing accommodation.

Person includes individuals, children, firms, associations, joint adventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations and all other groups or combinations.

Real estate broker or real estate salesman means a person, whether licensed or not, who, for or with the expectation of receiving a consideration, lists, sells, purchases, exchanges, rents, or leases real property, or who negotiates or attempts to negotiate any of these activities, or who holds himself out as engaged in these.

Real property includes buildings, structures, lands, tenements, leaseholds, cooperatives and condominiums.

(Code 1996, § 2.115.020)

Sec. 58-33. - UNLAWFUL PRACTICES.

In connection with any of the transactions set forth in this section which affect any housing accommodation on the open market, or in connection with any public sale, purchase, rental or lease of any housing accommodation, it shall be unlawful within the city for a person, owner, financial institution, real estate broker or real estate salesman, or any representative of the above, to, on account of race, color, religion, national origin, ancestry, age, sex, marital status, handicap, military status, or unfavorable discharge from military service as those terms are defined in 775 ILCS 5/1-103, and familial status, as defined in 775 ILCS 5/3-101(E):

- (1) To refuse to sell, purchase, rent or lease, or deny to or withhold any housing accommodation from a person;
- (2) To discriminate against a person in the terms, conditions or privileges of the sale, purchase, rental or lease of any housing accommodation, or in the furnishing of facilities or services in connection therewith;
- (3) To refuse to receive or transmit a bona fide offer to sell, purchase, rent or lease any housing accommodation from or to a person;
- (4) To represent to a person that any housing is not available for inspection, sale, purchase, rental or lease when in fact it is so available, or to refuse to permit a person to inspect any housing accommodation;
- (5) To make, publish, print, circulate, post or mail, or cause to be made, published, printed, circulated, posted or mailed, any notice, statement or advertisement, or to announce a policy, or to sign or to use a form of application for the sale, purchase, rental, lease or financing of any housing with the prospective sale, purchase, rental, lease or financing of any housing accommodation, or to make a record of inquiry in connection with the prospective sale, purchase, rental, lease or financing of any housing accommodation, which indicates any discrimination or any intent to discriminate;
- (6) To offer, solicit, accept or use a listing of any housing accommodation for sale, purchase, rental or lease with the understanding that a person may be subjected to discrimination in connection with such sale, purchase, rental or lease, or in the furnishing of facilities or services in connection therewith;
- (7) To induce directly or indirectly, or attempt to induce directly or indirectly, the sale, purchase,

rental or lease, or the listing for any of the above, of any housing accommodation by representing that the presence or anticipated presence of persons of any particular race, color, religion, sex or national origin, ancestry, marital status, familial status, handicap, or place of birth in the area to be affected by such sale, purchase, rental or lease will or may result in either:

- a. The lowering of property values in the area;
- b. An increase in criminal or antisocial behavior in the area; or
- c. A decline in the quality of schools serving the area;

(8) To make any misrepresentations concerning the listing for sale, purchase, rental or lease, or the anticipated listing for any of the above, or the sale, purchase, rental or lease of any housing accommodation in any area in the city for the purpose of inducing or attempting to induce, the sale, purchase, rental or lease, or the listing for any of the above, of any housing accommodation;

(9) To retaliate or discriminate in any manner against a person because he has opposed a practice declared unlawful by this article, or because he has filed a complaint, testified, assisted or participated in any manner in any investigation, proceeding, hearing or conference under this article;

(10) To aid, abet, incite, compel or coerce any person to engage in any of the practices prohibited by this article; or to obstruct or prevent any person from complying with the provisions of this article or any order issued thereunder;

(11) By canvassing, to commit any unlawful practices prohibited by this article;

(12) Otherwise to deny to or withhold any housing accommodation from a person;

(13) For any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists, in whole or in part, in the making of commercial real estate loans, to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing or maintaining a dwelling, or to discriminate against him in the fixing of the amount, interest rate, duration, or other terms or conditions of such loans or other financial assistance, because of the race, color, religion, sex, national origin, ancestry, marital status, familial status, handicap, or place of birth of such person or of any person associated with him in connection with such loan or other financial assistance or the purposes of such loan or other financial assistance or of the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or given; or

(14) To deny any qualified person access to or membership or participation in any multiple-listing service, real estate brokers' organization, or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions of such access, membership, or participation.

(Code 1996, § 2.115.030)

Sec. 58-34. - EXEMPTIONS.

This article shall not apply to:

- (1) *Private sales of single-family homes.* Any sale of a single-family home by its owner so long as

the following criteria are met:

- a. The owner does not own or have a beneficial interest in more than three single-family homes at the time of the sale;
 - b. The owner or a member of his family was the last current resident of the home;
 - c. The home is sold without the use in any manner of the sales or rental facilities or services of any real estate broker or salesman, or of any employee or agent of any real estate broker or salesman;
 - d. The home is sold without the publication, posting or mailing, after notice, of any advertisement or written notice in violation of 775 ILCS 5/3-102(F).
- (2) *Apartments*. Rental of a housing accommodation in a building which contains housing accommodations for not more than five families living independently of each other, if the lessor or a member of his family resides in one of the housing accommodations.
- (3) *Private rooms*. Rental of a room or rooms in a private home by an owner if he or a member of his family resides therein or, while absent for a period of not more than 12 months, if he or a member of his family intends to return to reside therein.
- (4) *Occupancy restrictions*. Reasonable local, state, or federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling.
- (5) *Religious organizations*. A religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of a dwelling which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, or national origin.
- (6) *Sex*. Restricting the rental of rooms in a housing accommodation to persons of one sex.
- (7) *Persons convicted of drug-related offenses*. Conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined in section 102 of the federal Controlled Substances Act (21 USC 802).
- (8) *Appraisers*. Persons engaged in the business of furnishing appraisals of real property from taking into consideration factors other than those based on unlawful discrimination or familial status in furnishing appraisals.
- (9) *Housing for older persons*. No provision in this article regarding familial status shall apply with respect to housing for older persons.
- a. As used in this section, "housing for older persons" means housing:
 1. Provided under any state or federal program that the state department of human rights determines is specifically designed and operated to assist elderly persons (as defined in the state or federal program);

2. Intended for, and solely occupied by, persons 62 years of age or older; or
3. Intended and operated for occupancy by persons 55 years of age or older and:
 - i. At least 80 percent of the occupied units are occupied by at least one person who is 55 years of age or older;
 - ii. The housing facility or community publishes and adheres to policies and procedures that demonstrate the intent required under this subsection 3; and
 - iii. The housing facility or community complies with rules adopted by the department for verification of occupancy, which shall provide for verification by reliable surveys and affidavits, and include examples of the types of policies and procedures relevant to a determination of compliance with the requirement of subsection ii. above. These surveys and affidavits shall be admissible in administrative and judicial proceedings for the purposes of such verification.
- b. Housing shall not fail to meet the requirements for housing for older persons by reason of:
 1. Persons residing in such housing as September 11, 1989, who do not meet the age requirements of subsection a.2 or 3 of this subsection; provided that new occupants of such housing meet the age requirements of subsection a.2 or 3 of this subsection; or
 2. Unoccupied units; provided that such units are reserved for occupancy by persons who meet the age requirements of subsection a.2 or 3 of this subsection.
- c. A person shall not be held personally liable for monetary damages for a violation of this article if the person reasonably relied, in good faith, on the application of the exemption under this subsection (9) relating to housing for older persons. For the purposes of this subsection c, a person may show good faith reliance on the application of the exemption only by showing that:
 1. The person has no actual knowledge that the facility or community is not, or will not be, eligible for the exemption; and
 2. The facility or community has stated formally, in writing, that the facility or community complies with the requirements for the exemption.

(Code 1996, § 2.115.040)

Sec. 58-35. - COMPLAINT PROCEDURE.

Any person aggrieved by an unlawful practice prohibited by this article may file a complaint with the city manager within 30 days after the aggrieved person becomes aware of the alleged unlawful practice, and in no event more than 60 days after the alleged unlawful practice occurred. The city attorney or his duly authorized representative shall investigate each complaint and attempt to resolve each complaint. Failure to achieve a resolution acceptable to both parties and compliance with this article shall be reported to the city council in accordance with the provisions set forth in this Code, and the council shall take such further action as it deems appropriate.

(Code 1996, § 2.115.050)

Sec. 58-36. - ADDITIONAL REMEDIES.

Nothing contained in this article shall prevent any person from exercising any right or seeking any remedy to which he might otherwise be entitled or from filing his complaint with any appropriate governmental agency.

(Code 1996, § 2.115.060)

Sec. 58-37. - PENALTY.

Any person violating any provision of this article shall, upon conviction thereof, be punished as provided by law.

(Code 1996, § 2.115.070)

Chapters 59—61 - RESERVED

Chapter 62 - LAW ENFORCEMENT

ARTICLE I. - IN GENERAL
ARTICLE II. - POLICE DEPARTMENT
ARTICLE III. - CITY JAIL

ARTICLE I. - IN GENERAL

[Secs. 62-1—62-30. - Reserved.](#)

Secs. 62-1—62-30. - RESERVED.

ARTICLE II. - POLICE DEPARTMENT ^[6]

⁽⁶⁾ **State Law reference—** Police generally, 65 ILCS 5/11-1-1 et seq.; board of fire and police commissioners, 65 ILCS 5/10-2.1-1 et seq.; Illinois Police Training Act, 50 ILCS 705/1 et seq.; Peace Officer Firearm Training Act, 50 ILCS 710/0.01 et seq.; Intergovernmental Law Enforcement Officer's In-Service Training Act, 50 ILCS 720/1 et seq.

[Sec. 62-31. - Created; composition.](#)
[Sec. 62-32. - Residency requirements.](#)
[Sec. 62-33. - Duties generally.](#)
[Sec. 62-34. - Powers and duties of chief; assistance by other law enforcement agencies.](#)
[Sec. 62-35. - Custody of lost or stolen property.](#)
[Sec. 62-36. - Rules and regulations.](#)
[Sec. 62-37. - Members appearing as witness.](#)
[Sec. 62-38. - Pension fund established.](#)
[Sec. 62-39. - Pension fund board of trustees.](#)
[Sec. 62-40. - Deposits to pension fund.](#)
[Secs. 62-41—62-60. - Reserved.](#)

Sec. 62-31. - CREATED; COMPOSITION.

There is created a police department, which shall consist of the chief of police, deputy chief of police, and such number of police officers and civilian employees as may be provided from time to time by the city council.

(Code 1996, § 2.45.010)

Sec. 62-32. - RESIDENCY REQUIREMENTS.

There shall be no residency requirements to be eligible to take an examination for original appointment to the police department; however, on appointment, the employee will be required to meet the applicable

residency requirements as prescribed by union contract.

(Code 1996, § 2.45.020)

Sec. 62-33. - DUTIES GENERALLY.

It shall be the duty of the members of the police department to see to the enforcement of all of the ordinances of the city and all applicable statutes in this Code and to preserve order and prevent infractions of the law and arrest violators thereof.

(Code 1996, § 2.45.030)

Sec. 62-34. - POWERS AND DUTIES OF CHIEF; ASSISTANCE BY OTHER LAW ENFORCEMENT AGENCIES.

(a) The chief of police shall be the keeper of the city jail, and shall have custody of all persons incarcerated therein. He shall keep such records and make such reports concerning the activities of his department as may be required by statute or by the city council. The chief shall be responsible for the performance by the police department of all its functions, and all persons who are members of the department shall serve subject to the orders of the chief of police.

(b) In the event that occasions arise that are beyond the capability of regular city police, outside law enforcement agencies shall be called for assistance.

(Code 1996, § 2.45.040)

Sec. 62-35. - CUSTODY OF LOST OR STOLEN PROPERTY.

The chief of police shall be the custodian of all lost and abandoned or stolen property in the city.

(Code 1996, § 2.45.050)

Sec. 62-36. - RULES AND REGULATIONS.

The chief of police may make or prescribe such rules and regulations for the conduct and guidance of the members of the police department as he shall deem advisable, and such rules, when approved by the city manager, shall be binding on such members.

(Code 1996, § 2.45.060)

Sec. 62-37. - MEMBERS APPEARING AS WITNESS.

Any member of the police department shall appear as witness whenever it is necessary in a prosecution for a violation of an ordinance or of any state or federal law. No such member shall retain any witness fee for service as witness in any action or suit to which the city is a party, and fees paid for such services shall be turned over to the chief of police, who shall deposit the same with the city treasurer.

(Code 1996, § 2.45.070)

Sec. 62-38. - PENSION FUND ESTABLISHED.

There shall be a pension fund established in the municipality, as provided by 40 ILCS 5/3-101.

(Code 1996, § 2.45.080)

Sec. 62-39. - PENSION FUND BOARD OF TRUSTEES.

The board of trustees of the fund established by section 62-38 shall consist of five members, two appointed by the mayor, two elected from the active participants of the pension fund by such active participants, and one elected by and from the beneficiaries of the pension fund. The elections shall be held on the third Monday in April, and the term of each member shall be two years. The pension board shall meet at least quarterly as provided by law, and shall hold such additional meetings as may be called by the president of the pension board.

(Code 1996, § 2.45.090)

Sec. 62-40. - Deposits to pension fund.

There shall be deposited in the pension fund the sums required by law.

(Code 1996, § 2.45.100)

Secs. 62-41—62-60. - RESERVED.

ARTICLE III. - CITY JAIL

Sec. 62-61. - Established.
Sec. 62-62. - Duties of chief of police.
Sec. 62-63. - Use.
Sec. 62-64. - Communicating with prisoners.

Sec. 62-61. - ESTABLISHED.

The place in the city heretofore established and used as the jail, or any other place which may be hereafter established by the city council for that purpose, is the city jail.

(Code 1996, § 9.100.010)

Sec. 62-62. - DUTIES OF CHIEF OF POLICE.

The chief of police shall be the keeper of the jail and shall have custody over all persons confined in the jail and of all property pertaining to the jail.

(Code 1996, § 9.100.020)

Sec. 62-63. - USE.

The jail shall be used for incarceration of all persons arrested for violating any laws of the state, or the United States, or for violating any city ordinances, until such person is lawfully brought before a magistrate for a hearing or until such person is lawfully transferred to some other place of incarceration or otherwise lawfully released.

(Code 1996, § 9.100.030)

Sec. 62-64. - COMMUNICATING WITH PRISONERS.

It is unlawful for any person to communicate with any prisoner held in the jail without the permission of the chief of police.

(Code 1996, § 9.100.040)

Chapters 63—65 - RESERVED

Chapter 66 - OFFENSES AND MISCELLANEOUS PROVISIONS

ARTICLE I. - IN GENERAL
ARTICLE II. - OFFENSES AGAINST PUBLIC ADMINISTRATION
ARTICLE III. - OFFENSES AGAINST PROPERTY
ARTICLE IV. - OFFENSES AGAINST PUBLIC PEACE
ARTICLE V. - ABANDONED ICEBOXES OR REFRIGERATORS
ARTICLE VI. - MINORS
ARTICLE VII. - WEAPONS
ARTICLE VIII. - PENAL CODE

ARTICLE I. - IN GENERAL

[Secs. 66-1—66-30. - Reserved.](#)

Secs. 66-1—66-30. - RESERVED.

ARTICLE II. - OFFENSES AGAINST PUBLIC ADMINISTRATION

[Sec. 66-31. - Interfering with officers.](#)
[Secs. 66-32—66-60. - Reserved.](#)

Sec. 66-31. - INTERFERING WITH OFFICERS.

It is unlawful to knowingly interfere with or hinder any officer or employee of the city while engaged in the duties of his office or employment.

(Code 1996, § 9.05.010)

Secs. 66-32—66-60. - RESERVED.

ARTICLE III. - OFFENSES AGAINST PROPERTY

[Sec. 66-61. - Injuring, defacing or interfering with city property.](#)
[Secs. 66-62—66-90. - Reserved.](#)

Sec. 66-61. - INJURING, DEFACING OR INTERFERING WITH CITY PROPERTY.

It is unlawful to injure, deface or interfere with any property belonging to the city without proper authority from the council.

(Code 1996, § 9.50.010)

Secs. 66-62—66-90. - Reserved.

ARTICLE IV. - OFFENSES AGAINST PUBLIC PEACE

DIVISION 1. - GENERALLY

DIVISION 2. - NOISE

DIVISION 3. - DISORDERLY CONDUCT

DIVISION 4. - DISTURBING LAWFUL ASSEMBLY

DIVISION 5. - UNLAWFUL ASSEMBLY

DIVISION 1. - GENERALLY

[Secs. 66-91—66-110. - Reserved.](#)

Secs. 66-91—66-110. - RESERVED.

DIVISION 2. - NOISE

[Sec. 66-111. - Prohibited noise generally.](#)

[Sec. 66-112. - Specific noises prohibited.](#)

[Sec. 66-113. - Use of loudspeakers or amplifiers.](#)

[Sec. 66-114. - Penalty.](#)

[Secs. 66-115—66-140. - Reserved.](#)

Sec. 66-111. - PROHIBITED NOISE GENERALLY.

It is unlawful for any person to make, continue or cause to be made or continued any loud, unnecessary or unusual noise, or any noise which annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the limits of the city.

(Code 1996, § 9.30.010)

Sec. 66-112. - SPECIFIC NOISES PROHIBITED.

The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation

of this division, but this enumeration shall not be deemed to be exclusive:

(1) *Horns, signaling devices, etc.* The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle on any street or public place of the city, except as a danger warning; the creation by means of any such signaling device of any unreasonable loud or harsh sound; the sounding of any such device for an unnecessary and unreasonable period of time; the use of any signaling device except one operated by hand or electricity; the use of any horn, whistle or other device operated by engine exhaust; and the use of any such signaling device when traffic is for any reason held up.

(2) *Radios, phonographs, etc.* The using, operating, or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph or other machine or device for the producing or reproduction of sound, in such a manner as to disturb the peace, quiet and comfort of the neighboring inhabitants, or at any time with louder volume than is necessary for convenient hearing for the persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine or device between the hours of 11:00 p.m. and 7:00 a.m., in such a manner as to be plainly audible at a distance of 50 feet from the building, structure or vehicle in which it is located, shall be prima facie evidence of a violation of this section.

(3) *Use of loudspeakers or amplifiers for advertising.* The using, operating or permitting to be played, used or operated of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure.

(4) *Yelling, shouting, etc.* Yelling, shouting, hooting, whistling or singing in the public streets, particularly between the hours of 11:00 p.m. and 7:00 a.m., or at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any office or in any dwelling, hotel or other type of residence, or of any persons in the vicinity.

(5) *Defect in vehicle or load.* The use of any automobile, motorcycle or vehicle so out of repair, so loaded, or in such manner as to create loud and unnecessary grating, grinding, rattling or other noise.

(6) *Construction or repairing of buildings.* The erection (including excavating), demolition, alteration or repair of any building, other than between the hours of 7:00 a.m. and 6:00 p.m. on weekdays, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the building inspector, which permit may be granted for a period not to exceed three days, or less, while the emergency continues, and which permit may be renewed for periods of three days or less while the emergency continues. If the building inspector should determine that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building or the excavation of streets and highways within the hours of 6:00 p.m. and 7:00 a.m., and if he should further determine that loss or inconvenience would result to any party in interest, he may grant permission for such work to be done within the hours of 6:00 p.m. and 7:00 a.m., upon application being made at the time the permit for the work is awarded or during the progress of the work.

(7) *Creation of noise near schools, courts, churches and hospitals.* The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while the same is in use, or adjacent to any hospital, which unreasonably interferes with the workings of such

institution, or which disturbs or unduly annoys patients in the hospital; provided, that conspicuous signs are displayed in such street indicating that the same is a school, hospital, church or court street.

(8) *Hawkers and peddlers*. The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood.

(9) *Drums*. The use of any drum, or other instrument or device for the purpose of attracting attention, by creation of noise, to any performance, show or sale.

(10) *Piledrivers, hammers, etc.* The operation between the hours of 10:00 p.m. and 7:00 a.m. of any piledriver, steam shovel, pneumatic hammer, derrick, steam or electric hoist, or other appliance the use of which is attended by loud or unusual noise.

(Code 1996, § 9.30.020)

Sec. 66-113. - USE OF LOUDSPEAKERS OR AMPLIFIERS.

No person shall cause or permit to be emanated or emitted from any loudspeaker or amplifying device any obscene language, as defined in 720 ILCS 5/11-20(b), or sounds, or any false representation of any matter, produce or project advertised thereby, the sale of which is prohibited by any law or ordinance.

(Code 1996, § 9.30.030)

Sec. 66-114. - PENALTY.

A penalty as provided in section 1-15 of this Code shall be imposed on violators of this division.

(Ord. No. 03-3205, § 4(9.30.040), 11-24-2003)

Secs. 66-115—66-140. - RESERVED.

DIVISION 3. - DISORDERLY CONDUCT

[Sec. 66-141. - Generally.](#)

[Sec. 66-142. - Fireworks.](#)

[Sec. 66-143. - Public urination.](#)

[Sec. 66-144. - Swimming in Flagg Road Quarry.](#)

[Secs. 66-145—66-160. - Reserved.](#)

Sec. 66-141. - GENERALLY.

A person commits disorderly conduct, which is hereby prohibited, when he knowingly:

(1) Does any act in such unreasonable manner as to alarm or disturb another and to provoke a breach of the peace;

(2) Transmits or causes to be transmitted in any manner to the fire department of any city, town, village or fire protection district a false alarm of fire, knowing at the time of such transmission that

there is no reasonable ground for believing that such fire exists;

(3) Transmits or causes to be transmitted in any manner to another a false alarm to the effect that a bomb or other explosive of any nature or a container holding poison gas, a deadly biological or chemical contaminant, or radioactive substance is concealed in such place that its explosion or release would endanger human life, knowing at the time of such transmission that there is no reasonable ground for believing that such bomb, explosive or a container holding poison gas, a deadly biological or chemical contaminant, or radioactive substance is concealed in such place;

(4) Transmits or causes to be transmitted in any manner to any peace officer, public officer or public employee a report to the effect that an offense will be committed, is being committed, or has been committed, knowing at the time of such transmission that there is no reasonable ground for believing that such an offense will be committed, is being committed, or has been committed;

(5) Enters upon the property of another and for a lewd or unlawful purpose deliberately looks into a dwelling on the property through any window or other opening in it;

(6) While acting as a collection agency as defined in the Collection Agency Act, or as an employee of such collection agency, and while attempting to collect an alleged debt, makes a telephone call to the alleged debtor which is designed to harass, annoy or intimidate the alleged debtor;

(7) Transmits or causes to be transmitted a false report to the state department of children and family services under section 4 of the Abused and Neglected Child Reporting Act;

(8) Transmits or causes to be transmitted a false report to the department of public health under the Nursing Home Care Act;

(9) Transmits or causes to be transmitted in any manner to the police department or fire department of any municipality or fire protection district, or any privately owned and operated ambulance service, a false request for an ambulance, emergency medical technician/ambulance or emergency medical technician/paramedic knowing at the time there is no reasonable ground for believing that such assistance is required;

(10) Transmits or causes to be transmitted a false report under article II of An Act in Relation to Victims of Violence and Abuse, approved September 16, 1984, as amended;

(11) Transmits or causes to be transmitted a false report to any public safety agency without the reasonable grounds necessary to believe that transmitting such a report is necessary for the safety and welfare of the public; or

(12) Calls the number 911 for the purpose of making or transmitting a false alarm or complaint and reporting information when, at the time the call or transmission is made, the person knows there is no reasonable ground for making the call or transmission and further knows that the call or transmission could result in the emergency response of any public safety agency.

(Code 1996, §§ 9.15.010, 9.25.010, 9.35.010)

State law reference— Similar provisions, 720 ILCS 5/26-1.

Sec. 66-142. - FIREWORKS.

(a) *Definition.* As used in this section, the term "fireworks" shall mean and include any explosive

composition, or any substance or combination of substances, or article prepared for the purpose of producing a visible or audible effect of a temporary exhibitional nature by explosion, combustion, deflagration or detonation, and shall include blank cartridges, toy cannons in which explosives are used, firecrackers, torpedoes, skyrockets, Roman candles, bombs, or other fireworks of like construction and any fireworks containing any explosive compound, or any tablets or other device containing any explosive substance, or containing combustible substances producing visual effects: provided, however, that the term "fireworks" shall not include snake or glow worm pellets; smoke devices; trick noisemakers known as "party poppers," "booby traps," "snappers," "trick matches," "cigarette loads" and "auto burglar alarms"; sparklers; toy pistols, toy canes, toy guns, or other devices in which paper or plastic caps containing 0.25 grains or less of explosive compound are used, providing they are so constructed that the hand cannot come in contact with the cap when in place for the explosion; and toy pistol paper or plastic caps which contain less than 0.25 grains of explosive mixture; the sale and use of which shall be permitted at all times.

(b) *Sale, use or explosion restricted; public displays.*

(1) *Prohibited acts.* It shall be unlawful for any person, firm or other business to knowingly possess, offer for sale, expose for sale, sell at retail, or use or explode any fireworks which contain more than 0.25 grains of explosive mixture. Any person, firm or business which offers fireworks for sale shall provide documentation to the city that the fireworks being sold contain less than 0.25 grains of explosive mixture. If said documentation is not provided, the sale of such fireworks shall not be permitted.

(2) *Public displays.* A supervised public display of fireworks containing more than 0.25 grains of explosive mixture shall be allowed by permit from the city upon proof that the persons or entities involved in the public display of fireworks are licensed or certified as required by the state together with a proposal to the city manager setting forth the types of fireworks to be displayed, location of display, and safety precautions so as not to endanger property or other persons.

(3) *Possession.* Possession of fireworks by any person holding a certificate of registration under The Fireworks Regulation Act of Illinois, 425 ILCS 30/1 et seq., or by any employee or agent of such party or by any person transporting fireworks for such party, shall not be a violation.

(c) *Penalty.* The penalties for violation of subsection (b) of this section are as follows: confiscation of all illegal fireworks together with a monetary fine as follows:

(1) *First offense.* The first offense shall be punishable by a fine of \$25.00.

(2) *Subsequent offenses.* Subsequent offenses will require a mandatory court appearance and will be charged as a violation of city ordinance with a possible fine up to \$750.00.

(Code 1996, §§ 9.35.020—9.35.040)

Sec. 66-143. - PUBLIC URINATION.

(a) *Prohibited.* It shall be unlawful for any person to urinate upon any public street, right-of-way, sidewalk, alley, or city park, or upon any private yard, driveway, parking area or porch or other privately owned property, within public view. This section shall not prohibit use of public restroom facilities or temporary restroom facilities installed or placed on public or private property.

(b) *Penalty.* A person convicted of a violation of this section shall be fined not less than \$75.00 nor more than \$750.00.

(Ord. No. 04-3233, § 2(9.35.050, 9.35.060), 4-26-2004)

Sec. 66-144. - SWIMMING IN FLAGG ROAD QUARRY.

(a) *Prohibited.* It shall be unlawful for any person to swim in, or otherwise enter into or go upon the water at the abandoned quarry located south of Flagg Road and east of Illinois Route 251.

(b) *Penalty.* A penalty of \$50.00 shall be assessed to violators of this section if payment is made within ten days of the violation, after which date a violation of this section shall result in a fine of not less than \$75.00 and not more than \$750.00. In addition, the provisions relating to court supervision contained in section 1-14 shall apply.

(Ord. No. 08-3746, 10-14-2008)

Secs. 66-145—66-160. - RESERVED.

DIVISION 4. - DISTURBING LAWFUL ASSEMBLY

[Sec. 66-161. - Prohibited.](#)

[Secs. 66-162—66-180. - Reserved.](#)

Sec. 66-161. - PROHIBITED.

It is unlawful for any person to disturb any lawful assemblage or gathering in the city.

(Code 1996, § 9.40.010)

Secs. 66-162—66-180. - Reserved.

DIVISION 5. - UNLAWFUL ASSEMBLY

[Sec. 66-181. - Prohibited.](#)

[Secs. 66-182—66-240. - Reserved.](#)

Sec. 66-181. - PROHIBITED.

It is unlawful to collect, gather or be a member of any disorderly crowd or of any crowd gathered together for any unlawful purpose.

(Code 1996, § 9.45.010)

Secs. 66-182—66-240. - RESERVED.

ARTICLE V. - ABANDONED ICEBOXES OR REFRIGERATORS

Sec. 66-241. - Prohibited acts.

Secs. 66-242—66-270. - Reserved.

Sec. 66-241. - PROHIBITED ACTS.

It is unlawful for any person to abandon or discard, in any place accessible to children, any icebox, refrigerator or ice chest of a capacity of 1½ cubic feet or more which has an attached lid or door which may be opened or fastened shut by means of an attached latch; or for any person being the owner, lessee or manager of such a place to knowingly permit such abandoned or discarded icebox, refrigerator or ice chest to remain there in such condition.

(Code 1996, § 8.25.010)

Secs. 66-242—66-270. - RESERVED.

ARTICLE VI. - MINORS

DIVISION 1. - GENERALLY

DIVISION 2. - ALCOHOL POSSESSION AND CONSUMPTION

DIVISION 3. - CURFEW

DIVISION 4. - TOBACCO POSSESSION AND CONSUMPTION

DIVISION 1. - GENERALLY

Secs. 66-271—66-290. - Reserved.

Secs. 66-271—66-290. - RESERVED.

DIVISION 2. - ALCOHOL POSSESSION AND CONSUMPTION

Sec. 66-291. - Possession.

Sec. 66-292. - Consumption.

Sec. 66-293. - Penalty.

Secs. 66-294—66-320. - Reserved.

Sec. 66-291. - POSSESSION.

The possession of alcoholic liquor by a person under the age of 21 years is prohibited, except in the performance of a religious service or ceremony, or under the direct supervision and approval of a parent of the minor or a person standing in loco parentis of the minor, in the privacy of a home.

(Code 1996, § 9.55.010)

Sec. 66-292. - CONSUMPTION.

The consumption of alcoholic liquor by a person under the age of 21 years is prohibited, except in the performance of a religious service or ceremony, or under the direct supervision and approval of a parent of the minor or a person standing in loco parentis of the minor, in the privacy of a home.

(Code 1996, § 9.55.020)

Sec. 66-293. - PENALTY.

A violation of this division shall be punishable as provided in section 1-15 of this Code. In addition, the provisions relating to court supervision, contained in section 1-13, and probation, contained in section 1-14, shall apply.

(Code 1996, § 9.55.030)

Secs. 66-294—66-320. - RESERVED.**DIVISION 3. - CURFEW**

[Sec. 66-321. - Established; defenses.](#)

[Sec. 66-322. - Penalty.](#)

[Secs. 66-323—66-340. - Reserved.](#)

Sec. 66-321. - ESTABLISHED; DEFENSES.

(a) It is unlawful for a person less than 17 years of age to be present at or upon any public assembly, building, place, street or highway at the following times:

- (1) Between 12:01 a.m. and 6:00 a.m. Saturday;
- (2) Between 12:01 a.m. and 6:00 a.m. Sunday;
- (3) Between 11:00 p.m. on Sunday to Thursday, inclusive, and 6:00 a.m. on the following day.

(b) It is a defense to a violation under this division that the person engaged in the prohibited conduct while:

- (1) Engaged in a business or occupation which the laws of the state authorize a person less than 17 years of age to perform.

- (2) Accompanied by the child's parent, legal guardian, custodian, sibling, stepbrother or stepsister at least 18 years of age.
- (3) Accompanied by an adult at least 18 years of age approved by the child's parent, guardian, or custodian.
- (4) Participating in, going to, or returning from:
 - a. Employment which the law of this state authorizes a person less than 17 years of age to perform;
 - b. A school recreational activity;
 - c. A religious event;
 - d. An emergency involving the protection of a person or property from an imminent threat of serious bodily injury or substantial damage;
 - e. An activity involving the exercise of the person's rights protected under the First Amendment to the United States Constitution or article 1, sections 3, 4 and 5 of the state constitution, or both;
 - f. An activity conducted by a nonprofit or governmental entity that provides recreation, education, training or other care under the supervision of one or more adults.

A citation for a violation of subsection (a) of this section may be issued by a police officer only if he reasonably believes that a violation has occurred and that none of the defenses enumerated in subsection (b) of this section apply.

(c) It is unlawful for a parent, legal guardian or other person to knowingly permit a person in his custody or control to violate subsection (a) of this section.

(Code 1996, § 9.55.030; Ord. No. 04-3231, 4-26-2004)

State law reference— Similar provisions, 720 ILCS 555/1.

Sec. 66-322. - PENALTY.

A person convicted of a violation of any provision of this division shall be subject to punishment as provided in section 1-15 of this Code. In addition, the provisions relating to court supervision contained in section 1-13 and probation contained in section 1-14 shall apply.

(Code 1996, § 9.60.020)

Secs. 66-323—66-340. - RESERVED.

DIVISION 4. - TOBACCO POSSESSION AND CONSUMPTION

[Sec. 66-341. - Prohibited.](#)

[Sec. 66-342. - Penalty.](#)

[Secs. 66-343—66-370. - Reserved.](#)

Sec. 66-341. - PROHIBITED.

- (a) It is unlawful for any person under the age of 18 years to smoke, use, chew, or in any other matter consume any tobacco product.
- (b) It is unlawful to sell or give any tobacco product to any person under the age of 18 years old.
- (c) It is unlawful for any person under the age of 18 years to possess any tobacco products; provided that the possession by a person under the age of 18 years under the direct supervision of the parent or guardian of such person in the privacy of the parent's or guardian's home shall not be prohibited.

(Code 1996, § 9.65.010)

Sec. 66-342. - PENALTY.

A penalty of \$50.00 shall be assessed to violators of this division if payment is made within ten days of the violation, after which date a violation of this division shall result in a fine of not less than \$75.00 and not more than \$750.00. In addition, the provisions relating to court supervision contained in section 1-14 shall apply.

(Code 1996, § 9.65.020; Ord. No. 03-3205, § 5(9.65.020), 11-24-2003)

Secs. 66-343—66-370. - RESERVED.

ARTICLE VII. - WEAPONS

[Sec. 66-371. - Discharge of firearm or airgun.](#)

[Sec. 66-372. - Hunting.](#)

[Sec. 66-373. - Throwing or propelling missiles.](#)

[Secs. 66-374—66-400. - Reserved.](#)

Sec. 66-371. - DISCHARGE OF FIREARM OR AIRGUN.

It is unlawful to discharge any firearm or airgun in the city; provided, that this section shall not be construed to prohibit any officer of the law from discharging a firearm in the performance of his duty, nor to prohibit any citizen from discharging a firearm when lawfully defending his person or property.

(Code 1996, § 9.70.010)

Sec. 66-372. - HUNTING.

It is unlawful for any person to engage in killing or in hunting any animal, other than as prescribed by law, in the city.

(Code 1996, § 9.80.010)

Sec. 66-373. - THROWING OR PROPELLING MISSILES.

It is unlawful to cast, throw or propel any missile on any street, alley or public place.

(Code 1996, § 9.85.010)

Secs. 66-374—66-400. - RESERVED.**ARTICLE VIII. - PENAL CODE**

DIVISION 1. - GENERALLY

DIVISION 2. - CLASSIFICATION OF OFFENSES

DIVISION 1. - GENERALLY

[Sec. 66-401. - Title.](#)

[Sec. 66-402. - Relationship to state law.](#)

[Sec. 66-403. - Offenses.](#)

[Secs. 66-404—66-420. - Reserved.](#)

Sec. 66-401. - TITLE.

The ordinance codified in this article is entitled the "Rochelle Penal Code."

(Code 1996, § 9.90.010)

Sec. 66-402. - RELATIONSHIP TO STATE LAW.

The enactments contained in this article are intended to parallel similar enactments contained in state law, and the meanings and interpretations of the enactments contained in the state law and the meanings and interpretation of the enactments made herein shall have the same meanings as provided in similar state provisions, unless the context clearly indicates otherwise.

(Code 1996, § 9.90.020)

Sec. 66-403. - OFFENSES.

(a) *Assault.* A person commits an assault when, without lawful authority, he engages in conduct which places another in reasonable apprehension of receiving a battery.

State law reference— Similar provisions, 720 ILCS 5/12-1.

(b) *Battery.* A person commits battery if he intentionally or knowingly without legal justification, and by any means:

- (1) Causes bodily harm to an individual; or

- (2) Makes physical contact of an insulting or provoking nature with an individual.

State law reference— Similar provisions, 720 ILCS 5/12-3.

- (c) *Reckless conduct.* A person who causes bodily harm to, or endangers the bodily safety of an individual by any means, commits reckless conduct if he performs recklessly the acts which cause harm or endanger safety whether they otherwise are lawful or unlawful.

State law reference— Similar provisions, 720 ILCS 5/12-5.

- (d) *Criminal housing management.* A person commits the offense of criminal housing management when having personal management or control of residential real estate, whether as a legal or equitable owner or as a managing agent or otherwise, he recklessly permits the physical condition or facilities of the residential real estate to become or remain in any condition which endangers the health or safety of any person.

- (e) *Criminal damage to property.* Any of the following acts is criminal damage to property:

- (1) Knowingly damages any property of another without his consent;
- (2) Recklessly, by means of fire or explosive, damages the property of another;
- (3) Knowingly starts a fire on the land of another without his consent;
- (4) Knowingly injures a domestic animal of another without his consent;
- (5) Knowingly deposits on the land of or in the building of another, without his consent, any stink bomb or any offensive smelling compound and thereby intends to interfere with the use by another of the land or building; or
- (6) Knowingly damages the property of another without his consent, by defacing, deforming, or otherwise damaging such property by the use of paint or any other similar substance.

- (f) *Criminal trespass to vehicles.* Whoever knowingly and without authority enters any part of or operates any vehicle, aircraft or watercraft or any part thereof of another without his consent, commits criminal trespass to vehicles.

- (g) *Criminal trespass to real property.*

- (1) Whoever:
 - a. Knowingly and without lawful authority enters or remains within or on a building;
 - b. Enters upon the land of another, after receiving, prior to such entry, notice from the owner or occupant that such entry is forbidden;
 - c. Remains upon the land of another, after receiving notice from the owner or occupant to depart; or
 - d. Enters upon one of the following areas in or on a motor vehicle (including an off-road vehicle, motorcycle, moped, or any other powered two-wheel vehicle), after receiving prior to that entry notice from the owner or occupant that the entry is forbidden or remains upon or in the area after receiving notice from the owner or occupant to depart:

1. Any field that is used for growing crops or which is capable of being used for growing crops;
2. An enclosed area containing livestock;
3. An orchard; or
4. A barn or other agricultural building containing livestock;

commits a violation of this section. For purposes of subsection (1)a, this subsection (g) shall not apply to being in a building which is open to the public while the building is open to the public during its normal hours of operation; nor shall this section apply to a person who enters a public building under the reasonable belief that the building is still open to the public.

(2) A person has received notice from the owner or occupant within the meaning of subsection (g)(1) of this section if he has been notified personally, either orally or in writing including a valid court order as defined by subsection (7) of section 112A-3 of the Code of Criminal Procedure of 1963 granting remedy (2) of subsection (b) of section 112A-14 of that code, or if a printed or written notice forbidding such entry has been conspicuously posted or exhibited at the main entrance to such land or the forbidden part thereof.

(3) This subsection (g) does not apply to any person, whether a migrant worker or otherwise, living on the land with permission of the owner or of his agent having apparent authority to hire workers on such land and assign them living quarters or a place of accommodations for living thereon, nor to anyone living on such land at the request of, or by occupancy, leasing or other agreement or arrangement with the owner or his agent, nor to anyone invited by such migrant worker or other person so living on such land to visit him at the place he is so living upon the land.

(4) A person shall be exempt from prosecution under this subsection (g) if he beautifies unoccupied and abandoned residential and industrial properties located within any municipality. For the purpose of this subsection, "unoccupied and abandoned residential and industrial property" means any real estate (i) in which the taxes have not been paid for a period of at least two years; and (ii) which has been left unoccupied and abandoned for a period of at least one year; and "beautifies" means to landscape, clean up litter, or to repair dilapidated conditions on or to board up windows and doors.

(5) No person shall be liable in any civil action for money damages to the owner of unoccupied and abandoned residential and industrial property which that person beautifies pursuant to subsection (g)(4) of this subsection.

(6) This subsection does not prohibit a person from entering a building or upon the land of another for emergency purposes. For purposes of this subsection (g)(6), "emergency" means a condition or circumstance in which an individual is or is reasonably believed by the person to be in imminent danger of serious bodily harm or in which property is or is reasonably believed to be in imminent danger of damage or destruction.

State law reference— Similar provisions, 720 ILCS 5/21-3.

(h) *Resisting or obstructing peace officer.* A person who knowingly resists or obstructs the performance by one known to him to be a peace officer, of any authorized act within his official capacity, commits resisting or obstructing a peace officer.

State law reference— Similar provisions, 720 ILCS 5/31-1.

(i) *Possession or discharge of air rifle.* It is unlawful for any person to carry any air rifle on the public streets, roads, highways or public lands within this city, unless such person carries such air rifle unloaded and cased.

(j) *Fighting in public places.* It is unlawful for any person to fight in any public place in the city.

(k) *Drug paraphernalia.*

(1) *Definitions.*

a. "Cannabis" shall be defined as it is defined in Section 3 of the Illinois Cannabis Control Act, 720 ILCS 550/3.

b. "Controlled substance" shall be defined as it is defined in Section 102 of the Illinois Controlled Substances Act, 720 ILCS 570/120.

c. "Deliver" or "delivery" means the actual, constructive or attempted transfer of possession, with or without consideration, whether or not there is an agency relationship.

d. "Drug paraphernalia" shall be defined as it is defined in Section 2 of the Illinois Drug Paraphernalia Control Act, 720 ILCS 600/2.

(2) *Sale or delivery.* It is unlawful for any person to keep for sale, offer for sale, sell or deliver any item of drug paraphernalia.

(3) *Exemptions.* This section shall not apply to:

a. Items used in the preparation, compounding, packaging, labeling, or other use of cannabis or a controlled substance as an incident to lawful research, teaching, or chemical analysis and not for sale.

b. Items historically and customarily used in connection with the planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, or inhaling of tobacco or any other lawful substance.

Items exempt under this subsection include, but are not limited to, garden hoes, rakes, sickles, baggies, tobacco pipes, and cigarette-rolling papers.

c. Items listed in subsection (1) which are used for decorative purposes, when such items have been rendered completely inoperable or incapable of being used for any illicit purpose prohibited by this act.

d. A person who is legally authorized to possess hypodermic syringes or needles under the Hypodermic Syringes and Needles Act.

e. In determining whether or not a particular item is exempt under this section, the trier of fact should consider, in addition to all other logically relevant factors, the following:

1. The general, usual, customary, and historical use to which the item involved has been put;

2. Expert evidence concerning the ordinary or customary use of the item and the effect of any peculiarity in the design or engineering of the device upon its functioning;
3. Any written instructions accompanying the delivery of the item concerning the purposes or uses to which the item can or may be put;
4. Any oral instructions provided by the seller of the item at the time and place of sale or commercial delivery;
5. Any national or local advertising concerning the design, purpose or use of the item involved, and the entire context in which such advertising occurs;
6. The manner, place and circumstances in which the item was displayed for sale, as well as any item or items displayed for sale or otherwise exhibited upon the premises where the sale was made;
7. Whether the owner or anyone in control of the object is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products; and
8. The existence and scope of legitimate uses for the object in the community.

(4) *Seizure and forfeiture.* All items of drug paraphernalia shall be seized and forfeited as contraband to the city.

(Code 1996, §§ 9.20.010, 9.90.030; Ord. No. 06-3482, 9-25-2006; Ord. No. 10-3977, § 1, 11-22-2010)

Secs. 66-404—66-420. - RESERVED.

DIVISION 2. - CLASSIFICATION OF OFFENSES

[Sec. 66-421. - Classification as city misdemeanor.](#)

[Sec. 66-422. - Classification as petty offense.](#)

Sec. 66-421. - CLASSIFICATION AS CITY MISDEMEANOR.

(a) The following offenses as set forth in this chapter are classified as city misdemeanor offenses and subject to the applicable penalties contained in section 1-15 of this Code:

Section 66-61 (defacing public property).

Section 66-31 (interfering with officers).

Section 66-141 (disorderly conduct).

Section 66-403(a) (assault).

Section 66-403(b) (battery).

Section 66-403(c) (reckless conduct).

Section 66-403(d) (criminal housing management).

Section 66-403(e) (criminal damage to property).

Section 66-403(f) (criminal trespass to vehicle).

Section 66-403(g) (criminal trespass to real property).

Section 66-403(h) (resisting or obstructing a peace officer).

Section 66-403(k) (drug paraphernalia).

(b) The bond for an arrest of a city misdemeanor shall be \$1,000.00. A person arrested is allowed to post ten percent of the total bond amount upon arrest.

(Code 1996, § 9.95.010; Ord. No. 10-3977, § 2, 11-22-2010)

Sec. 66-422. - CLASSIFICATION AS PETTY OFFENSE.

Any offense as set forth in this chapter which is not classified as a city misdemeanor offense shall be designated a petty offense which shall be punishable by a fine not less than \$50.00 nor more than \$750.00.

(Code 1996, § 9.95.020)

Chapters 67—69 - RESERVED

Chapter 70 - PEDDLERS, SOLICITORS, CANVASSERS AND ITINERANT MERCHANTS

ARTICLE I. - IN GENERAL

ARTICLE II. - PEDDLERS AND ITINERANT MERCHANTS

ARTICLE III. - SOLICITORS AND CANVASSERS

ARTICLE I. - IN GENERAL

[Secs. 70-1—70-30. - Reserved.](#)

Secs. 70-1—70-30. - RESERVED.

ARTICLE II. - PEDDLERS AND ITINERANT MERCHANTS ^[7]

⁽⁷⁾ **Editor's note—** Ord. No. 07-3538, adopted April 9, 2007, amended article II in its entirety to read as herein set out. Former article II, §§ 70-31—70-37, 70-61—70-70, pertained to similar subject matter, and derived from §§ 5.40.010—5.40.160 of the 1996 Code.

⁽⁷⁾ **State Law reference—** Authority to license peddlers, 65 ILCS 5/11-42-5.

DIVISION 1. - GENERALLY

DIVISION 2. - LICENSE

DIVISION 1. - GENERALLY

[Sec. 70-31. - Definitions.](#)

[Sec. 70-32. - Badge.](#)

[Sec. 70-33. - Bond.](#)

[Sec. 70-34. - Prohibited acts; penalty.](#)

[Sec. 70-35. - Reporting of complaints and violations to city clerk.](#)

[Sec. 70-36. - Record of licenses, complaints and violations.](#)

[Sec. 70-37. - Days and hours of operation.](#)

[Secs. 70-38—70-60. - Reserved.](#)

Sec. 70-31. - DEFINITIONS.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Industrial peddler means a peddler who sells exclusively to industries located in areas zoned for industry.

Peddler includes any person, whether a resident of the city or not, traveling by foot, wagon, automotive vehicle or any other type of conveyance, from place to place, from house to house or from street to street, carrying, conveying or transporting any goods, wares or merchandise, offering and exposing the same for sale, barter or exchange, or making sales and delivering articles to purchasers, or who, without traveling from place to place, sells, offers for sale, barter or exchanges the same from a wagon, automotive vehicle or other vehicle or conveyance; provided that one who solicits orders and as a separate transaction makes deliveries to purchasers as part of a scheme or design to evade the provisions of this article shall be deemed a peddler subject to the provisions of this article. The word "peddler" shall include the words "hawker" and "huckster."

Transient merchant, itinerant merchant or itinerant vendor means any person, whether as owner, agent, consignee or employee, whether a resident of the city or not, who engages in a temporary business of selling and delivering goods, wares and merchandise within the city and who, in the furtherance of such purpose, hires, leases, uses or occupies any building or other structure, public rooms in hotels, lodginghouses, apartments or a shop or any street, alley or other place within the city, for the exhibition and sale of such goods, wares and merchandise, either privately or at public auction; provided that such definition shall not be construed to include any person who, while occupying such temporary location, does not sell from stock, but exhibits samples only for the purpose of securing orders for future delivery. The person so engaged shall not be relieved from complying with the provisions of this article merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer, or by conducting such transient business in connection with, as a part of, or in the name of any local dealer, trader, merchant or auctioneer.

(Ord. No. 07-3538, 4-9-2007; Ord. No. 10-3905, § 1(Exh. A), 3-22-2010)

Sec. 70-32. - BADGE.

The city clerk shall issue to each licensee under this article at the time of the delivery of his license a badge bearing the words "licensed vendor." Such badge shall be worn by the licensee on the front of his outer garment in such a way as to be conspicuous during the time such licensee is engaged in the conduct of the business so licensed.

(Ord. No. 07-3538, 4-9-2007)

Sec. 70-33. - BOND.

Before any license as provided for in this article shall be issued, the applicant therefor shall file with the city clerk a bond running to the city in the sum of \$1,000.00, executed by a surety company, conditioned that the applicant shall comply with all the provisions of this Code, other city ordinances and the statutes of the state regulating and concerning the sale of goods, wares and merchandise, and will pay all judgments rendered against such applicant for any violation of this Code or the ordinances or statutes, or any of them, together with all judgments and costs that may be recovered against him by any person for damage growing out of any misrepresentation or deception practiced on any person transacting such business with the applicant, whether such representation or deception was made or practiced by the owners or by their servants, agents or employees, either at the time of making the sale or through any

advertisement of any character whatsoever, printed or circulated with reference to the goods, wares and merchandise sold or any part thereof. Action on the bond may be brought by any person.

(Ord. No. 07-3538, 4-9-2007)

Sec. 70-34. - PROHIBITED ACTS; PENALTY.

If any person licensed under the provisions of this article is found guilty of any fraud, cheating, misrepresentation or imposition while engaged in peddling; or peddles any other kind of goods, wares, merchandise or articles or uses in peddling any other mode of conveyance than specified in the license; or employs more persons than are specified in the license to engage in such peddling enterprise; or, at any time, peddles with more than one vehicle of the kind specified in the license, such person shall, upon conviction, be subject to punishment as provided in section 1-15 of this Code.

(Ord. No. 07-3538, 4-9-2007)

Sec. 70-35. - REPORTING OF COMPLAINTS AND VIOLATIONS TO CITY CLERK.

The chief of police shall report to the city clerk any complaints against any person licensed under the provisions of this article and any conviction for a violation of this article.

(Ord. No. 07-3538, 4-9-2007)

Sec. 70-36. - RECORD OF LICENSES, COMPLAINTS AND VIOLATIONS.

The city clerk shall keep a record of all licenses issued under this article and of complaints and violations reported as provided in section 70-35.

(Ord. No. 07-3538, 4-9-2007)

Sec. 70-37. - DAYS AND HOURS OF OPERATION.

No person licensed under the provisions of this article shall operate on Sundays or holidays. A licensee shall not call at residences before 9:00 a.m. or after 7:00 p.m., except at the prior invitation or request of the occupant. Monday through Sunday outdoor sales may be conducted between the hours of 9:00 a.m. and 9:00 p.m.

(Ord. No. 07-3538, 4-9-2007)

Secs. 70-38—70-60. - Reserved.

DIVISION 2. - LICENSE

- [Sec. 70-61. - Required.](#)
- [Sec. 70-62. - Exemptions.](#)
- [Sec. 70-63. - Application; fee.](#)
- [Sec. 70-64. - Photograph and fingerprints required.](#)
- [Sec. 70-65. - Investigation; issuance.](#)
- [Sec. 70-66. - Contents.](#)
- [Sec. 70-67. - Revocation.](#)

Sec. 70-68. - Duration.
Sec. 70-69. - Carrying and exhibition.
Sec. 70-70. - Transfer.
Secs. 70-71—70-90. - Reserved.

Sec. 70-61. - REQUIRED.

It is unlawful for any person, whether for himself or as agent for another, to engage in the calling, pursuit or business of a hawker, peddler, itinerant merchant or vendor of merchandise, or to sell, hawk, peddle, barter, exchange or deal in any goods, wares, merchandise or articles as a hawker, peddler or itinerant merchant or vendor, without first obtaining a permit and license therefor as provided in this article.

(Ord. No. 07-3538, 4-9-2007)

Sec. 70-62. - EXEMPTIONS.

No license shall be required under this article from local merchants or dealers; nor itinerant merchants, in connection with sales of goods, wares or merchandise from their established places of business in the city; nor from commercial travelers employed by wholesale houses in selling merchandise to such local merchants; nor for the sale and delivery of milk or milk products.

(Ord. No. 07-3538, 4-9-2007)

Sec. 70-63. - APPLICATION; FEE.

Before any license shall be issued under this article, the fee therefor as fixed in the license schedule in section 26-44 shall be paid to the city clerk and an application, in writing, in duplicate, on a form to be furnished by the city clerk, shall be made for such license by the person desiring same. Such application shall give the following information:

- (1) Name and address of the applicant;
- (2) The name and address of the person having the management or supervision of the applicant's business during the time that it is proposed that it will be carried on in the city; the name and address of the person on whose account the business will be carried on, if any; and, if a corporation, under the laws of what state the same is incorporated;
- (3) The place in the city where it is proposed to carry on the applicant's business and the length of time during which it is proposed that such business shall be conducted;
- (4) If a transient or itinerant merchant, the place, other than the permanent place of business of the applicant, where the applicant, within the six months next preceding the date of such application, conducted a transient business, stating the nature thereof and giving the post office and street address of any building or office in which such business was conducted;
- (5) A brief description of the nature, character and quality of the goods, wares or merchandise to be sold or offered for sale and where the goods or property to be sold are located at the time the application is filed;
- (6) A brief statement of the nature and character of the advertising done or proposed to be done in order to attract customers; and, if required by the city clerk, copies of all such advertising, whether by handbill, circular, newspaper advertising or otherwise, shall be attached to such application as

exhibits thereto;

(7) Credentials from the person for whom the applicant proposes to do business, authorizing the applicant to act as such representative, and the applicant's State of Illinois sales tax number;

(8) Whether or not the person having the management or supervision of the applicant's business, or the applicant, has been convicted of a crime, misdemeanor, or violation of any municipal ordinance within the prior 48 months, and the nature of such offense and the punishment assessed therefor;

(9) Such other reasonable information as to the identity or character of the person having the management or supervision of the applicant's business or the method or plan of doing such business as the chief of police or the city clerk may deem proper to fulfill the purpose of this article in the protection of the public good.

(Ord. No. 07-3538, 4-9-2007)

Sec. 70-64. - PHOTOGRAPH AND FINGERPRINTS REQUIRED.

At the time application is made for a permit or license under this article, the applicant shall furnish to the police department his fingerprints and two photographs of himself, taken within 60 days immediately prior to the date of the filing of the application, which pictures shall be one inch by one and one-half inches in size, showing the head and shoulders of the applicant in a clear and distinguishing manner.

(Ord. No. 07-3538, 4-9-2007)

Sec. 70-65. - INVESTIGATION; ISSUANCE.

(a) Upon receipt of the application, photographs and fingerprints as required by this article, the chief of police shall cause such investigation of the applicant's business and moral character to be made as he deems necessary for the protection of the public, and shall endorse on such application his approval or disapproval thereof.

(b) If approved, the chief of police, after having so endorsed the application, shall execute a permit showing a photograph of the permittee, addressed to the applicant for the carrying on of the business applied for, and return such permit along with the application to the city clerk who shall, upon payment of the prescribed license fee and the filing of the bond required by section 70-33, deliver to the applicant his permit and issue a license.

(Ord. No. 07-3538, 4-9-2007)

Sec. 70-66. - CONTENTS.

A license issued under this article shall contain the signature and seal of the issuing officer, and shall show the name, address and the class of license issued; the kind of goods to be sold thereunder; the amount of fee paid; the date of issuance and the length of time the same shall be operative; the mode of conveyance, whether by vehicle or pack; and the number of persons who may be engaged in the enterprise.

(Ord. No. 07-3538, 4-9-2007)

Sec. 70-67. - REVOCATION.

Any such license may be revoked by the mayor or the chief of police because of any violation of this article or of any ordinance of the city, or of any state or federal law, or whenever the licensee shall cease to possess the qualifications and character required in this article for the license.

(Ord. No. 07-3538, 4-9-2007)

Sec. 70-68. - DURATION.

All licenses issued under the provisions of this article shall not extend beyond five days.

(Ord. No. 07-3538, 4-9-2007)

Sec. 70-69. - CARRYING AND EXHIBITION.

Licenses issued under the provisions of this article must be carried at all times by the licensee and exhibited, on demand, to any officer of the city.

(Ord. No. 07-3538, 4-9-2007)

Sec. 70-70. - TRANSFER.

Licenses, permits and badges issued pursuant to this article shall not be assigned or transferred, nor shall they, or any of them, be used by any person other than the person to whom they were issued.

(Ord. No. 07-3538, 4-9-2007)

Secs. 70-71—70-90. - RESERVED.**ARTICLE III. - SOLICITORS AND CANVASSERS ^[8]**

⁽⁸⁾ **Editor's note—** Ord. No. 07-3538, adopted April 9, 2007, amended article III in its entirety to read as herein set out. Former article II, §§ 70-91—70-94, 70-121—70-124, pertained to similar subject matter, and derived from §§ 5.45.050—5.45.080, 5.45.010—5.45.040 of the 1996 Code.

DIVISION 1. - GENERALLY

DIVISION 2. - REGISTRATION

DIVISION 1. - GENERALLY

[Sec. 70-91. - Entering posted premises.](#)

[Sec. 70-92. - Days and hours of operation.](#)

[Sec. 70-93. - Exceptions.](#)

[Sec. 70-94. - Penalty.](#)

[Secs. 70-95—70-120. - Reserved.](#)

Sec. 70-91. - ENTERING POSTED PREMISES.

It is unlawful to enter in and upon private residences or businesses in the city by solicitors and canvassers if a sign has been posted prohibiting such entry, for the purposes of soliciting the sale of goods, wares, food, and merchandise.

(Ord. No. 07-3538, 4-9-2007)

Sec. 70-92. - DAYS AND HOURS OF OPERATION.

No solicitor or canvasser shall operate under the registration issued under this article on Sundays or holidays. The solicitor or canvasser shall not call at residences before 9:00 a.m. or after 7:00 p.m., except at the prior invitation or request of the occupant.

(Ord. No. 07-3538, 4-9-2007)

Sec. 70-93. - EXCEPTIONS.

The provisions of this article shall not apply to officers or employees of the city, county, state, or federal government, or to any subdivision thereof, when on official business, or to persons engaged in soliciting for charitable or religious organizations.

(Ord. No. 07-3538, 4-9-2007)

Sec. 70-94. - PENALTY.

Any person violating any provision of this article shall be subject to punishment as provided in section 1-15 of this Code.

(Ord. No. 07-3538, 4-9-2007)

Secs. 70-95—70-120. - RESERVED.

DIVISION 2. - REGISTRATION

[Sec. 70-121. - Required.](#)

[Sec. 70-122. - Fee.](#)

[Sec. 70-123. - Certificate.](#)

[Sec. 70-124. - Revocation.](#)

Sec. 70-121. - REQUIRED.

It is unlawful for any person to engage in business as a canvasser or solicitor, calling at residences without the previous consent of the occupant for the purposes of soliciting orders, sales, subscriptions, or business of any kind, or seeking information or donations without first having registered in the office of the city clerk. The registrant shall give his complete identification, his signature, the name of his employer, the nature of the products or services in which he is interested, the names of the manufacturers of such products, or of the organization which he is representing, and the proposed method of operation in the city.

(Ord. No. 07-3538, 4-9-2007)

Sec. 70-122. - FEE.

Before any person shall be registered under this article, the fee therefor as fixed in the license, permit or registration schedule in section 26-44 shall be paid to the city clerk and an application, in writing, in duplicate, on a form to be furnished by the city clerk, shall be made for such registration by the person desiring same. Such application shall give the following information:

- (1) Name and address of the applicant;
- (2) The name and address of the person having the management or supervision of the applicant's business during the time that it is proposed that it will be carried on in the city; the name and address of the person on whose account the business will be carried on, if any; and, if a corporation, under the laws of what state the same is incorporated;
- (3) The place in the city where it is proposed to carry on the applicant's business and the length of time during which it is proposed that such business shall be conducted;
- (4) The place, other than the permanent place of business of the applicant, where the applicant, within the six months next preceding the date of such application, conducted any soliciting or canvassing business, stating the nature thereof and giving the post office and street address of any building or office in which such business was conducted;
- (5) Such other reasonable information as to the identity or character of the person having the management or supervision of the applicant's business or the method or plan of doing such business as the chief of police or the city clerk may deem proper to fulfill the purpose of this article in the protection of the public good.

Door-to-door soliciting and canvassing shall only be conducted Monday through Saturday from 9:00 a.m.

to 7:00 p.m. All door-to-door soliciting and canvassing is prohibited on Sunday.

(Ord. No. 07-3538, 4-9-2007)

Sec. 70-123. - CERTIFICATE.

(a) Each applicant who shows evidence of good character and who pays the fee provided for herein shall be furnished a certificate indicating that he has registered and showing the dates covered by such registration.

(b) Each person shall at all times while soliciting or canvassing in the city carry upon his person the registration certificate, and the same shall be exhibited by such registrant whatever he is required to do so by any police officer or by any person solicited.

(Ord. No. 07-3538, 4-9-2007)

Sec. 70-124. - REVOCATION.

Any such registration may be revoked by the mayor or the chief of police because of any violation by the registrant of this article or of any ordinance of the city, or of any state or federal law, or whenever the registrant shall cease to possess the qualifications and character required in this article for the original registration.

(Ord. No. 07-3538, 4-9-2007)

Chapters 71—73 - RESERVED

Chapter 74 - PLANNING

ARTICLE I. - IN GENERAL

ARTICLE II. - PLANNING AND ZONING COMMISSION

ARTICLE I. - IN GENERAL

[Secs. 74-1—74-30. - Reserved.](#)

Secs. 74-1—74-30. - RESERVED.

ARTICLE II. - PLANNING AND ZONING COMMISSION ^[9]

⁽⁹⁾ **State Law reference**— State law references: Plan commissions, 65 ILCS 5/11-12-4 et seq.; Zoning boards of appeals, 65 ILCS 5/11-13-3 et seq.

Sec. 74-31. - Created; membership; terms; vacancies.

Sec. 74-32. - Meetings.

Sec. 74-33. - Powers and duties generally.

Sec. 74-34. - Planning powers and duties.

Sec. 74-35. - Duties related to annexation of properties within one-half mile of intersections of Interstate 39 and IL Route 38 and Interstate 88 and IL Route 251.

Sec. 74-36. - Zoning powers and duties.

Sec. 74-37. - Secretary.

Sec. 74-38. - Expenses.

Sec. 74-39. - Board to act in advisory capacity.

Sec. 74-31. - CREATED; MEMBERSHIP; TERMS; VACANCIES.

There is created a planning and zoning commission for the city. The planning and zoning commission shall consist of a chairman and six other members appointed by the mayor and confirmed by the city council. Initially, three members shall be appointed for two-year terms and four members for three-year terms. Thereafter, members shall be appointed to five-year terms to begin on July 1. The schedule of appointments shall be on file with the city clerk. The successor of each member appointed under this section shall serve for a term of five years. Vacancies shall be filled by the mayor, subject to confirmation by 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.

Additionally, there shall be four non-voting members of the commission appointed by the mayor and confirmed by the city council, who may reside more than one and one-half miles outside the city. The non-voting members shall be chosen on the basis of expertise and/or experience in matters which are under the jurisdiction of the planning and zoning commission.

(Code 1996, § 2.75.010; Ord. No. 08-3676, § 1 (Exh. A), 5-12-2008)

Sec. 74-32. - MEETINGS.

(a) The planning and zoning commission shall hold a regular monthly meeting on the third Monday evening of each month, at the hour of 7:00 p.m., at the city hall. In the event the regular meeting would fall on a legal holiday, the same meeting shall be held on the next day following, at the same time. Special meetings of the planning and zoning commission may be called by the chairperson upon a 48-hour advance notice to all members and interested parties.

(b) All meetings of the planning and zoning commission shall be open to the public.

(c) The planning and zoning commission 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 of each case of a requested variation, and the reasons for granting or denying such variation shall be specified. Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the planning and zoning commission shall be public record.

(d) The planning and zoning commission shall adopt its own rules of procedure, a copy of which, with all recommendations thereto, shall be filed in the office of the city clerk.

(e) The minutes of the planning and zoning commission shall be open to public examination at reasonable hours.

(Code 1996, § 2.75.020; 2.105.050; Ord. No. 08-3676, § 1 (Exh. A), 5-12-2008)

Sec. 74-33. - POWERS AND DUTIES GENERALLY.

The planning and zoning commission shall have the powers and perform the duties assigned to it by statute or ordinance. The powers and duties of the planning and zoning commission shall include both planning powers and duties and zoning powers and duties.

(Code 1996, § 2.75.030; Ord. No. 03-3143, § 5, 3-24-2003; Ord. No. 08-3676, § 1 (Exh. A), 5-12-2008)

State law reference— Initiating plans and maps, 65 ILCS 5/11-12-7.

Sec. 74-34. - PLANNING POWERS AND DUTIES.

The planning and zoning commission shall have the following planning powers and duties:

(a) After the adoption of the official comprehensive plan by the city, in accordance with 65 ILCS 5/11-12-5, no map or plat of any subdivision affecting land within the corporate limits of the municipality, or within contiguous territory which is not more than one and one-half miles beyond the corporate limits of the municipality and not included in any other municipality, shall be entitled to approval by the council unless reviewed by the planning and zoning commission. No such map or plat shall be entitled to record, and shall be invalid, unless the subdivision shown thereon provides for streets, alleys, and public grounds in conformity with the applicable requirements of the official plan and ordinances of the city.

(b) Upon receipt of an annexation petition, after notice and public hearing, the planning and zoning commission shall make recommendations to the city council regarding the zoning classification and issuance of a conditional use permit (if applicable) of property proposed to be annexed into the city.

(Code 1996, § 2.75.030; Ord. No. 03-3143, § 5, 3-24-2003)

Editor's note— Ord. No. 08-3676, § 1, adopted May 12, 2008, set out provisions to renumber § 74-34 as § 74-35, as set out herein. See the Code Comparative Table for complete derivation.

Sec. 74-35. - DUTIES RELATED TO ANNEXATION OF PROPERTIES WITHIN ONE-HALF MILE OF INTERSECTIONS OF INTERSTATE 39 AND IL ROUTE 38 AND INTERSTATE 88 AND IL ROUTE 251.

The plan commission shall make recommendations to the city council concerning the following matters related to the development of property in the one-half-mile radius of the intersection of Interstate 39 and IL Route 38 and Interstate 88 and IL Route 251:

- (1) Recommendations concerning annexation;
- (2) Recommendations concerning subdivision and rezoning;
- (3) Recommendations concerning signage;
- (4) Recommendations concerning plot plans and landscaping.

(Code 1996, § 2.75.040; Ord. No. 08-3676, § 1 (Exh. A), 5-12-2008)

Sec. 74-36. - ZONING POWERS AND DUTIES.

The planning and zoning commission shall have the power:

- (1) To hear appeals from any decision of the zoning administrator, or building code official;
- (2) To interpret the meaning of chapters 22 and 110 in cases of ambiguity with respect to the application of either chapter; and
- (3) To hold public hearings on applications for variances from the provisions of chapters 22 and 110.

(Ord. No. 08-3676, § 1 (Exh. A), 5-12-2008)

Sec. 74-37. - SECRETARY.

The city manager shall appoint a city employee to record the minutes and maintain the records of the planning and zoning commission.

(Code 1996, § 2.105.040; Ord. No. 08-3676, § 1 (Exh. A), 5-12-2008)

Sec. 74-38. - EXPENSES.

Expenses incurred by the planning and zoning commission are to be itemized and shall be borne by the city.

(Code 1996, § 2.105.060; Ord. No. 08-3676, § 1 (Exh. A), 5-12-2008)

Sec. 74-39. - BOARD TO ACT IN ADVISORY CAPACITY.

The planning and zoning commission shall act in an advisory manner to the city council in all cases and transfer them to the city council for final action.

(Code 1996, § 2.105.070; Ord. No. 08-3676, § 1 (Exh. A), 5-12-2008)

Editor's note— Ord. No. 08-3676, § 1(Exh. A), adopted May 12, 2008, repealed Art. III, in its entirety, which pertained to zoning board of appeals. See the Code Comparative Table for complete derivation.

Chapters 75—77 - RESERVED

Chapter 78 - SOLID WASTE

ARTICLE I. - IN GENERAL
ARTICLE II. - LITTERING
ARTICLE III. - LANDFILL SITING

ARTICLE I. - IN GENERAL

Sec. 78-1. - Definitions.
Sec. 78-2. - Uncovered garbage, rubbish and solid waste.
Sec. 78-3. - Windblown waste.
Sec. 78-4. - Deposits on streets.
Sec. 78-5. - Disposal on property or in containers of another.
Sec. 78-6. - Curbside recycling.
Sec. 78-7. - Collection by city.
Sec. 78-8. - Fees for collection service; billing.
Sec. 78-9. - Collection of building materials, bulky items, etc.; disposal of hazardous waste.
Sec. 78-10. - Authorization required for scavengers and collectors.
Sec. 78-11. - Separation of landscape waste from solid waste.
Sec. 78-12. - Containers generally.
Sec. 78-13. - Placement for pickup; removal of containers after pickup.
Sec. 78-14. - Responsibility of occupant for violations.
Sec. 78-15. - Composting and compost piles.
Secs. 78-16—78-40. - Reserved.

Sec. 78-1. - DEFINITIONS.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Administrator means the city manager or his designated agent.

Agency means the Environmental Protection Agency as established by the Environmental Protection Act (415 ILCS 5/3.01).

Ashes means residue from fires.

City means the city of Rochelle, Illinois.

Composting materials means all accumulation of grass, leaves, decomposing vegetable garbage and related products which are normal and customary material for soil compost.

Garbage means all organic household and kitchen waste, such as rejected or unused food or food residue; also paper used in wrapping food, cloth materials, magazines, discarded toys and clothing, inorganic incombustible household waste such as nonaluminum metals, crockery, stoneware, and similar waste resulting from the regular operation of a household.

Hazardous waste means a waste, or combination of wastes, which, because of its quantity, or concentration of physical, chemical, or infectious characteristics, may cause or significantly contribute to an increase in mortality or an increase in serious, irreversible, or incapacitating reversible illness, or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed, and which has been identified, by characteristics or listings, as hazardous pursuant to section 3001 of the Resource Conservation and Recovery Act of 1976, PL 94-580 (42 USC 6901) or pursuant to board regulations.

Landscape wastes or *yard wastes* means all accumulations of grass or shrubbery cuttings, leaves, tree limbs and other materials accumulated as a result of the care of lawns, shrubbery, vines and trees.

Recyclable materials means all newspaper, glass (brown, clear and green), aluminum cans, tin cans, translucent plastic milk, water, and beverage and liquid containers. Each material shall be deemed a separate recyclable item. The following materials are not recyclable and must be bagged with other rubbish: Pyrex glass, window glass, light bulbs, mirrors, broken glass and china, all styrofoam and plastics, all office paper, waxed paper, and wax-lined containers, cardboard, nonplastic milk cartons, and any paper except newspaper. The city may from time to time designate other household garbage items as recyclable materials based upon market conditions and changes in recycling technology.

Recycling container means a container made for the purpose of holding recyclable materials for collection issued by the authority of the city.

Rubbish means combustible trash, including paper, boxes, cardboard, wood, wood furniture and mattresses; noncombustible trash, including nonrecyclable metal materials, metal furniture, appliances, small quantities of rock and concrete, nonrecyclable glass and crockery; and any other waste materials not otherwise defined herein. Rubbish shall not include dirt, earth, or wastes from building operations, industrial processes and manufacturing operations such as food processing wastes; nor shall rubbish include recyclable materials, landscape waste or any materials of a hazardous, toxic, volatile, highly flammable or explosive nature nor any materials in violation of any rule, regulation, statute or law.

Sanitary landfill means a facility permitted by the agency for the disposal of waste on land meeting the requirements of the Resource Conservation and Recovery Act, PL 94-580 (42 USC 6901 et seq.) and regulations thereunder, and without creating nuisances or hazards to public health or safety, by confining the refuse to the smallest practical volume and covering it with a layer of earth at the conclusion of each day's operation, or by such other methods and intervals as the board may provide by regulation.

Solid waste means all waste which normally results from the operation of a household or business, including all garbage, rubbish, ashes and appliances.

(Code 1996, § 13.15.010)

Sec. 78-2. - UNCOVERED GARBAGE, RUBBISH AND SOLID WASTE.

It shall be unlawful for any person to place or permit to remain anywhere in the city any garbage, rubbish or solid waste, except in a tightly covered container. Landscape waste and composting materials may be left uncovered only when placed in a compost pile in accordance with the provisions of this chapter. Tree limbs and shrub limbs may be left uncovered when placed for pickup by the city or its authorized contractor.

(Code 1996, § 13.15.020)

Sec. 78-3. - WINDBLOWN WASTE.

It shall be unlawful for any person to cause or permit any ashes, rubbish, garbage, recyclable materials, landscape waste or composting materials in such a place or container so that it can be blown about or any other material that can be blown about by usual and customary winds.

(Code 1996, § 13.15.030)

Sec. 78-4. - DEPOSITS ON STREETS.

It shall be unlawful for any person to deposit or permit to fall from any vehicle any garbage, rubbish, solid waste or landscape waste on any public place or property, street or alley in the city.

(Code 1996, § 13.15.040)

Sec. 78-5. - Disposal On Property Or In Containers Of Another.

No person shall deposit or cause to be deposited garbage, yard waste, or recyclable materials on the property of another, including deposit inside containers, dumpsters, trash cans, or barrels intended for the deposit of those items by the occupants of the property.

(Code 1996, § 13.15.050)

Sec. 78-6. - CURBSIDE RECYCLING.

All recyclable materials shall be separated from solid waste by the person, firm or corporation in possession of the premises from which the materials are collected, and placed for recycling in containers provided in such a manner consistent with information flyers distributed by the city or its recycling contractor. The city shall cause to be collected and removed recyclable materials which are segregated by material and placed in recycling containers at the curbside.

(Code 1996, § 13.15.060)

Sec. 78-7. - COLLECTION BY CITY.

(a) The director of public works shall have charge of the administration and supervision of the contractor(s) for the collection of solid waste, recyclable materials, and landfill operations in the city. Additionally, it shall be unlawful for any person or business to engage in collecting materials or operating landfill operations in the city unless authorized by the city council.

(b) The collection of garbage shall be made from all premises at least once a week; recyclables shall be collected biweekly; and landscape wastes weekly during the spring, summer and fall seasons, according to a schedule approved by the city council, provided that the material is properly placed for collection in containers complying with the provisions of this chapter.

(c) It is mandatory for residents of the city who dwell in buildings housing three families or fewer to pay for residential garbage, landscape waste, and recycling services or services which have contracted with the city, with the exception of residents who dwell on a premises (lot) which contains a commercial business removal service.

(Code 1996, § 13.15.070)

Sec. 78-8. - FEES FOR COLLECTION SERVICE; BILLING.

The fees for such garbage, landscape waste, and recycling collection shall be established by the city council from time to time and shall be collected monthly along with the billing for city water, sewer or electric utilities. Dwelling units in excess of three-family occupancies shall be considered commercial and shall not have this charge, but shall contract privately for garbage and landscape service.

(Code 1996, § 13.15.080)

Sec. 78-9. - COLLECTION OF BUILDING MATERIALS, BULKY ITEMS, ETC.; DISPOSAL OF HAZARDOUS WASTE.

The city shall not be required, within the normal service charge rates, to remove scrap materials from the construction, remodeling or repair of buildings nor concrete, bricks, tree stumps, earth or earthly materials, appliances, automobile bodies, or large machine parts weighing more than 50 pounds each. The city shall not be required to remove, nor shall any person place for pickup, any materials of a hazardous, toxic, volatile, highly flammable or explosive nature or any material in violation of any rule, regulation, statute or law. All scrap materials from construction, remodeling and repair of buildings and appliances or machine parts may be collected, provided the city's contract collector is able and willing to collect same, but then only at an additional cost to be billed directly by the city's contractor.

(Code 1996, § 13.15.090)

Sec. 78-10. - AUTHORIZATION REQUIRED FOR SCAVENGERS AND COLLECTORS.

It is unlawful for any person to engage in the business of scavenger, or the collection or disposal of animal, human or vegetable refuse, or offal, without having first secured authorization from the city council.

(Code 1996, § 13.15.100)

Sec. 78-11. - SEPARATION OF LANDSCAPE WASTE FROM SOLID WASTE.

(a) Landscape waste is defined as leaves, grass clippings, small branches and brush tied in bundles of five feet in length or less, with a diameter of six inches or less, plants and other organic materials which would normally be associated with residential gardens together with shrubs and bushes from a typical parcel of residential property.

(b) Landscape waste shall be placed in separate reusable containers as described herein and placed at the front curb for pickup. In no event shall any landscape waste be placed for collection nor mixed with other solid waste or recyclable materials for collection. Any landscape waste which is mixed with solid waste will not be disposed of by the city and, in addition, any violator will be subject to fines and penalties as provided in section 1-15 of this Code.

(Code 1996, § 13.15.110)

Sec. 78-12. - CONTAINERS GENERALLY.

(a) *Standard and nonstandard containers.* All solid waste for collection by the city shall be placed in containers not to exceed 33-gallon capacity nor 50 pounds gross full weight so that the container may be reasonably lifted and carried by one person. Nonstandard containers may be used for nonperishable rubbish, but the same weight limitations shall apply.

(b) *Recycling containers.* The city, through its contractor, shall furnish two recycling containers for each family residence and to each person, firm or corporation agreed by the city to be eligible to participate in the curbside recycling. The container shall be deemed owned by the city and shall remain city property at all times. Any container that is damaged or missing except for the fault of the city or the city's agents shall be replaced at the cost and expense of the person, firm or corporation using the recycling service.

(c) *Landscape waste containers.* Landscape waste containers shall have the same standards as solid waste containers with clear plastic bags. Alternative containers may be introduced as the landscape waste program may change from time to time.

(Code 1996, § 13.15.120)

Sec. 78-13. - PLACEMENT FOR PICKUP; REMOVAL OF CONTAINERS AFTER PICKUP.

All user-supplied containers and other solid waste for pickup shall not be placed in the alley or parkway before 6:00 p.m. on the evening prior to the day assigned for pickup and any empty containers must be removed by 6:00 p.m. on the pickup day.

(Code 1996, § 13.15.130)

Sec. 78-14. - RESPONSIBILITY OF OCCUPANT FOR VIOLATIONS.

The fact that garbage, rubbish, or solid waste remains on any premises in the city in violation of this chapter shall be prima facie evidence that the occupant of such premises is responsible for the occurrence of such violation.

(Code 1996, § 13.15.140)

Sec. 78-15. - COMPOSTING AND COMPOST PILES.

(a) Yard waste materials may be placed in a compost pile provided that such materials are placed in a properly enclosed bin to efficiently compost any waste materials and not to allow them to be windblown.

(b) The depositing of garbage, pet waste, meat scraps, or other materials that may attract animals or vermin to the compost pile or which may provide an obnoxious odor shall be prohibited. A compost pile shall not be placed in any required front yard as defined by the city zoning ordinance (chapter 110), and shall be set back a minimum of six feet from the side yard lot line, set back a minimum of five feet from any rear lot line, and shall not be located less than 30 feet from any neighboring residential dwelling structure. In no event shall a compost pile be located in any side or rear yard drainage or utility easement. A compost pile shall be no more than five feet in height, and shall not exceed a maximum ground or base area of more than 25 square feet.

(Code 1996, § 13.15.150)

Secs. 78-16—78-40. - Reserved.

ARTICLE II. - LITTERING

Sec. 78-41. - Definitions.
Sec. 78-42. - Prohibited acts.
Sec. 78-43. - Penalty.
Secs. 78-44—78-70. - Reserved.

Sec. 78-41. - DEFINITIONS.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Garbage means the animal or vegetable waste resulting from the handling, preparation, cooking, and consumption of food.

Litter means all garbage, refuse, and rubbish as defined in this section and all other waste material which is thrown or deposited upon the streets, sidewalks and other public and private places.

Litter receptacle means a leakproof litter storage and collection container owned, leased or possessed by either a private person, a business, school, corporation or government entity and which is of such design so as to prevent litter deposited therein from being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.

Refuse means all putrescent and nonputrescent solid wastes including garbage, refuse ashes, dead animals and solid construction and industrial wastes.

Rubbish means combustible and noncombustible waste materials, and shall include wood, combustible materials, paper, rags, cartons, boxes, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust and other similar materials, together with residue of any of the above items.

(Code 1996, § 9.67.010)

Sec. 78-42. - PROHIBITED ACTS.

(a) *Discarding waste on street or other public place.* No person shall throw, discard, or deposit litter in or upon any street, sidewalk, or other public place within the city except in public or private receptacles authorized for the collection of such waste.

(b) *Litter to be placed in receptacles so as to prevent scattering.* Persons placing litter in public receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk, or other public place or upon private property.

(c) *Truckloads causing litter.* No person shall drive or move any truck or other vehicle within the city unless such vehicle is so constructed or loaded so as to prevent any load, contents, or litter from being blown or deposited upon any street, alley, sidewalk, or other public place.

(d) *Depositing litter on occupied private property.* No person shall throw or deposit litter on any occupied private property within the city whether owned by such person or not, except that the owner or person in control shall maintain authorized private receptacles for such collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any street sidewalk, or other public place or upon private property.

(e) *Posting notices on street light, utility pole or tree.* No person shall post or affix any notice, poster,

paper or device on any street light, public utility pole or tree, except information and traffic control signage which is placed by the city.

(Code 1996, § 9.67.020)

Sec. 78-43. - PENALTY.

A penalty of \$50.00 shall be assessed to violators of this article if payment is made within ten days of the violation, after which date a violation of this article shall result in a fine of not less than \$75.00 and not more than \$750.00.

(Code 1996, § 9.67.030; Ord. No. 03-3205, § 6(9.67.030), 11-24-2003)

Secs. 78-44—78-70. - RESERVED.

ARTICLE III. - LANDFILL SITING ^[10]

⁽¹⁰⁾ **Editor's note—** Ordinance No. 06-3466, adopted August 14, 2006, did not specifically amend the Code. Therefore, such ordinance has been added as amending article III to read as herein set out. Formerly, such article III, §§ 78-71—78-78, 78-101—78-109, pertained to similar subject matter and derived from §§ 13.05.010—13.05-080, 13.10.010—13.10.090 of the 1996 Code; Ord. No. 06-3416, exh. A, 4-24-2006; Ord. No. 06-3483, §§ 1—4, 10-10-06.

DIVISION 1. - GENERALLY

DIVISION 2. - RULES AND PROCEDURES POLLUTION CONTROL FACILITY SITING

DIVISION 1. - GENERALLY

Sec. 78-71. - Definitions.

Sec. 78-72. - City council approval of pollution control facilities.

Sec. 78-73. - Pollution control facility siting hearing officer.

Sec. 78-74. - Procedure for filing an application for approval of a pollution control facility.

Sec. 78-75. - Procedure for filing written comments to an application for site location approval for a new PCF.

Sec. 78-76. - Hearings on applications.

Sec. 78-77. - Decisions.

Sec. 78-78. - Severability clause.

Sec. 78-79. - Effective date.

Secs. 78-80—78-100. - Reserved.

Sec. 78-71. - DEFINITIONS.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

"Act" is the Illinois Environmental Protection Act, as amended from time to time (415 ILCS 5/1 et seq.)

Applicant is any person, firm or partnership, association, corporation, company or organization of any kind proposing to obtain site location approval and IEPA permits for a new pollution control facility within Rochelle's jurisdiction and includes the fee owner of such site, the proposed operator, and any other party with an interest in the site, such as a lessee, contract purchaser or land trust beneficiary.

Rules and procedures refers to the "Rules and Procedures - Pollution Control Facility Siting — City of Rochelle, IL" established by the Rochelle City Council pursuant to division 2.

Board refers to the Illinois Pollution Control Board.

City refers to City of Rochelle, Illinois and its employees and staff.

City council refers to the Rochelle City Council.

County refers to Ogle County, Illinois.

Hazardous waste disposal site is a site at which hazardous waste is disposed. "Hazardous waste" is waste as defined in the "Act".

Hearing officer refers to a person appointed by the Rochelle City Council to conduct a public hearing and make findings of fact, conclusions of law and recommendations to the Rochelle City Council as provided by this article.

IEPA refers to the Illinois Environmental Protection Agency.

PCF refers to a pollution control facility as defined in the Act. A "new PCF" is a new pollution control facility as defined by the Act.

All other terms used in this article and defined in the Act shall have the same definitions and meanings as found in said Act including, but not limited to those terms defined in Section 3, thereof (415 ILCS 5/3)

Rochelle's jurisdiction refers to the jurisdiction granted to a municipality pursuant to 65 ILCS 5/11 5.1-2.1.

(Ord. No. 06-3466, 8-14-2006)

Sec. 78-72. - CITY COUNCIL APPROVAL OF POLLUTION CONTROL FACILITIES.

No site location approval for the development or construction of a new PCF within Rochelle's jurisdiction may be granted by the city council unless an application is filed for approval of such site and is submitted for consideration to said city council.

(Ord. No. 06-3466, 8-14-2006)

Sec. 78-73. - POLLUTION CONTROL FACILITY SITING HEARING OFFICER.

(a) The city council shall select by a majority vote a hearing officer to serve during any public hearing concerning an application for site location approval. In selecting a hearing officer, the city council may take into consideration the recommendation of such municipalities as are located in the vicinity of the site. The hearing officer shall serve at the pleasure of the city council. Compensation for the services of the hearing officer shall be agreed upon between the hearing officer and the city council before a hearing. The duties of the hearing officer shall be as provided for herein and in the rules and procedures.

(b) All meetings and hearings on the siting application shall be at the call of the hearing officer at such

times as may be required.

(Ord. No. 06-3466, 8-14-2006)

Sec. 78-74. - PROCEDURE FOR FILING AN APPLICATION FOR APPROVAL OF A POLLUTION CONTROL FACILITY.

(a) (1) To request siting approval for a new PCF within Rochelle's jurisdiction, an applicant must file an application with the city clerk, with a minimum of 25 copies of the substance of the applicant's proposal showing sufficient details describing the proposed facility to demonstrate compliance with the Act, including all documents, if any, submitted to the IEPA pertaining to the proposed facility as of the date of filing the application. At a minimum, the application shall comply with the rules and procedures. The form of said application may be obtained from the office of the Rochelle City Manager or from the Rochelle City Clerk. The 25 copies of the application required need not include oversized copies of documents contained elsewhere in the application in reduced size or the documents submitted to IEPA. Regarding these documents, only one copy needs to be filed and, while these documents must be available for review and copying by the public, they need not be distributed as set forth elsewhere in this application.

(2) In addition to the foregoing, an applicant, other than the city, shall deposit with the city clerk at the time of filing the application for site approval of a new PCF a filing fee deposit of \$200,000.00, except that a filing fee deposit of \$500,000.00 is required if said proposed facility is designed as a hazardous waste disposal site or if the disposal or volume reduction of any waste will be by incineration or burning. If the applicant elects to file an amended application for site location approval for any PCF in accordance with this article, such filing shall be accompanied by payment of a supplemental fee of \$50,000.00.

The applicable filing fee is intended to defray the reasonable and necessary costs of processing the application, including, but not limited to: costs of site inspection, clerical expenses, copying costs, space rental, hearing officer compensation, court reporter expenses, transcription costs, public notice expenses, staff review time, if any, city attorney and city consultants (such as qualified professional engineers, planners, appraisers, environmental counsel, etc.) (including tests, exhibits, and testimony, if any, provided by said consultants), and other relevant costs incident to the consideration of an application, the costs incident to preparing the record for appeal, and the cost of representing the city on appeal in case of an appeal of a city council decision (the "city costs"). If at any time the funds deposited by the applicant are reduced below \$50,000.00, the applicant shall deposit an additional \$50,000.00.

If there are funds remaining in the filing fee deposit after payment of the city costs, such amount shall be refunded to the applicant upon the final resolution of the application process (including appeals to the Illinois Pollution Control Board, Appellate Court, Illinois Supreme Court, Federal Courts, and administrative review in the courts, if any). Should the city incur any additional costs in excess of the applicable filing fee deposit, the applicant shall bear any and all such additional costs and shall promptly pay over such additional amount to the city upon request or demand. The application must be complete, with answers provided for each question on the application form. The application must contain consecutively numbered pages and it must be accompanied by all site plans, exhibits, maps and documents required by this article and by the rules and procedures. The date that the applicant files a complete application in proper form, together with the applicable filing fee deposit, with the city clerk shall be considered the official filing date for all time limit purposes. At any time prior to completion by the applicant of the presentation of the applicant's factual evidence and an opportunity for

cross-questioning by the city council, city representatives and any participants, the applicant may file not more than one amended application upon payment of additional fees pursuant to Section 3 of the Act and this subsection. Provided, however that the time limitation for final action set forth in Section 39.2(c) of the Act and section 78-77(b) of this article shall be extended for an additional period of 90 days.

(3) In the event a host agreement has been entered into between the city and the applicant, which provides for the payment of fees and costs referenced in subsection (a)(2) above, the provisions of the host agreement shall apply.

(b) (1) Upon receipt of a proper and complete application, and payment of the applicable filing fee deposit, the city clerk shall date stamp all the copies and immediately deliver one copy of the application, as described above, to the chairman of the county board, one copy to the Ogle County Solid Waste Director, one copy to each member of the Rochelle City Council, one copy to each municipality located within one and one-half miles of the proposed facility, and one copy to the Rochelle City Manager, and one copy to the hearing officer selected by the city council.

(2) The Rochelle City Manager or City Council may retain consultants on behalf of the city to review the application and develop a record sufficient to satisfy the applicable provisions of the Act. The consultants and the city agencies may then commence a study of the application. The applicant shall provide access to the site for study or testing, including but not limited to geophysical testing.

Upon completion of the public hearing before the hearing officer, the city manager and/or city retained consultants shall have reasonable time to file their final reports and recommendations with the city council when requested by the city council. Copies of the final reports shall be available for public inspection in the office of the Rochelle City Clerk for three working days prior to any decision by the city council. Members of the public shall be allowed to obtain a copy of said documents upon payment of the cost of reproduction. (99-29/_____ (8/23/99)).

(c) A copy of the complete application and all related documents or other materials on file with the city clerk shall be made available for public inspection in the office of the city clerk. Members of the public shall be allowed to obtain a copy of said application or any part thereof upon payment of the actual cost of reproduction as outlined in the Illinois Freedom of Information Act (5 ILCS 140/1 et seq.) One copy of the application, less oversized documents and documents submitted to IEPA as described above, may be provided without charge to any citizens' group situated in the city or located so as to be affected by the proposed facility.

(d) It is the applicant's duty to comply with all notice requirements set forth in the Act. The applicant shall:

(1) No later than 14 days prior to filing an application for site location approval with the city clerk, cause written notice of such application to be served either in person or by registered mail, return receipt requested, on the owners of all property within the subject area not solely owned by the applicant, and on the owners of all property within 250 feet in each direction of the lot line of the subject property, said owners being such persons or entities which appear from the authentic tax records of the county; provided that the number of all feet occupied by public roads, streets, alleys and other public ways shall be excluded in computing the 250 feet requirement; provided further, that in no event shall this requirement exceed 400 feet, including public streets, alleys and other public ways.

(2) The applicant shall serve such notice upon each member of the general assembly from the

legislative district in which the proposed facility is to be located, and this notice shall also be published in a newspaper of general circulation in Ogle County.

(3) The applicant shall state in such notice the name and address of the applicant, the location of the proposed site, the nature and size of the development, the nature of the activity proposed, the probable life of the proposed activity, the date when the request for site approval will be submitted to the city clerk, a description of the right of persons to comment on such request as hereafter provided, and any other information as may be required by the rules and procedures and the Act.

(4) The applicant shall include in the application a copy of the notice of intent to file the application and documents related to compliance with all prefiling notice requirements.

(Ord. No. 06-3466, 8-14-2006)

Sec. 78-75. - PROCEDURE FOR FILING WRITTEN COMMENTS TO AN APPLICATION FOR SITE LOCATION APPROVAL FOR A NEW PCF.

(a) Any person may file written comments with the city clerk concerning the appropriateness of the proposed site for its intended purpose. The hearing officer shall consider any comment received or postmarked not later than 30 days after the date of the last public hearing in making his/her final determination. Said written comments shall be mailed or delivered to the Rochelle City Clerk, 420 N. 6th Street, Rochelle, Illinois 61068. The public is encouraged to clearly designate reference to the application to which they refer. Upon receipt, the city clerk shall date stamp the comments and refer them to the hearing officer.

(b) The above-mentioned written comments shall become part of the record of the proceedings.

(Ord. No. 06-3466, 8-14-2006)

Sec. 78-76. - Hearings On Applications.

(a) At least one public hearing shall be held by the hearing officer no sooner than 90 days but no later than 120 days from and after the receipt of the application for site location approval.

(b) The applicant shall cause to be published in a newspaper of general circulation in Rochelle a notice of such public hearing not later than 14 days prior to said hearing.

The applicant shall also serve written notice of such hearing by certified mail, return receipt requested, on all members of the Illinois General Assembly from the district in which the proposed site is located, to the governing authority of every municipality contiguous to the proposed site or contiguous to the municipality in which the proposed site is to be located, and to the IEPA. The applicant shall file with the city clerk a copy of its notice of public hearing and documents related to service of such notice prior to the commencement of said public hearing.

(c) The hearing officer shall notify the applicant in writing of the date and location of the public hearing at least 21 days prior to such hearing.

(d) Members or representatives of the governing authority of any municipality contiguous to the proposed site may appear at and participate in the public hearings.

(e) The public hearing shall develop a record sufficient to form the basis of any appeal. During the course of the public hearing before the hearing officer, the hearing officer shall receive testimony from the

applicant and witnesses whom the applicant may call in support of the application, any city witnesses, any objectors, and any other witnesses having relevant information, and shall recommend approval only if the proposed facility meets the following criteria (or such amended criteria as may be set forth from time to time in the Act).

- (1) That the facility is necessary to accommodate the waste needs of the area that it is intended to serve; and
- (2) That the facility is so designed, located, and proposed to be operated that the public health, safety and welfare will be protected; and
- (3) That the facility is located so as to minimize incompatibility with the character of the surrounding area and to minimize the effect on the value of the surrounding property; and
- (4) (A) For a facility other than a sanitary landfill or waste disposal site, the facility is located outside the boundary of the 100-year flood plain, or that the site is flood-proofed; (B) for a facility that is a sanitary landfill or waste disposal site, the facility is located outside the boundary of the 100-year flood plain, or if the facility is a facility described in subsection (b) of Section 22.19a of the Illinois Environmental Protection Act (415 ILCS 5/22.19a), the site is flood-proofed.
- (5) That the plan of operations for the facility is designed to minimize the danger to the surrounding area from fire, spills, or other operational accidents; and
- (6) That traffic patterns to or from the facility are so designed to minimize the impact on existing traffic flows; and
- (7) That if the facility will be treating, storing or disposing of hazardous waste, an emergency response plan exists for the facility which includes notification, containment and evacuation procedures to be used in case of an accidental release; and
- (8) That if the county board has adopted a solid waste management plan, consistent with the planning requirements of the Local Solid Waste Disposal Act (415 ILCS 10/1 et seq.) or the Solid Waste Planning and Recycling Act (415 ILCS 15/1 et seq.) the facility is consistent with that plan; and
- (9) That if the facility will be located within a regulated recharge area, any applicable requirements specified by the board for such areas have been met.

The hearing officer and the city council may also consider as evidence the previous operating experience and past record of convictions or admissions of violations of the applicant (and any subsidiary or parent corporation of the applicant) in the field of solid waste management when considering criteria (2) and (5). The applicant shall affirmatively present oral testimony fairly showing the previous operating experience and past record of convictions or admissions of violations of the applicant (and any subsidiary or parent corporation of the applicant) in the field of solid waste management.

(f) A transcript shall be kept of all proceedings before the hearing officer. The hearing officer shall preside at the public hearing and shall make any decisions concerning the admission of evidence and the manner in which the hearing is conducted subject to this article and the rules and procedures. However, the hearing officer shall make all rulings and decisions in accordance with fundamental fairness. No ruling of the hearing officer concerning admissibility of evidence or procedural issues at the public hearing shall be appealable to the city council. Issues of jurisdiction shall be finally determined by the city council.

(g) The applicant shall provide that a court reporter be present at the public hearings to establish a record and transcript of the proceedings. Transcripts shall be made available to the mayor and each member of the city council as soon as the transcripts become available. The transcripts shall be made available for public inspection at the office of the city clerk. Interested persons may obtain copies of transcripts upon payment of the actual cost of reproduction. One copy of the transcript may be provided without charge to any citizens' group situated in the city or located so as to be affected by the proposed facility.

(h) The applicant for site location approval shall have the burden of proof and the burden of going forward with evidence. The testimonial evidence introduced by the applicant may not exceed the scope of the application. Such oral testimony may only explain and clarify the application, not expand or amend the application.

(i) All persons desiring to be participants in the hearing, including members of the public, must submit written notification of said intent to the city clerk at least seven days before the first day of the public hearing. Any person so registered shall have the right to present testimony and witnesses. Any such person shall have the right to be represented by an attorney at said public hearing. Opportunity for such persons to cross-examine any witness may be reasonably limited in time and duration by the hearing officer, to assure completion of the hearings in accordance with the deadlines of the Act, and to avoid irrelevant, repetitious or unreasonably burdensome questions. Any witnesses called or presented by persons other than the applicant must be disclosed in writing at least five business days prior to the commencement of the public hearing. The disclosure must include a summary of the qualifications and expected testimony of the witness, and must be filed with the city clerk. Any person not registered in accordance with this provision may not present evidence or cross examine witnesses at the public hearing. Such person may be allowed to make a written or oral public statement as provided herein.

(j) The hearing officer may propound questions to any witness or to the applicant to clarify the record established by the participants at the hearing or to bring out relevant information. In those proceedings in which it is not the applicant, the city shall be deemed a participant and a party in the proceedings and shall proceed last with its case and cross-examination.

(k) Attorneys for the applicant, the city and the city council shall be allowed to cross-examine witnesses by right, subject to such reasonable limitation as may be set by the hearing officer. Cross examination by the city or the city council shall not be limited to matters contained in the application. Parties represented by attorneys may be allowed to cross-examine in the discretion of the hearing officer. Other persons shall be allowed to submit questions to the hearing officer, who shall exercise discretion in the manner in which such questions are to be posed to witnesses. Sufficient examination of witnesses is to be allowed so as to provide for fundamental fairness.

(l) All witnesses shall testify under oath. Testimony may include the use of prepared statements and exhibits. If testimony is by prepared statement, copies of such prepared statements shall be made available at the hearings (or, prior to the first hearing date, at the office of the city clerk) at least three days in advance of such testimony being given. All witnesses shall be subject to reasonable examination as follows: direct, cross, redirect, and recross.

(m) Public comment. The hearing officer may exercise discretion to allow public comment at each hearing or may set one time for public comment.

(n) The hearing officer shall, in the hearing officer's discretion and to the extent reasonably practicable, permit the city, the applicant and any party to file proposed findings of fact and conclusions of law. The hearing officer shall draft his or her own proposed findings of fact and conclusions of law and submit

them, and copies of such other proposed findings of fact and conclusions of law as may have been filed, to the city council.

(o) The decision of the hearing officer on the application shall be in writing, specifying the reason(s) for the decision, in accordance with paragraph (E) above. The hearing officer shall submit his/her report to the city council as soon as practicable, but in no event earlier than the end of the 30-day comment period.

(p) The siting approval procedures and criteria provided for in the Act and in this article for new PCFs shall be the exclusive siting procedures and rules and approval procedures. Local zoning or other local land use requirements shall not be applicable to such siting decisions. However, to the extent provided by law, the applicant shall also comply with zoning and other requirements.

(Ord. No. 06-3466, 8-14-2006)

Sec. 78-77. - DECISIONS.

(a) Once the hearing officer has made his/her recommendation and reduced it to writing, the written recommendation shall be submitted to the city council for its decision as to the ultimate approval or disapproval of the proposed site location.

(b) The city council shall make a decision based on the evidence admitted at the public hearing, the entire siting record and the recommendation of the hearing officer. The decision of the city council shall be by resolution in writing, specifying the reasons for the decision, such reasons to be in conformity with Section 39.2(a) of the Act. In granting site location approval, the city council may impose such conditions as may be reasonable and necessary to accomplish the purposes of the Act to the extent that said conditions are not inconsistent with Act and the regulations promulgated by the Illinois Pollution Control Board. Such decisions shall be available for public inspection at the office of the city clerk and may be copied upon payment of the cost of reproduction. If there is no final action by the city council within 180 days after the filing of the application for site location approval, the applicant may deem the application approved.

(c) The city council may consider any motion for reconsideration which is filed with the city clerk not later than ten days after the issuance of the city council's final siting decision. Any response to a motion for reconsideration must be filed within seven days after the motion is filed. The consideration of such motion will not trigger the application of Section 39.2(e) of the Act, provided that the city council's final siting decision was made within 180 days after the filing of the application for site location approval.

(d) An applicant may not file an application for site location approval which is substantially the same as a request which was disapproved, pursuant to a finding against the applicant under any criteria (1) through (9) of section 78-76(e), above, or of Section 39.2(a) of the Act, within two years.

(Ord. No. 06-3466, 8-14-2006)

Sec. 78-78. - SEVERABILITY CLAUSE.

The attached rules and procedures (Exhibit A) are hereby incorporated into this article.

If any section, subsection, sentence, clause, phrase or portion of this article or the rules and procedures is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed to be a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

(Ord. No. 06-3466, 8-14-2006)

Sec. 78-79. - EFFECTIVE DATE.

This article and the attached rules and procedures (Exhibit A) shall take effect immediately upon its passage and approval by the Rochelle City Council as provided by law and shall supercede Ordinance Number 2665.

Secs. 78-80—78-100. - RESERVED.

DIVISION 2. - RULES AND PROCEDURES POLLUTION CONTROL FACILITY SITING

Sec. 78-101. - General provisions.

Sec. 78-102. - Responsibilities and duties.

Sec. 78-103. - Meetings and hearings.

Sec. 78-104. - Factors to be considered by the hearing officer in making his/her decision.

Sec. 78-105. - Notices.

Sec. 78-106. - Fees.

Sec. 78-107. - Hearing officer recommendation.

Sec. 78-108. - Waiver of rules.

Sec. 78-109. - Application.

Sec. 78-101. - GENERAL PROVISIONS.

(a) These rules and procedures are supplementary to the provisions of the pollution control facility siting ordinance (the "ordinance") and relate to procedures of the pollution control facility siting hearing officer (the "hearing officer"). References and terms herein shall be defined as in the ordinance.

(b) The city council's attorney shall be consulted where the powers of the hearing officer are not clearly defined.

(Ord. No. 06-3466, 8-14-2006)

Sec. 78-102. - RESPONSIBILITIES AND DUTIES.

(a) The hearing officer shall supervise and preside at all meetings and public hearing(s).

(b) A court reporter shall be employed by the hearing officer, subject to the approval of the city manager, and shall be present at any and all public hearings on an application for local siting approval and shall provide the hearing officer with a certified transcript of the hearing as soon as possible. A secretary may be employed by the hearing officer subject to the approval of the city manager, to assist the hearing officer during the hearing process.

(Ord. No. 06-3466, 8-14-2006)

Sec. 78-103. - MEETINGS AND HEARINGS.

(a) Meetings and hearings shall be called by the hearing officer at such times as may be deemed necessary. At public hearings conducted pursuant to the ordinance wherein evidence is taken, arguments made or procedures discussed, the hearing officer may schedule continued hearings.

(b) The hearing officer shall provide at least 48 hours notice of any special meeting called by him/her. The 48-hour notice requirement does not apply to continued public hearings for local siting approval pursuant to the ordinance.

(c) All hearings shall be open to the public.

(d) The hearing officer shall be present when public hearings under the ordinance are being conducted

and the meeting is being transcribed as provided herein.

(e) Conduct of the hearing.

(1) The applicant for siting approval shall have the burden of proof and the burden of going forward with the evidence as to the suitability of the site location for the proposed use.

(2) If the applicant is a natural person, the applicant may appear at the public hearing on his/her own behalf; or be represented by counsel or agent. If the applicant is not a natural person, the applicant must be represented by counsel.

(3) The hearing officer shall call the hearing to order and shall allow the applicant and the city or its counsel or agent, to make an opening statement. The hearing officer may allow objectors or their counsel to make an opening statement.

(4) The hearing officer shall then hear testimony from the applicant and/or any witnesses the applicant may wish to call. Upon the close of the applicant's testimony, any other parties may offer any witnesses and evidence they may wish to present. These other parties may or may not be represented by counsel on the same basis as the applicant. Upon the close of the applicant's and other parties' testimony and evidence, the city may present any witnesses and evidence it may wish to present, unless the city is the applicant, in which case it shall proceed as set out above. The hearing officer shall decide the order of presentation of testimony subject to these rules.

(5) All witnesses shall testify under oath. Testimony may include the use of exhibits. All witnesses shall be subject to reasonable examination as follows: direct, cross, redirect, recross, etc. After all parties have presented testimony, reasonable rebuttal, sur-rebuttal, etc., may be allowed at the discretion of the hearing officer. Following the close of the testimony and public comment, the applicant and other parties participating in the hearing pursuant to sections 78-76(i) and 78-103(f) of this article may present closing or final summary statement subject to any limitations determined by the hearing officer.

(6) The hearing officer may exclude irrelevant, immaterial, incompetent or unduly repetitious testimony or other evidence. Hearsay evidence may be admissible if shown to be reasonably reliable. The hearing officer shall rule on all questions relating to the admissibility of evidence. These rulings shall not be appealable to the city council.

(7). At any time prior to completion by the applicant of the presentation of the applicant's factual evidence and an opportunity for cross-questioning by the city and any participants, the applicant may file not more than one amended application upon payment of additional fees pursuant to section 78-74(a)(2) of the article. Provided, however, that the time limitation for final action set forth in Section 39.2(e) of the Act, as amended, and section 78-77(b) of the article, shall be extended for an additional period of 90 days.

b. Within 30 days of the filing of the amendment(s), the hearing officer, pursuant to section 78-76(c) of the article, shall notify the applicant of the date of the public hearing, said public hearing to be held pursuant to these articles of rules and procedures.

c. An applicant may not file a request for local siting approval which is substantially the same as a request which was disapproved, pursuant to a finding against the applicant under any of criteria (1) through (9) of section 78-76(e) of the article, within two years.

(f) Any person or attorney representing a person, or entity wishing to testify, present witnesses and cross-examine witnesses other than the applicant, must file a written appearance in the office of the city clerk not less than seven days prior to the first date set for public hearing pursuant to the siting ordinance. Any person or entity who files such a written appearance shall file with the city clerk a written statement containing the names, addresses and a summary of the expected testimony of all witnesses from whom the person intends to obtain evidence not less than five business days prior to the commencement of the hearing. The failure to identify any witness in a timely manner shall be cause to exclude the witness's testimony. This rule does not apply to a person or entity who desires only to present an oral or written position statement to the city council.

(g) Any person or entity may present an oral or written statement of position. The hearing officer may limit the time allowed for each statement to five minutes per oral statement and may require that such statements be relevant, material and not repetitive or cumulative. Written statements may be presented during the hearing or within 30 days of the close of the public hearing.

(Ord. No. 06-3466, 8-14-2006)

Sec. 78-104. - FACTORS TO BE CONSIDERED BY THE HEARING OFFICER IN MAKING HIS/HER DECISION.

In making his or her recommendation on the pending application, the hearing officer shall base the decision on the factors listed in the article.

(Ord. No. 06-3466, 8-14-2006)

Sec. 78-105. - NOTICES.

(a) Notice shall be given in the manner prescribed by the article and the Act.

(b) Pre-filing notice shall contain the following information:

(1) The name and address of the applicant requesting site location approval.

(2) The owner of the site, and in case ownership is in a land trust, the names and addresses at the beneficiaries of said trust.

(3) The legal description of the site.

(4) The street address of the property, and if there is no street address applicable to the property, a description of the site with reference to location, ownership or occupancy or in some other manner that will reasonably identify the property to residents of the area.

(5) The nature and size of the proposed development.

(6) The probable life of the proposed activity.

(7) A statement that the application is available to the public in the office of the city clerk, and that copies of the application are available upon payment of actual cost of reproduction, as outlined in the Freedom of Information Act (5 ILCS 140/1 et seq.).

(c) Notice of the public hearing shall contain, in addition to items (1), (2), (4), (5), (6) and (7) above, the date, time and location of the public hearing.

(Ord. No. 06-3466, 8-14-2006)

Sec. 78-106. - FEES.

The fee, as described in the article, section 78-74(a)(2) or (3), must be paid by the applicant at the time an application is filed and additional payments must be made as required by the ordinance, before the application may be considered.

(Ord. No. 06-3466, 8-14-2006)

Sec. 78-107. - HEARING OFFICER RECOMMENDATION.

(a) The hearing officer shall, after a public hearing, make his/her recommendation as to site approval to the city council. No further evidence, testimony or input from the parties or the public will be allowed after the close of the public hearing.

(b) The hearing officer shall submit a written report containing findings of fact and conclusions of law and a recommendation (and amendment, if applicable) to the city council. This report must be filed with the city clerk as soon as practicable, but in no event earlier than the end of the 30-day comment period.

(Ord. No. 06-3466, 8-14-2006)

Sec. 78-108. - WAIVER OF RULES.

In order to ensure fundamental fairness, compliance with the Act, and to protect the public interest, the hearing officer or city council may waive any of these rules or articles.

(Ord. No. 06-3466, 8-14-2006)

Sec. 78-109. - APPLICATION.

(a) General Procedures

(1) An application for a new pollution control facility shall be presented as described in the article and these rules. Additional pages shall be attached where the space provided is insufficient.

(2) As provided in Chapter 78 of the Municipal Code, the applicant shall submit 25 copies of the completed application as described in the following sections.

(3) All sections of the application shall be clearly marked and submitted with dividers. Exhibits and drawings shall be clearly marked as to what sections they pertain. Notwithstanding the specific application requirements detailed herein, applicants must include all information which the applicant believes necessary to demonstrate compliance with the standards of the article.

(4) The application shall be deemed amended if at any time after the official filing date the applicant either changes any of the information contained in the application or submits any additional substantive information, either written or oral, regarding the application, which substantially modifies the nature or character of the proposal.

(b) Form of Application

APPLICATION FOR POLLUTION CONTROL FACILITY SITING APPROVAL

1. IDENTIFICATION

(a)	Name of Applicant

(b)	Address of Applicant

(Street, P.O. Box, RR)

City, State Zip Code

Telephone	
(Area Code) (Number)	
(c)	Name of Operator

(d)	Address of Operator

(Street, P.O. Box, RR)

City, State Zip Code

Telephone
(Area Code) (Number)

(e) For both the applicant and the proposed operator, provide the following information:

(i) If a partnership, submit names and addresses of all partners. If a corporation, submit names and addresses of all officers and directors, and the names and addresses of all shareholders owning ten percent (10%) or more of the capital stock of said corporation.

(ii) If a corporation, submit a copy of the articles of incorporation as an exhibit. If the corporation is more than fifty percent (50%) owned by another corporation, the requirements of this part shall be applicable to said corporation.

(iii) Submit audited financial statements of the applicant and operator for the five (5) preceding years. If new corporation, provide statement for years available.

(f) Name of Site _____

(g) Address of Site

(Street, P.O. Box,
RR)

City, State, Zip Code

County, Township

(h) Legal Description of Site (Attach a Plat of Survey)

(i) Attach copies of all insurance policies relevant to the premises and the operations carried on at the location for which the applicant seeks site location approval. Describe the insurance policies carried by the applicant to cover single incident and gradual and fortuitous incidents, as well as insurance coverage which the applicant intends to obtain.

2. SITE HISTORY (Check applicable box or boxes)

(a) ☐ This is a proposed operation

☐ This is a proposed expansion of an existing operation: Illinois E.P.A. Permit No. _____

☐ No Illinois E.P.A. Permit.

(b) Existing land use on site _____

(c) List any covenants recorded against the site _____

3. OPERATION CLASSIFICATION

(a) Type of pollution control facility proposed (Check applicable box or boxes)

☐ Waste storage site

☐ Landfill or other disposal site

☐ Transfer station

- () Incinerator
- () Other: Explain _____

(b) Type(s) of wastes proposed to be deposited at the site, as defined in the Illinois Environmental Protection Act ("Act"):

4. SITE LOCATION

(a) Attach a copy of the United States Geological Survey (U.S.G.S.) topographic quadrangle map of the area which includes the site (7.5 minute quadrangle, if published).

Quadrangle Map provided:

(name) (date)

(b) Outline the location and extent of the site on the U.S.G.S. topography quadrangle map.

(c) Provide State Plane coordinates of the Southwest Corner of the Site using the State Plane Coordinate System. (East Zone): _____ feet east, _____ feet north of origin.

(d) General characteristics (Floodplain, Hillside, Field, Strip Mine, Quarry, Gully, Gravel Pit, Swamp, etc.)

Briefly describe: _____

5. NOTICE TO ADJOINING LAND OWNERS. There shall be filed with the application copies of the prefiling notices required to be served under the Act, together with evidence of service thereof as provided in said Act.

6. SPECIFIC INFORMATION BY CRITERIA.

(a) The applicant shall submit the information requested hereafter as part of the application.

(b) The format of this part of the application shall be as follows:

(i) This part of the application shall be divided into nine (9) subsections corresponding to the nine (9) criteria given in Section 39.2(b) of the Act. These subsections shall be clearly marked with dividers or other suitable means. Exhibits and drawings shall be clearly marked with respect to which section and subsection they pertain.

- (ii) A tenth subsection shall be included that provides documentation concerning the previous operating experience and past record of convictions or admissions of violations of the applicant (and any subsidiary or parent corporation of applicant) in the field of solid waste management.
- (c) Subsection One. The application shall contain sufficient detail to demonstrate that the proposed facility is necessary to accommodate the waste needs of the area that it is intended to serve. Subsection One shall include, but is not limited to, the following:
 - (i) A map showing the extent of the service area the facility is intended to serve.
 - (ii) A study performed by an experienced solid waste planner establishing that the proposed facility is necessary to accommodate the needs of the service area. The subsection shall include the qualifications of the individual or company that completed the study. Minimum requirements of the study are:
 - (1) A calculation of the current amount of waste generated and disposed within the service area and an estimate of the amount of waste to be generated and disposed within the service area for the next 20 years.
 - (2) A calculation of the capacity of the proposed facility, the estimated daily volume of waste to be received and the source of said waste, and the estimated duration of operation at the proposed facility.
 - (3) A description of the type(s) of waste to be received.
 - (4) A calculation of the permitted disposal capacity available within the service area.
- (d) Subsection Two. The application shall contain sufficient detail to demonstrate that the proposed facility is so designed, located and proposed to be operated that the public health, safety and welfare will be protected. Subsection Two shall include but is not limited to the following:
 - (i) A description of the geologic and hydrogeologic conditions of the site.
 - (ii) A site plan showing details of the proposed facility including:
 - (1) Cross sections;
 - (2) All wells within 500 feet of site;
 - (3) Fences, buildings and other structures;
 - (4) Roads, entrances and driveways;
 - (5) Core sample locations on and within 200 feet of the site;
 - (6) The location of all streams, ponds, rivers and lakes within a one (1) mile radius of the site.
- (e) Subsection Three. The application shall contain sufficient detail to demonstrate that the proposed facility is located so as to minimize incompatibility with the character of the

surrounding area and to minimize the effect on the value of the surrounding property. Section Three shall include but is not limited to the following:

(i) A Land Assessment Study shall be performed by a certified land use planner who will consider the proposed facility and its compatibility with the surrounding land uses. The subsection shall include the qualifications of the individual and company that completed the study. The study shall include, but not be limited to:

(1) An exhibit showing the land uses within a one mile radius of the proposed site and all airports within five miles of the site.

(2) Typical photographic views of the proposed site from selected residences and commercial/industrial establishments within one mile of the boundary of the proposed facility which fairly depict the site from each direction.

(3) A description of the landscape mitigation plan to be implemented at the proposed facility to minimize the incompatibility with the surrounding area during the operating life of the facility. The landscape mitigation plan shall include the final design grades of the facility.

(4) A description of the proposed use of the site after the PCF is closed.

(5) A description of the history of the development of the site and the surrounding area and current trends of development in the surrounding area and the proposed facility's impact on those trends.

(ii) A Property Value Impact Study shall be performed by a qualified individual to determine the effects on property values in the surrounding areas. The subsection shall include the qualifications of the individual and company that completed the study. The study shall include:

(1) Information regarding the impact on nearby existing property values within a distance sufficient to draw conclusions as determined by the study. The information should be based upon a survey of property values based on recent transactions. Where transaction data is unavailable, tax assessment may be used provided they are adjusted to account for local differences between market values and assessed values or studies for comparable locations may be used.

(2) A description and analysis of factors relating to the proposed site that may impact property values in the area along with a description of the design features and operating procedures that will be used to minimize the impact on property values.

(f) Subsection Four. The application shall contain sufficient detail to demonstrate that (A) for a facility other than a sanitary landfill or waste disposal site, the facility is located outside the boundary of the 100 year flood plain, or that the site is flood-proofed; (B) for a facility that is a sanitary landfill or waste disposal site, the facility is located outside the boundary of the 100-year flood plain, or if the facility is a facility described in subsection (b) of Section 22.1 of the Illinois Environmental Protection Act (415 ILCS 522.19a), or that the site is flood-proofed. Subsection Four shall include but is not limited to the following:

(i) A map prepared by a professional engineer registered in the State of Illinois showing

the proximity of any 100-year flood plain to the proposed site.

(ii) For a facility other than a landfill or waste disposal site or a facility described in subsection of Section 22.19a of the Illinois Environmental Protection Act (415 ILCS 522.19a), if the site is located in the 100 year flood plain, design drawings and calculations prepared by a professional engineer registered in the State of Illinois shall be required as evidence that the site is flood-proofed.

(g) Subsection Five. The application shall contain sufficient detail to demonstrate that the proposed Plan of Operations for the facility is designed to minimize the danger to the surrounding area from fire, spills, or other accidents. Subsection Five shall include but is not limited to the following:

(i) A fire protection plan that includes, radio or telephone access to the nearest fire department.

(ii) A load checking program for detecting and discouraging the disposal of hazardous waste in non-hazardous waste facilities. If the PCF is a landfill, the Load Checking Program Plan must comply with the requirements of 35 Ill. Admin. Code Sec. 811.323.

(iii) An accident prevention plan designed to prevent spills and other accidents that may occur on the site. The plan shall include, but is not limited to, providing emergency response instructions, spill prevention and clean-up methods and worker safety instructional plans.

(h) Subsection Six. The application shall contain sufficient detail to demonstrate that the proposed traffic patterns to and from the facility are so designed as to minimize the impact on existing traffic flows. Subsection Six shall include, but is not limited, to the following:

(i) A traffic impact study performed by an experienced traffic engineer who is registered as a professional engineer in the State of Illinois. The study shall include, but is not limited to:

(1) A statement of the qualifications of the individual and company that completed the study.

(2) A map showing all roads and highways along with their respective classifications within 2,500 feet of the facility that will be used by traffic generated by the proposed facility.

(3) Volume counts for the roads and highways indicated in (2) above.

(4) A survey of accidents within the past five years that may indicate problem intersections or roads.

(5) A calculation of average and peak traffic flows that will be generated by the proposed site.

(i) Subsection Seven. The application shall contain sufficient detail to demonstrate that if the proposed facility will be treating, storing or disposing of hazardous waste, an emergency response plan exists for the facility which includes notification, containment and evacuation procedures to be used in case of an accidental release. Subsection Seven shall include, but

not be limited to the following:

- (i) Certification that hazardous waste will not be treated, stored or disposed of on site;
or
- (ii) A proposed emergency response plan for the site which shall include, but not be limited to;
 - (1) Provision for the notification of appropriate agencies and personnel in the event of a release or substantial threat of a release,
 - (2) Containment and removal procedures, and
 - (3) Evacuation procedures for the facility and the surrounding area.
- (j) Subsection Eight. The application shall contain sufficient detail to demonstrate that it is consistent with the Ogle County Solid Waste Management Plan adopted under the Local Solid Waste Disposal Act (415 ILCS 10/1 et seq.) or the Solid Waste Planning and Recycling Act (415 ILCS 15/1 et seq.) Subsection Eight shall include, but not be limited to the following:
 - (i) Evidence from the solid waste management plan that the facility is consistent with that plan; or
 - (ii) Statement that no such plan has yet been adopted.
- (k) Subsection Nine. The application shall contain sufficient detail to demonstrate that if the proposed facility will be located within a regulated recharge area, all applicable requirements specified by the board for such areas have been met. Subsection Nine shall include, but is not limited to the following:
 - (i) Evidence and documentation that any requirements specified by the board have been met; or
 - (ii) Evidence and documentation that the facility will not be located in a regulated recharge area.
- (l) Subsection Ten. The city council may also consider as evidence the previous operating experience and past record of convictions or admissions of violations of the applicant (and any subsidiary or parent corporation) in the field of solid waste management when considering criteria two and five as defined by Section 39 of the Act. Subsection Ten shall include, but not be limited to the following:
 - (i) Documentation regarding the previous operating experience and past record of convictions or admissions of violations of the applicant at the Rochelle Landfill since 1995.
 - (ii) A clear listing of the following information:
 - (1) All convictions or admissions of violations, either criminal or civil, of any foreign, federal, state or local environmental regulation or statute of (a) the applicant, (b) any subsidiary corporation of the applicant, and (e) any parent corporation of the applicant in the field of solid waste management.

- (2) Description of solid waste management program operated at the facility which involved the conviction(s) or admission(s) of violation(s).
- (3) Enforcement action if any, taken by government entity involved.
- (4) Remedial action taken at site, if any, including cost thereof.

(iii) State whether or not the applicant or operator has ever closed a pollution control facility voluntarily or involuntarily and the location of said facility and the date on which the process of closing started and the date on which it was completed.

(iv) Where a prospective applicant anticipates filing an application for site location approval and believes that the volume of documents required to be included in the application pursuant to this subsection is unduly voluminous, that prospective applicant may petition the hearing officer in writing for relief. Such a petition must be filed prior to filing an application for site location approval. The petition must be filed with the city clerk and be clearly labeled as a filing pertaining to the hearing officer. A copy of said petition must be sent by registered mail return receipt requested to the hearing officer. The petition must show with particularity the following:

- (1) A summary of each conviction or admission of civil and criminal violations in the field of waste management; and
- (2) The full and complete basis for the prospective applicant's contention that the filing of the documentation required by this subsection and providing the requisite number of copies thereof is unduly burdensome; and
- (3) The basis upon which it is contended that the burden on the prospective applicant outweighs the city council's need for the information, documentation or other material required to be filed.

The hearing officer shall determine whether fundamental fairness requires granting the requested relief. The applicant shall furnish any additional information and documentation requested.

The granting of such relief is not favored and relief will be granted only to the extent necessary to prevent a breach of fundamental fairness. The hearing officer need not explain the reasons for his or her decision. The hearing officer shall simply deny the petition or grant some form of relief. No decision of the hearing officer is appealable to the city council. The prospective applicant shall have no right to address the hearing officer. The hearing officer may make his or her determination solely upon the petition of the prospective applicant. The prospective applicant or his attorney shall be notified by letter at the address supplied in the petition.

- (m) Additional information. Additional information may be included as an appendix to the application if the applicant feels this information is helpful and/or necessary.
- (n) Signature and notary.

I hereby affirm that all information contained in this application is true and complete to the best of my knowledge and belief.

Signature of applicant:

(Ord. No. 06-3466, 8-14-2006)

Chapters 79—81 - RESERVED

Chapter 82 - STREETS, SIDEWALKS AND OTHER PUBLIC PLACES

ARTICLE I. - IN GENERAL

ARTICLE II. - CONSTRUCTION AND REPAIR

ARTICLE III. - OBSTRUCTIONS

ARTICLE IV. - ENCROACHMENTS

ARTICLE V. - DRIVEWAYS

ARTICLE VI. - USE OF SUBSURFACE SPACE

ARTICLE VII. - EXCAVATIONS

ARTICLE VIII. - VACATION OF RIGHTS-OF-WAY

ARTICLE IX. - CONSTRUCTION OF UTILITY FACILITIES IN PUBLIC RIGHTS-OF-WAY

ARTICLE I. - IN GENERAL

Sec. 82-1. - Authority of director of public works.

Sec. 82-2. - Deposits on streets.

Sec. 82-3. - Deposits on sidewalks.

Sec. 82-4. - Removal of snow from sidewalks.

Sec. 82-5. - Injuring pavement.

Sec. 82-6. - Stormwater drains discharging on street, alley or sidewalk.

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Sec. 82-8. - Obstructing drains.

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Sec. 82-12. - Permit required for openings and stairways.

Sec. 82-13. - Covering of openings.

Sec. 82-14. - Barbed wire and electric fences.

Secs. 82-15—82-40. - Reserved.

Sec. 82-1. - AUTHORITY OF DIRECTOR OF PUBLIC WORKS.

All public streets, alleys, sidewalks and other public ways in the city shall be under the supervision of the director of public works. He shall be charged with the enforcement of all the provisions of this Code and other ordinances relating to such public places (except traffic ordinances) and is authorized to enforce such ordinances.

(Code 1996, § 12.04.010)

Sec. 82-2. - DEPOSITS ON STREETS.

(a) It is unlawful to deposit on any street any material which may be harmful to the pavement thereof, or any waste material, or any glass or other articles which may do injury to any person, animal or property.

(b) Coal or other materials may be deposited in streets preparatory to delivery or use; provided that such deposit does not reduce the usable width of the roadway to less than 18 feet; provided further that such material or coal, other than material to be used in actual building construction, shall not be permitted

to remain on such street for more than three hours.

(c) Any such material or coal shall be guarded by lights if the same remains upon any street during nighttime.

(Code 1996, § 12.25.010)

Sec. 82-3. - DEPOSITS ON SIDEWALKS.

(a) It is 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.

(b) Merchandise or other articles may be deposited on sidewalks preparatory to delivery; provided that the usable width is not thereby reduced to less than four feet; provided further that no such article shall remain on such walk for more than one-half hour.

(Code 1996, § 12.25.020)

Sec. 82-4. - REMOVAL OF SNOW FROM SIDEWALKS.

It is unlawful for any owner or lessee of property abutting a public sidewalk within the area of the city bordered by Sixth Avenue on the north, Main Street on the east, Second Avenue on the south, and Sixth Street on the west to fail to remove snow within 24 hours after the accumulation of two or more inches.

(Code 1996, § 12.25.025)

Sec. 82-5. - INJURING PAVEMENT.

It is unlawful to injure any sidewalk, street or alley pavement.

(Code 1996, § 12.25.030)

Sec. 82-6. - STORMWATER DRAINS DISCHARGING ON STREET, ALLEY OR SIDEWALK.

It is unlawful to construct or permit the maintenance of any stormwater drain which discharges water onto any sidewalk in the city, and it is unlawful to construct or permit the maintenance of any such drain which discharges into any public street or alley at a height greater than 18 inches from the ground or pavement.

(Code 1996, § 12.25.040)

Sec. 82-7. - SUMP PUMPS DISCHARGING ON STREET, ALLEY OR SIDEWALK.

It is unlawful to discharge water from a sump pump or other pump or similar device onto any sidewalk, street or alley within the city. With proper approval of the building official, such pumps may be connected to the city underground storm sewer system.

(Code 1996, § 12.25.050)

Sec. 82-8. - OBSTRUCTING DRAINS.

It is unlawful to obstruct any drain in any public street or alley.

(Code 1996, § 12.25.060)

Sec. 82-9. - OBJECTS IN DANGER OF FALLING ONTO STREET OR OTHER PUBLIC PLACE.

It is unlawful to place any movable article on any window ledge or other place abutting on a public street, alley or other place at a height above four feet from the ground in such a manner that the same can be or is in danger of falling onto such street, sidewalk, alley or other public place.

(Code 1996, § 12.30.010)

Sec. 82-10. - PERMISSION REQUIRED FOR ERECTION OF POLES AND WIRES.

It is unlawful to erect any poles or wires, or to maintain any poles or wires over any public street, alley or other public way, without having first secured permission from the director of utilities or the director of public works.

(Code 1996, § 12.30.020)

Sec. 82-11. - PLAYING GAMES ON STREET, SIDEWALK OR OTHER PUBLIC PLACE.

It is unlawful to play any games upon any street, alley, sidewalk or other public place when such games cause unnecessary noise or interfere with traffic or pedestrians.

(Code 1996, § 12.30.030)

Sec. 82-12. - PERMIT REQUIRED FOR OPENINGS AND STAIRWAYS.

It is unlawful to construct or maintain any opening or stairway in any public street, sidewalk or alley without a permit from the council.

(Code 1996, § 12.30.040)

Sec. 82-13. - COVERING OF OPENINGS.

All lawfully maintained openings shall be guarded by a suitable strong cover or railing, to the approval of the superintendent of streets.

(Code 1996, § 12.30.050)

Sec. 82-14. - BARBED WIRE AND ELECTRIC FENCES.

It is 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 electric current, anywhere within three feet of any public street, sidewalk, alley, park or other public way or place.

(Code 1996, § 12.30.060)

Secs. 82-15—82-40. - RESERVED.**ARTICLE II. - CONSTRUCTION AND REPAIR**

Sec. 82-41. - Permit required.
Sec. 82-42. - Application for permit.
Sec. 82-43. - Issuance of permit.
Sec. 82-44. - Bond.
Sec. 82-45. - Specifications.
Sec. 82-46. - Payment of cost of sidewalk and curb construction.
Sec. 82-47. - Maintenance required; supervision of repairs.
Sec. 82-48. - Reporting of defects.
Sec. 82-49. - Injuring newly laid pavement.
Sec. 82-50. - Sidewalk ramps and depressed curbs for physically handicapped persons—Required.
Sec. 82-51. - Same—Specifications.
Sec. 82-52. - Removal of existing curbs.
Secs. 82-53—82-80. - Reserved.

Sec. 82-41. - PERMIT REQUIRED.

It is unlawful to construct or lay any pavement on any public street, sidewalk, alley or other public way, or to repair the same, without first having secured a permit therefor.

(Code 1996, § 12.10.010)

Sec. 82-42. - APPLICATION FOR PERMIT.

Application for the permit required by section 82-41 shall be made to the building division, and shall state the location of the intended pavement or repair, the extent thereof, and the person who is to do the actual construction work.

(Code 1996, § 12.10.020)

Sec. 82-43. - ISSUANCE OF PERMIT.

No permits shall be issued under sections 82-41 and 82-42 except as approved by the building division.

(Code 1996, § 12.10.030)

Sec. 82-44. - BOND.

Each applicant for the permit required by section 82-41 shall file a bond in the amount approved by the council, with surety to be approved by the building division, conditioned to indemnify the city for any loss or damage resulting from the work undertaken or the manner of doing the same.

(Code 1996, § 12.10.040)

Sec. 82-45. - SPECIFICATIONS.

All street and sidewalk pavements shall be constructed in conformity with the current standards and specifications of the Illinois Department of Transportation at the time of construction and the special provisions contained in section 86-205 of this Code.

(Code 1996, § 12.10.050; Ord. No. 07-3532, 4-9-2007)

Sec. 82-46. - PAYMENT OF COST OF SIDEWALK AND CURB CONSTRUCTION.

All public sidewalk and curbing construction shall be paid for by the owner of the abutting property.

(Code 1996, § 12.10.060)

Sec. 82-47. - MAINTENANCE REQUIRED; SUPERVISION OF REPAIRS.

All public street, alley and sidewalk pavements shall be kept in good repair. Such repair work, whether done by the city or by the abutting owner, shall be under the supervision of the superintendent of streets.

(Code 1996, § 12.10.070)

Sec. 82-48. - REPORTING OF DEFECTS.

It shall be the duty of every city officer or employee becoming cognizant of any defect in any street or alley or sidewalk, or any obstruction thereof, to report the same to the superintendent of streets as soon as possible.

(Code 1996, § 12.10.080)

Sec. 82-49. - INJURING NEWLY LAID PAVEMENT.

It is unlawful to walk upon or drive any vehicle or animal upon or injure any newly laid street or sidewalk pavement while the same is guarded by a warning sign or barricade, or to knowingly injure any soft, newly laid pavement.

(Code 1996, § 12.10.090)

Sec. 82-50. - SIDEWALK RAMPS AND DEPRESSED CURBS FOR PHYSICALLY HANDICAPPED PERSONS—REQUIRED.

All street curbs and sidewalks in the city constructed, reconstructed, repaired or altered for any reason shall, after the effective date of Ordinance No. 1544, provide depressed curbs and sidewalk ramps for the physically handicapped at all crosswalks.

(Code 1996, § 12.10.100)

Sec. 82-51. - SAME—SPECIFICATIONS.

The location, width, materials and type of construction of the ramp and expansion joint required in section 82-50 shall be in accordance with the current standards and specifications of the state department of transportation at the time of construction.

(Code 1996, § 12.10.110)

Sec. 82-52. - REMOVAL OF EXISTING CURBS.

No curbs may be removed without permission of the superintendent of streets, or his designated agent. Any curb which is allowed to be removed for the purpose of installing a driveway must be cut and removed in accordance with the state Standard Specifications for Road and Bridge Construction and in such a manner so as to allow for the proper drainage of water and minimize the potential for deterioration of the curb and gutter.

(Code 1996, § 12.10.110)

Secs. 82-53—82-80. - RESERVED.

ARTICLE III. - OBSTRUCTIONS

Sec. 82-81. - Generally.
Sec. 82-82. - Permit for building construction obstructing sidewalk.
Sec. 82-83. - Safety precautions.
Sec. 82-84. - Storage of construction materials on streets.
Sec. 82-85. - Night construction.
Sec. 82-86. - Standing on sidewalk.
Sec. 82-87. - Display or advertisement of goods.
Secs. 82-88—82-110. - Reserved.

Sec. 82-81. - GENERALLY.

It is unlawful for any person to cause, create or maintain any obstruction of any street, alley, sidewalk or other public way, except as may be specifically authorized by ordinance or by the superintendent of streets when necessary as in an emergency, or in connection with any lawful construction, repair or removal work.

(Code 1996, § 12.15.010)

Sec. 82-82. - PERMIT FOR BUILDING CONSTRUCTION OBSTRUCTING SIDEWALK.

No sidewalks shall be obstructed in the course of building construction or alteration without a special permit from the building division, and whenever the removal of a sidewalk is required in such work, a special permit from the building division shall be obtained.

(Code 1996, § 12.15.020)

Sec. 82-83. - SAFETY PRECAUTIONS.

It shall be the duty of the person doing any construction, alteration or wrecking work in the city to do the same with proper care for the safety of persons and property. Warnings, barricades and lights shall be maintained whenever necessary for the protection of pedestrians or traffic, and temporary roofs over sidewalks shall be constructed whenever there is danger from falling articles or materials to pedestrians.

(Code 1996, § 12.15.030)

Sec. 82-84. - STORAGE OF CONSTRUCTION MATERIALS ON STREETS.

The use of streets for the storage of materials in the process of construction or alteration of a building may be granted where the same will not unduly interfere with traffic and will not reduce the usable width of the roadway to less than 18 feet. No portion of the street other than that directly abutting on the premises on which work is being done shall be used, excepting with the consent of the owner or occupant of the premises abutting on such portion. Any person seeking to make such use of the street shall file an application for a permit with the building division, together with a bond with sureties to be approved by the department of streets and public improvements to indemnify the city for any loss or damage which may be incurred by it by reason of such use, or damage which may be incurred by such occupation.

(Code 1996, § 12.15.040)

Sec. 82-85. - NIGHT CONSTRUCTION.

No construction or alteration operations shall be carried on in the nighttime, except as authorized by the superintendent of streets in emergency situations, if the same are accompanied by loud noises.

(Code 1996, § 12.15.050)

Sec. 82-86. - STANDING ON SIDEWALK.

It is unlawful for a pedestrian to stand upon any sidewalk, except as near as is reasonably possible to the building line or curb, if such standing interferes with the use of the sidewalk by other pedestrians.

(Code 1996, § 12.15.060)

Sec. 82-87. - DISPLAY OR ADVERTISEMENT OF GOODS.

It is unlawful for any person to use any street, sidewalk or other public place as space for the display of goods or merchandise for sale, or to write or mark any signs or advertisements on any such pavement.

(Code 1996, § 12.15.070)

Secs. 82-88—82-110. - RESERVED.

ARTICLE IV. - ENCROACHMENTS

[Sec. 82-111. - Prohibited.](#)

[Sec. 82-112. - Definitions.](#)

[Sec. 82-113. - Encroachments on right-of-way.](#)

[Secs. 82-114—82-140. - Reserved.](#)

Sec. 82-111. - PROHIBITED.

It is unlawful to erect or maintain any building or structure which encroaches upon any public street or property.

(Code 1996, § 12.20.010)

Sec. 82-112. - DEFINITIONS.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Encroachment means any building, fence, sign, or any other structure or object of any kind (with the exception of utilities and public road signs), which is placed, located or maintained in, on, or over any portion of the roadway right-of-way.

Roadway right-of-way means those areas existing or acquired by dedication or by fee simple for highway

purposes; also, the areas acquired by temporary easement during the time the easement is in effect.

(Code 1996, § 12.20.015)

Sec. 82-113. - ENCROACHMENTS ON RIGHT-OF-WAY.

(a) It is unlawful for any person, firm or corporation to erect or cause to be erected, to retain or cause to be retained, an encroachment, as defined in section 82-112, within the limits of the roadway right-of-way.

(b) This section is intended to and shall be in addition to all other ordinances, rules and regulations concerning encroachments and shall not be construed as repealing or rescinding any other ordinance or part of any ordinance unless in direct conflict therewith.

(c) Any person, firm or corporation violating this section shall be subject to punishment as provided in section 1-15 of this Code.

(Code 1996, § 12.20.020)

Secs. 82-114—82-140. - RESERVED.

ARTICLE V. - DRIVEWAYS

[Sec. 82-141. - Permit required.](#)

[Sec. 82-142. - Application for permit.](#)

[Sec. 82-143. - Issuance of permit.](#)

[Sec. 82-144. - Permit fee.](#)

[Sec. 82-145. - Grade and surface specifications.](#)

[Sec. 82-146. - Materials.](#)

[Sec. 82-147. - Repairs and maintenance.](#)

[Secs. 82-148—82-170. - Reserved.](#)

Sec. 82-141. - PERMIT REQUIRED.

No person shall construct a driveway for vehicles or animals across any sidewalk in the city without having first obtained a permit therefor.

(Code 1996, § 12.35.010)

Sec. 82-142. - APPLICATION FOR PERMIT.

Applications for permits to construct driveways shall be made to the building division, and shall be accompanied by the fee required in section 82-144.

(Code 1996, § 12.35.020)

Sec. 82-143. - ISSUANCE OF PERMIT.

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 approval of the building division.

(Code 1996, § 12.35.030)

Sec. 82-144. - PERMIT FEE.

The fee for driveway construction permits shall be as established from time to time by the council.

(Code 1996, § 12.35.040)

Sec. 82-145. - GRADE AND SURFACE SPECIFICATIONS.

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 is unlawful to have the surface finish of any driveway, where the same crosses the sidewalk, constructed of such material 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.

(Code 1996, § 12.35.050)

Sec. 82-146. - MATERIALS.

Driveways across sidewalks shall be constructed of concrete or of such other materials as may be approved by the building division.

(Code 1996, § 12.35.060)

Sec. 82-147. - REPAIRS AND MAINTENANCE.

It shall be the duty of the person maintaining a driveway to keep the same in good repair where it crosses the sidewalk, and free from obstruction and openings.

(Code 1996, § 12.35.070)

Secs. 82-148—82-170. - Reserved.

ARTICLE VI. - USE OF SUBSURFACE SPACE

[Sec. 82-171. - Permit required; issuance of permit.](#)

[Sec. 82-172. - Application for permit; permit fee.](#)

[Sec. 82-173. - Transfer of permit.](#)

[Sec. 82-174. - Revocation of permit.](#)

[Sec. 82-175. - Safety requirements.](#)

[Sec. 82-176. - Closure order.](#)

[Sec. 82-177. - Use limitations.](#)

[Sec. 82-178. - Construction requirements.](#)

[Sec. 82-179. - Inspection.](#)

[Sec. 82-180. - Cleaning and maintenance of sidewalk.](#)

[Sec. 82-181. - Closure when improvements are made to curb or sidewalk.](#)

[Sec. 82-182. - Variances.](#)

[Secs. 82-183—82-210. - Reserved.](#)

Sec. 82-171. - PERMIT REQUIRED; ISSUANCE OF PERMIT.

It is unlawful to construct or use any vault, room or structure under any street or sidewalk in the city without having first obtained a permit therefor. Such permit shall be issued by the building division, and shall be signed by the building inspector or his designated agent. No such permit shall be transferred, except in accordance with the provisions of this article.

(Code 1996, § 12.40.010)

Sec. 82-172. - APPLICATION FOR PERMIT; PERMIT FEE.

Application for a permit to use or maintain a vault, space, room or structure under any street or sidewalk in the city shall be made in writing to the building division, and shall state thereon specifically the size of the space intended to be used or maintained and the purpose for which it is to be used. Each application shall contain an agreement by the applicant to abide by the regulations contained in this article. The fee for such permit shall be as established by resolution from time to time by the council.

(Code 1996, § 12.40.020)

Sec. 82-173. - TRANSFER OF PERMIT.

Whenever any premises abutting on any vault, room or structure regulated by this article for which a permit has been issued is conveyed or whenever the interest or lease or right of occupancy of the person holding the permit is transferred or conveyed, the grantee or transferee must make application for a transfer of the permit to him. Such application for a transfer shall comply with the provisions of section 82-172.

(Code 1996, § 12.40.030)

Sec. 82-174. - REVOCATION OF PERMIT.

Any permit issued under the provisions of this article may be revoked by order of the council for a violation of any of the provisions of this article.

(Code 1996, § 12.40.040)

Sec. 82-175. - SAFETY REQUIREMENTS.

All openings through the sidewalk or street into any vault, space, room or structure regulated by this article shall be kept covered and guarded. If the opening is a manhole or trap door, an adequate, strong metal cover must be provided, and must be equipped with a rough surface so that there will be no danger of any pedestrian slipping on it. If a stairway is provided, the stairway must be properly guarded with a railing at least three feet high to protect pedestrians from injury.

(Code 1996, § 12.40.050)

Sec. 82-176. - CLOSURE ORDER.

The council may authorize the director of public works to close any vault, space, room or structure for which a permit has been obtained, at the expense of the property owner.

(Code 1996, § 12.40.060)

Sec. 82-177. - USE LIMITATIONS.

No vault, space, room or structure regulated by this article shall be used for the storage of explosives or flammable liquids, nor shall a cesspool be located therein.

(Code 1996, § 12.40.070)

Sec. 82-178. - CONSTRUCTION REQUIREMENTS.

Vaults, rooms, spaces or structures shall be firmly constructed so as to support the sidewalk or street over them, with the maximum load which the sidewalk or street will carry, with a margin of safety of 50 percent over its maximum load or weight.

(Code 1996, § 12.40.080)

Sec. 82-179. - Inspection.

The director of public works shall inspect all rooms, spaces, vaults or structures to see to the enforcement of the provisions of this article.

(Code 1996, § 12.40.090)

Sec. 82-180. - CLEANING AND MAINTENANCE OF SIDEWALK.

The surface of the sidewalk over any structure referred to in this article shall be kept free of snow and ice, and free from all dirt and obstruction of any kind by the person holding the permit, and such person must keep the sidewalk over such structure in good repair.

(Code 1996, § 12.40.100)

Sec. 82-181. - CLOSURE WHEN IMPROVEMENTS ARE MADE TO CURB OR SIDEWALK.

Whenever improvements are made to the curb or sidewalks where vaults currently exist, the vaults shall be closed in accordance with the instructions of the director of public works.

(Code 1996, § 12.40.110)

Sec. 82-182. - VARIANCES.

A variance may be considered on an individual basis if justification for need can be shown. A variance may only be granted by order of the council. Any additional expense to the city in conjunction with maintaining the use of a vault under this variance shall be the responsibility of the owner.

(Code 1996, § 12.40.120)

Secs. 82-183—82-210. - RESERVED.**ARTICLE VII. - EXCAVATIONS**

Sec. 82-211. - Permit required.
Sec. 82-212. - Application for permit.
Sec. 82-213. - Permit fee; other charges.
Sec. 82-214. - Bond.
Sec. 82-215. - Barricades required.
Sec. 82-216. - Disturbing or interfering with barricades.
Secs. 82-217—82-240. - Reserved.

Sec. 82-211. - PERMIT REQUIRED.

It is unlawful to excavate in or tunnel under any public place without having first secured a permit therefor.

(Code 1996, § 12.45.010)

Sec. 82-212. - APPLICATION FOR PERMIT.

The application for the permit required by section 82-211 shall be made to the building division and shall specify the intended location, size and purpose of the excavation.

(Code 1996, § 12.45.020)

Sec. 82-213. - PERMIT FEE; OTHER CHARGES.

The person applying for a permit for the excavation of the surface of streets, alleys or other public property shall pay a minimum fee for such permit in the amount as established by the council from time to time for any opening in addition to being charged on a time and material basis for the backfill and refinish of the street and any temporary surface maintenance required until the final repair is completed.

(Code 1996, § 12.45.030)

Sec. 82-214. - BOND.

No permit for the excavation of the surface of streets, alleys or other public property shall be issued unless the applicant furnishes to the city a cash or surety bond in the sum of \$300.00, or in such additional sum as the department of streets and public improvements deems necessary, to indemnify the city against loss or failure to reimburse the city for time and materials to restore such surface to its condition before such excavation was made.

(Code 1996, § 12.45.040)

Sec. 82-215. - BARRICADES REQUIRED.

(a) Any person laying or repairing any pavement on a street, sidewalk or other public place, or making an excavation in any such place, shall maintain suitable barricades to prevent injury to any person or vehicle by reason of the work. Such barricades shall be protected by lights at nighttime.

(b) Any defect in any such pavement shall be barricaded to prevent injury; and any person properly maintaining any opening or excavation in any such place shall guard such opening or excavation while the same remains open by proper barricades and lights.

(Code 1996, § 12.45.050)

Sec. 82-216. - DISTURBING OR INTERFERING WITH BARRICADES.

It is unlawful to disturb or interfere with any barricade or lights lawfully placed to protect or mark any new pavement, excavation or opening in any public street, alley or sidewalk.

(Code 1996, § 12.45.060)

Secs. 82-217—82-240. - Reserved.**ARTICLE VIII. - VACATION OF RIGHTS-OF-WAY**

[Sec. 82-241. - Procedure.](#)

[Sec. 82-242. - Fees.](#)

[Sec. 82-243. - Referral to planning and zoning commission.](#)

[Sec. 82-244. - Decision by city council.](#)

[Secs. 82-245—82-270. - Reserved.](#)

Sec. 82-241. - PROCEDURE.

The petition to vacate a right-of-way within the city must be received with the signatures of at least 50 percent of the owners of property which are abutting the right-of-way proposed to be vacated. With the petition, fees shall be tendered to the city as calculated in accordance with section 82-242. The fee may be paid by all or some of the petitioning property owners.

(Code 1996, § 12.55.010)

Sec. 82-242. - FEES.

The fees which are to be tendered with the petition to vacate a right-of-way shall be as established by the council by resolution from time to time.

(Code 1996, § 12.55.020)

Sec. 82-243. - REFERRAL TO PLANNING AND ZONING COMMISSION.

Upon receipt of the fees and petition to vacate, the matter shall be referred to the planning and zoning commission, which shall conduct a public hearing with at least 15 days' published notice as provided by state statute. After the public hearing, the planning and zoning commission shall make a recommendation to the city council concerning the vacation of the right-of-way together with the minutes of the public hearing.

(Code 1996, § 12.55.030; Ord. No. 08-3676, § 2 (Exh. B), 5-12-2008)

Sec. 82-244. - DECISION BY CITY COUNCIL.

Upon receipt of the minutes and recommendation from the planning and zoning commission, the city council shall consider an ordinance to vacate the right-of-way. The city council, in its discretion, may vacate all or part of the right-of-way or decline to vacate the right-of-way. The city reserves the right to

retain easements within the vacated right-of-way and include provisions prohibiting structures within the easements retained. If the ordinance to vacate is approved, the ordinance shall be recorded with the county recorder of deeds. If the ordinance to vacate is not approved, the payment made by the abutting property owners shall be refunded.

(Code 1996, § 12.55.040; Ord. No. 08-3676, § 2 (Exh. B), 5-12-2008)

Secs. 82-245—82-270. - RESERVED.

ARTICLE IX. - CONSTRUCTION OF UTILITY FACILITIES IN PUBLIC RIGHTS-OF-WAY

- Sec. 82-271. - Purpose and scope.
- Sec. 82-272. - Definitions.
- Sec. 82-273. - Annual registration required.
- Sec. 82-274. - Permit required; application; fee.
- Sec. 82-275. - Action on permit applications.
- Sec. 82-276. - Effect of permit.
- Sec. 82-277. - Revised permit drawings.
- Sec. 82-278. - Insurance.
- Sec. 82-279. - Indemnification of city.
- Sec. 82-280. - Security fund.
- Sec. 82-281. - Permit suspension and revocation.
- Sec. 82-282. - Change of ownership or owner's identity or legal status.
- Sec. 82-283. - General construction standards.
- Sec. 82-284. - Traffic control.
- Sec. 82-285. - Location of facilities.
- Sec. 82-286. - Construction methods and materials.
- Sec. 82-287. - Vegetation control.
- Sec. 82-288. - Removal, relocation or modification of utility facilities.
- Sec. 82-289. - Cleanup and restoration.
- Sec. 82-290. - Maintenance and emergency maintenance.
- Sec. 82-291. - Variances.
- Sec. 82-292. - Penalties; payment of costs of damages.
- Sec. 82-293. - Additional remedies.

Sec. 82-271. - PURPOSE AND SCOPE.

(a) *Purpose.* The purpose of this article is to establish policies and procedures for constructing utility 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) *Facilities subject to article.* This article applies to all utility facilities on, over, above, along, upon, under, across, or within the public rights-of-way within the jurisdiction of the city. A facility lawfully established prior to the effective date of the ordinance from which this article is derived 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.

(c) *Right of city to require franchise, license or similar agreement.* 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.

(d) *Effect of franchise, license or similar agreement.*

(1) *Utilities other than telecommunications providers.* In the event that a utility other than a telecommunications provider has a franchise, license or similar agreement with the city, such franchise, license or similar agreement shall govern and control during the term of such agreement and any lawful renewal or extension thereof.

(2) *Telecommunications providers.* In the event of any conflict with, or inconsistency between, the provisions of this article and the provisions of any franchise, license or similar agreement between the city and any telecommunications provider, the provisions of such franchise, license or similar agreement shall govern and control during the term of such agreement and any lawful renewal or extension thereof.

(e) *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.

(f) *Interpretation; variation of standards.* 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.

(Code 1996, § 12.60.010)

Sec. 82-272. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Any term not defined in this section shall have the meaning ascribed to it in 92 Ill. Admin. Code 530.30, unless the context clearly requires otherwise.

AASHTO means the American Association of State Highway and Transportation Officials.

ANSI means the American National Standards Institute.

Applicant means a person applying for a permit under this article.

ASTM means the American Society for Testing and Materials.

Backfill means the methods or materials for replacing excavated material in a trench or pit.

Bore or boring means to excavate an underground cylindrical cavity for the insertion of a pipe or electrical conductor.

Carrier pipe means the pipe enclosing the liquid, gas or slurry to be transported.

Casing means a structural protective enclosure for transmittal devices such as carrier pipes, electrical conductors, and fiber optic devices.

Clear zone means the total roadside border area, starting at the edge of the pavement, available for safe use by errant vehicles. This area may consist of a shoulder, a recoverable slope, a nonrecoverable slope, and a clear run-out area. The desired width is dependent upon the traffic volumes and speeds, and on the roadside geometry. Distances are specified in the AASHTO Roadside Design Guide.

Coating means protective wrapping or mastic cover applied to buried pipe for protection against external

corrosion.

Code means the Municipal Code, City of Rochelle, Illinois.

Conductor means wire carrying electrical current.

Conduit means a casing or encasement for wires or cables.

Construction or *construct* means the installation, repair, maintenance, placement, alteration, enlargement, demolition, modification or abandonment in place of facilities.

Cover means the depth of earth or backfill over buried utility pipe or conductor.

Crossing facility means a facility that crosses one or more right-of-way lines of a right-of-way.

Director of public works means the director of public works or his designee.

Disrupt the right-of-way means any work that obstructs the right-of-way or causes a material adverse effect on the use of the right-of-way for its intended use. Such work may include, without limitation, the following: excavating or other cutting; placement (whether temporary or permanent) of materials, equipment, devices, or structures; damage to vegetation; and compaction or loosening of the soil, and shall not include the parking of vehicles or equipment in a manner that does not materially obstruct the flow of traffic on a highway.

Emergency means any immediate maintenance to the facility required for the safety of the public using or in the vicinity of the right-of-way or immediate maintenance required for the health and safety of the general public served by the utility.

Encasement means provision of a protective casing.

Engineer means the city engineer or his designee.

Equipment means materials, tools, implements, supplies, and/or other items used to facilitate construction of facilities.

Excavation means the making of a hole or cavity by removing material, or laying bare by digging.

Extra heavy pipe means pipe meeting ASTM standards for this pipe designation.

Facility means all structures, devices, objects, and materials (including track and rails, wires, ducts, fiber optic cable, communications and video cables and wires, 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, except those owned by the city.

Freestanding facility means a facility that is not a crossing facility or a parallel facility, such as an antenna, transformer, pump, or meter station.

Frontage road means a roadway, usually parallel, providing access to land adjacent to the highway where it is precluded by control of access on highway.

Hazardous materials means any substance or material which, due to its quantity, form, concentration, location, or other characteristics, is determined by the director 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 means a specific type of right-of-way used for vehicular traffic including rural or urban roads or streets. "Highway" includes all highway land and improvements, including roadways, ditches and embankments, bridges, drainage structures, signs, guardrails, protective structures and appurtenances necessary or convenient for vehicle traffic.

Highway Code means the Illinois Highway Code, 605 ILCS 5/1-101 et seq., as amended from time to time.

IDOT means the Illinois Department of Transportation.

ILCC means the Illinois Commerce Commission.

Jacking means pushing a pipe horizontally under a roadway by mechanical means with or without boring.

Jetting means pushing a pipe through the earth using water under pressure to create a cavity ahead of the pipe.

Joint use means the use of pole lines, trenches or other facilities by two or more utilities.

Major intersection means the intersection of two or more major arterial highways.

Occupancy means the presence of facilities on, over or under right-of-way.

Parallel facility means a facility that is generally parallel or longitudinal to the centerline of a right-of-way.

Parkway means any portion of the right-of-way not improved by street or sidewalk.

Pavement cut means the removal of an area of pavement for access to facility or for the construction of a facility.

Permittee means that entity to which a permit has been issued pursuant to sections 82-274 and 82-275.

Petroleum products pipelines means pipelines carrying crude or refined liquid petroleum products including, but not limited to, gasoline, distillates, propane, butane, or coal-slurry.

Practicable means that which is performable, feasible or possible, rather than that which is simply convenient.

Pressure means the internal force acting radially against the walls of a carrier pipe expressed in pounds per square inch gauge (psig).

Prompt means that which is done within a period of time specified by the city. If no time period is specified, the period shall be 30 days.

Public entity means a legal entity that constitutes or is part of the government, whether at local, state or federal level.

Restoration means the repair of a right-of-way, highway, roadway, or other area disrupted by the construction of a facility.

Right-of-way means any street, alley, other land or waterway, dedicated or commonly used for utility 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" shall not include any real or personal city property that is not specifically described in the previous sentence and shall not include city buildings, fixtures, and other structures or improvements, regardless of whether they are situated in the right-of-way.

Roadway means that part of the highway that includes the pavement and shoulders.

Sale of telecommunications at retail means the transmitting, supplying, or furnishing of telecommunications and all services rendered in connection therewith for a consideration, other than between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries, when the gross charge made by one such corporation to another such corporation is not greater than the gross charge paid to the retailer for their use or consumption and not for sale.

Security fund means that amount of security required pursuant to section 82-280.

Shoulder means a width of roadway, adjacent to the pavement, providing lateral support to the pavement edge and providing an area for emergency vehicular stops and storage of snow removed from the pavement.

Sound engineering judgment means a decision(s) consistent with generally accepted engineering principles, practices and experience.

Telecommunications includes, but is not limited to, messages or information transmitted through the use of local, toll, and wide area telephone service, channel services, telegraph services, teletypewriter service, computer exchange service, private line services, specialized mobile radio services, or any other transmission of messages or information by electronic or similar means, between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite, or similar facilities. Unless the context clearly requires otherwise, "telecommunications" shall also include wireless telecommunications as defined in the Simplified Municipal Telecommunications Tax Act, 35 ILCS 636/1 et seq. "Telecommunications" shall not include value-added services in which computer processing applications are used to act on the form, content, code, and protocol of the information for purposes other than transmission. "Telecommunications" shall not include purchase of telecommunications by a telecommunications service provider for use as a component part of the service provided by him to the ultimate retail consumer who originates or terminates the end-to-end communications. Retailer access charges, right of access charges, charges for use of intercompany facilities, and all telecommunications resold in the subsequent provision and used as a component of, or integrated into, end-to-end telecommunications service shall not be included in gross charges as sales for resale. "Telecommunications" shall not include the provision of cable services through a cable system as defined in the Cable Communications Act of 1984 (47 USC 521 et seq.) as now or hereafter amended or cable or other programming services subject to an open video system fee payable to the city through an open video system as defined in the Rules of the Federal Communications Commission (47 CFR 76.1500 et seq.) as now or hereafter amended.

Telecommunications provider means any person that installs, owns, operates or controls facilities in the public right-of-way used or designed to be used to transmit telecommunications in any form.

Telecommunications retailer means and includes every person engaged in making sales of telecommunications at retail as defined herein.

Trench means a relatively narrow open excavation for the installation of an underground facility.

Utility means the individual or entity owning or operating any facility as defined in this article.

Vent means a pipe to allow the dissipation into the atmosphere of gases or vapors from an underground casing.

Water lines means pipelines carrying raw or potable water.

Wet boring means boring using water under pressure at the cutting auger to soften the earth and to provide a sluice for the excavated material.

(Code 1996, § 12.60.020)

Sec. 82-273. - ANNUAL REGISTRATION REQUIRED.

Every utility that occupies a right-of-way within the city shall register on January 1 of each year with the director 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 24-hour telephone number for each such person, and evidence of insurance as required in section 82-278, in the form of a certificate of insurance.

(Code 1996, § 12.60.030)

Sec. 82-274. - PERMIT REQUIRED; APPLICATION; FEE.

(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 director 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) *Filing of application; confidential information.* 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 is 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 numbers, e-mail address, and its interest in the work;

(3) The names, addresses and telephone and telecopy numbers and e-mail addresses of all professional consultants, if any, advising the applicant with respect to the application;

(4) A general description of the proposed work and the purposes and intent of the facility and the uses to which the facility will be put. The scope and detail of such description shall be appropriate to the nature and character of the work to be performed, with special emphasis on those matters likely to be affected or impacted by the work proposed;

(5) Evidence that the utility has placed on file with the city:

a. A written traffic control plan demonstrating the protective measures and devices that will be employed consistent with the state 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 ILCC 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 82-278

(8) Evidence of posting of the security fund as required in section 82-280

(9) Any request for a variance from one or more provisions of this article (see section 82-291); 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 subsection (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 new electric power, communications or natural gas distribution system installation, evidence that any certificate of public convenience and necessity has been issued by the ILCC that the applicant is required by law, or has elected, to obtain;

(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 state 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 state environmental protection agency, division of water pollution control, and the metropolitan water reclamation district (or other local or state entities with jurisdiction), have been satisfied; or

(5) In the case of petroleum products pipelines, state the type or types of petroleum products, pipe size, maximum working pressure, and the design standard to be followed.

(e) *Applicant's duty to update information.* Throughout the entire permit application review period and the construction period authorized by the permit, any amendments to information contained in a permit application shall be submitted by the utility in writing to the city within 30 days after the change necessitating the amendment.

(f) *Application fee.* Unless otherwise provided by franchise, license, or similar agreement, all applications for permits pursuant to this article shall be accompanied by a fee in the amount as established by resolution of the council from time to time. No application fee is required to be paid by any telecommunications retailer that is paying the municipal telecommunications infrastructure maintenance fee or the optional state telecommunications infrastructure maintenance fee pursuant to the Simplified Municipal Telecommunications Tax Act, 35 ILCS 636/1 et seq., or by any electricity utility that is paying the municipal electricity infrastructure maintenance fee pursuant to the Electricity Infrastructure Maintenance Fee Act.

(Code 1996, § 12.60.040)

Sec. 82-275. - ACTION ON PERMIT APPLICATIONS.

(a) *City review of applications.* Completed permit applications, containing all required documentation, shall be examined by the director 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 director of public works shall reject such application in writing, stating the reasons therefor. If the director 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 director of public works shall issue a permit therefor as soon as practicable.

(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 days prior to the commencement of work requiring no excavation and not less than 30 days prior to the commencement of work requiring excavation. The director of public works shall specify the portion of the right-of-way upon which the facility may be placed, used and constructed.

(2) In the event that the director of public works fails to provide such specification of location to the telecommunications retailer within either:

- a. Ten 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 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 82-274, 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 subsection (a) of this section.

(Code 1996, § 12.60.050)

Sec. 82-276. - 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) *Compliance with applicable laws.* The issuance of a permit by the city does not excuse the permittee from complying with other requirements of the city and all applicable statutes, laws, ordinances, rules, and regulations.

(Code 1996, § 12.60.060)

Sec. 82-277. - 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 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 82-291. 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.

(Code 1996, § 12.60.070)

Sec. 82-278. - INSURANCE.

(a) *Required coverages and limits.* Unless otherwise provided by franchise, license, or similar agreement, each utility occupying a 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 subsections (1) and (2) below:

(1) Commercial general liability insurance, including premises-operations, explosion, collapse, and underground hazard (commonly referred to as "X," "C," and "U" coverages) and products-completed operations coverage with limits not less than:

a. Five million dollars for bodily injury or death to each person;

- b. Five million dollars for property damage resulting from any one accident; and
- c. Five million dollars for all other types of liability;

(2) Automobile liability for owned, nonowned and hired vehicles with a combined single limit of \$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 \$1,000,000.00 per employee and per accident.

(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 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 30 days after receipt by the city, by registered mail or certified mail, return receipt requested, of a written notice addressed to the city manager of such intent to cancel or not to renew." Within ten days after receipt by the city of said notice, and in no event later than ten 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 subsection (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 subsection (a) of this section, or the requirements of subsections (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 subsection (a) of this section, such as evidence that the utility is a "private self-insurer" under the Workers Compensation Act, 820 ILCS 305/1 et seq.

(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.

(Code 1996, § 12.60.080)

Sec. 82-279. - INDEMNIFICATION OF CITY.

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.

(Code 1996, § 12.60.090)

Sec. 82-280. - SECURITY FUND.

(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 as 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 nonperformance 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 subsection 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) Provide a location convenient to the city and within the state 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 director 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 a 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 director 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 subsection (c) for any single phase.

(d) *Withdrawals.* The city, upon 14 days' advance written notice clearly stating the reason for, and its intention to exercise withdrawal rights under this subsection, may withdraw an amount from the security fund, provided that the permittee has not reimbursed the city for such amount within the 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 nonperformance 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 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 subsection (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 subsection (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 of city 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.

(Code 1996, § 12.60.100)

Sec. 82-281. - PERMIT SUSPENSION AND REVOCATION.

(a) *Right of city 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 public 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.

(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 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 public 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 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 subsection(c)(3).

(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 subsection (a) of this section.

(e) *Failure or refusal of permittee to comply.* If the permittee fails to comply with the provisions of subsection (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 20 days' notice to the permittee, remove the subject facilities or equipment; or

(3) after not less than 30 days' notice to the permittee of failure to cure the non-compliance, deem them abandoned and property of the city.

The permittee shall be liable in all events to the city for all costs of removal.

(Code 1996, § 12.60.110)

Sec. 82-282. - CHANGE OF OWNERSHIP OR OWNER'S IDENTITY OR LEGAL STATUS.

(a) *Notification of change.* A utility shall notify the city no less than 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.

(Code 1996, § 12.60.120)

Sec. 82-283. - 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:

- (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) State Manual on Uniform Traffic Control Devices (92 Ill. Admin. Code 545);
- (7) Flagger's Handbook; and
- (8) Work Site Protection Manual for Daylight Maintenance Operations.

(b) *Interpretation of standards.* If a discrepancy exists between or among differing principles and standards required by this article, the director of public works shall determine, in the exercise of sound engineering judgment, which principles apply and such decision shall be final. If requested, the director of public works shall state which standard or principle will apply to the construction, maintenance, or operation of a facility in the future.

(Code 1996, § 12.60.130)

Sec. 82-284. - TRAFFIC CONTROL.

(a) *Minimum requirements.* The city's minimum requirements for traffic protection are contained in IDOT's state 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 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 82-290, 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.

(Code 1996, § 12.60.140)

Sec. 82-285. - LOCATION OF FACILITIES.

(a) *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 feet (0.6 m) 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 feet (1.2 m) 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 foot (0.3 m) 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 feet (2.4 m) 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 feet (1.5 m) from the right-of-way line and any aboveground appurtenance shall be located within one foot (0.3 m) of the right-of-way line or as near as practicable.

(b) *Facilities crossing highways.*

(1) *No future disruption.* The construction and design of crossing facilities installed between the ditch lines or curblines 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) *Ninety-degree crossing required.* Crossing facilities shall cross at or as near to a 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 ILCC's rules entitled, Construction of Electric Power and Communication Lines (83 Ill. Admin. Code 305);
- b. Poles are located within one foot (0.3 m) 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 CFR 192.707 (1989)).

(c) *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.

(d) *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.

(e) *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 highway user or impair the aesthetic quality of the lands being traversed.

(f) *Aboveground installation.* Aboveground 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.

(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.

(Code 1996, § 12.60.150)

Sec. 82-286. - CONSTRUCTION METHODS AND MATERIALS.**(a) Standards and requirements for particular types of construction methods.****(1) Boring or jacking.**

a. *Pits and shoring.* Boring or jacking under rights-of-way shall be accomplished from pits located at a minimum distance specified by the director of public works from the edge of the pavement. Pits for boring or jacking shall be excavated no more than 48 hours in advance of boring or jacking operations and backfilled within 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 inches.* Borings over six inches (0.15 m) 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 inch (25 mm).

d. *Borings with diameters six inches or less.* Borings of six 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 designated 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 accordance with the applicable portions of section 603 of 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 pipeline testing. Only one-half of any intersection may have an open trench at any time unless special permission is obtained from the director of public works.

b. *Open trench and excavated material.* Open trench and windrowed excavated material shall be protected as required by chapter 6 of the state 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 windrowing excavated material off the paved portion of the roadway, excavated material shall be hauled to an offroad location.

c. *Restriction.* 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 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 director 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 director of public works.

(4) *Pavement cuts.* Pavement cuts for facility installation or repair shall be permitted on a highway only if that portion of the highway is closed to traffic. If a variance to the limitation set forth in this subsection (4) is permitted under section 82-291, the following requirements shall apply:

a. Any excavation under pavements shall be backfilled as soon as practicable with granular material of CA-6 or CA-10 gradation, as designated by the director 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 years, or resurfaced in the last three years, permits shall not be issued unless such work is determined to be an emergency repair or other work considered necessary and unforeseen before the time of the reconstruction or unless a pavement cut is necessary for a JULIE locate.

(5) *Encasement.*

a. Casing pipe shall be designed to withstand the load of the 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 foot (0.3 m) of the right-of-way line. No aboveground 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:

1. extra heavy pipe is used that precludes future maintenance or repair; and

2. 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.
- g. 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
Power or communication line (in general)	30 inches (0.8 m)
Communication line installed by the plowed method	24 inches (0.6 m)
Gas or petroleum products	30 inches (0.8 m)
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. Admin. Code 305 (formerly General Order 160 of the state 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.*
 1. 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.
 2. If a crossing is installed by boring or jacking, encasement shall be provided between jacking or bore pits. Encasement may be eliminated only if:
 - i. 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
 - ii. The installation is by the open trench method which is only permitted prior to roadway construction.

3. Cable shall be grounded in accordance with the National Electrical Safety Code.

(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) *Water lines, sanitary sewer lines, stormwater 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 the state.

(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 foot (305 mm) 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 director of public works. With the approval of the director 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 Standards Specifications for Road and Bridge Construction, the requirements of the state Commerce Commission, or the standards established by other official regulatory agencies for the appropriate industry.

(2) *Material storage on right-of-way.* 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 director 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 those set forth in this article.

(e) *Location of existing facilities.* Any utility proposing to construct facilities in the city shall contact JULIE and ascertain the presence and location of existing aboveground and underground facilities within the rights-of-way to be occupied by its proposed facilities. The city will make its permit records available to a utility for the purpose of identifying possible facilities. When notified of an excavation or when requested by the city or by JULIE, a utility shall locate and physically mark its underground facilities within 48 hours, excluding weekends and holidays, in accordance with the state Underground Facilities Damage Prevention Act (220 ILCS 50/1 et seq.).

(Code 1996, § 12.60.160)

Sec. 82-287. - VEGETATION CONTROL.

(a) *Tree trimming permit required.* Tree trimming 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.* 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 director of public works that such spraying is the only practicable method of vegetation control.

(Code 1996, § 12.60.170)

Sec. 82-288. - REMOVAL, RELOCATION OR MODIFICATION OF UTILITY FACILITIES.

(a) *Notice.* Within 90 days following written notice from the city, a utility shall, at its own expense, temporarily or permanently 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 30 days following written notice from the city, any utility that owns, controls, or maintains any unauthorized facility or related appurtenances within the public rights-of-way shall, at its own expense, remove all or any part of such facilities or appurtenances from the public 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 public rights-of-way of the city, the utility shall notify the city within 90 days. Following receipt of such notice the city may direct the utility to remove all or any portion of the facility if the director 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.

(Code 1996, § 12.60.180)

Sec. 82-289. - CLEANUP AND RESTORATION.

Upon completion of all construction or maintenance of facilities, the utility shall remove all excess material and restore all turf and terrain in a timely manner and 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 director 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.

(Code 1996, § 12.60.190)

Sec. 82-290. - MAINTENANCE AND EMERGENCY MAINTENANCE.

(a) *Maintenance generally.* 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 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 flaggers. If a hazard does not exist on the traveled way, but the nature of the emergency is such as to require the parking on the shoulder of equipment required in repair operations, adequate signs and lights shall be provided. Parking on the shoulder in such an emergency will only be permitted when no other means of access to the facility is available.

(2) In an emergency, the utility shall, as soon as possible, notify the director of public works or his duly authorized agent of the emergency, informing him as to what steps have been taken for protection of the traveling public and what will be required to make the necessary repairs. If the nature of the emergency is such as to interfere with the free movement of traffic, the city police shall be notified immediately.

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

(c) *Report of emergency repairs.* The utility must file in writing with the city a description of the repairs undertaken in the right-of-way within 48 hours after an emergency repair.

(Code 1996, § 12.60.200)

Sec. 82-291. - 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 director 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 director 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 director 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 variance.* As a condition for authorizing a variance, the director 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.

(Code 1996, § 12.60.210)

Sec. 82-292. - PENALTIES; PAYMENT OF COSTS OF DAMAGES.

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 who does not pay the costs apportioned to it.

(Code 1996, § 12.60.220)

Sec. 82-293. - ADDITIONAL REMEDIES.

Nothing in this article shall be construed as limiting any additional or further remedies that the city may have for enforcement of this article.

(Code 1996, § 12.60.230)

Chapters 83—85 - RESERVED

Chapter 86 - SUBDIVISIONS

ARTICLE I. - IN GENERAL

ARTICLE II. - PROCEDURES

ARTICLE III. - PLATS AND PLANS

ARTICLE IV. - LAND IMPROVEMENTS

ARTICLE V. - DEDICATION OF SCHOOL SITES AND PARK LANDS; PAYMENT OF FEES IN LIEU THEREOF

ARTICLE I. - IN GENERAL

Sec. 86-1. - Definitions.

Sec. 86-2. - Compliance.

Sec. 86-3. - Interpretation.

Sec. 86-4. - Exceptions.

Secs. 86-5—86-30. - Reserved.

Sec. 86-1. - DEFINITIONS.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alley means a public strip of land, not less than 20 feet and not more than 30 feet in width, along the side of or in the rear of properties, intended to provide a secondary means of access to properties abutting upon a street.

Building line means a line within a lot or other parcel of land, so designated on the plat of the proposed subdivision, between which, and the adjacent boundary of the street upon which the lot abuts, the erection of an enclosed structure of portion thereof is to be prohibited.

City staff means the city manager or designee(s).

Crosswalkway means a strip of land, dedicated to public use, which is reserved across a block to provide pedestrian access to an adjacent area.

Cul-de-sac means a street having one open end and being permanently terminated by a vehicle turnaround.

Easement means a grant by a property owner for the use of a strip of land by the general public, public, a corporation, or a certain person for a specific use.

Lot means a portion of a subdivision or other parcel of land intended for transfer of ownership or for building development.

Street means an area which serves or is intended to serve as a vehicular and pedestrian access to abutting lands or to other streets.

Street, marginal access (frontage road). "Marginal access street" means a minor street which is parallel to and adjacent to a primary street or highway, and which provides access to abutting properties and protection to local traffic from fast through-moving traffic on the primary route.

Street (local), minor, means a street of limited continuity and intended primarily as access to abutting properties and the local needs of the neighborhood with an expected ADT of 1,000 vehicles per day.

Street (arterial), primary, means a principal street which will provide for heavy traffic of considerable continuity (ADT 10,000+) and which collects traffic from secondary streets serving large areas, and connecting with state and U.S. highways or extending to principal points of destination. Primary streets shall also be considered to be the principal entrance streets of major subdivision developments. These streets are not meant to provide access to adjoining lots. They would be used for through truck traffic.

Street, public, means all local, secondary and primary streets which are shown on the subdivision plat and are to be dedicated for public use. See the standards set out in section 86-106.

Street (collector), secondary, means a street of considerable continuity which carries traffic from minor streets to primary streets, including the principal entrance streets of residential developments and the principal circulating streets within such a development (ADT 3,500). These streets are meant to provide access to adjacent lots and are restricted to through truck traffic.

Street width means the shortest distance between lines of lots delineating the public street.

Subdivision means the division of a lot, tract or parcel of land into two or more lots, parcels, or other divisions of land, for the purpose, whether immediate or future, of transfer of ownership or building development, including all changes in street or lot lines; provided, however, that a division of land for agricultural purposes, in parcels of more than five acres and not involving any new street or easement of access, shall be exempted.

State law reference— When plat required, 765 ILCS 205/1(a).

(Code 1996, §§ 16.04.010—16.04.140)

Sec. 86-2. - COMPLIANCE.

(a) Wherever any subdivision of land is hereafter laid out within the incorporated limits of the city or within contiguous territory and not more than 1½ miles beyond the incorporated boundary of the city, the subdivider thereof or his agent shall submit a preliminary plat to the city.

(b) Subdivision of land lying outside the city and within 1½ miles of the city limits shall be required to conform with the requirements of this chapter and shall be in accordance with the provisions of the state law.

(c) No plat of any subdivision shall be entitled to record in the county recorder's office or have any validity until it shall have been approved in the manner prescribed by this chapter.

(Code 1996, § 16.08.010)

Sec. 86-3. - INTERPRETATION.

All interpretations of these rules and regulations are reserved to the administrative bodies referred to in this chapter.

(Code 1996, § 16.08.020)

Sec. 86-4. - EXCEPTIONS.

The city council may vary and make exceptions as set forth in this chapter in instances where there is sufficient evidence, in its opinion, of hardship caused by topographic conditions, or where any other reasonable deterrents prevail.

(Code 1996, § 16.08.030)

Secs. 86-5—86-30. - RESERVED.

ARTICLE II. - PROCEDURES

- Sec. 86-31. - Applicability.
- Sec. 86-32. - Recommendation and approval of variations.
- Sec. 86-33. - Filing of preliminary plat.
- Sec. 86-34. - Referral of preliminary plat.
- Sec. 86-35. - Planning and zoning commission review of preliminary plat; time limit for action by planning and zoning commission.
- Sec. 86-36. - Planning and zoning commission disapproval of preliminary plat.
- Sec. 86-37. - Planning and zoning commission approval of preliminary plat.
- Sec. 86-38. - Time limit for city council action on preliminary plat.
- Sec. 86-39. - City council disapproval of preliminary plat.
- Sec. 86-40. - City council approval of preliminary plat.
- Sec. 86-41. - Period of validity of preliminary plat.
- Sec. 86-42. - Engineering plan approval.
- Sec. 86-43. - Engineering plan variations.
- Sec. 86-44. - Submittal and review of final plat.
- Sec. 86-45. - Planning and zoning commission disapproval of final plat.
- Sec. 86-46. - Planning and zoning commission approval of final plat.
- Sec. 86-47. - Time limit for city council action on final plat.
- Sec. 86-48. - City council disapproval of final plat.
- Sec. 86-49. - City council approval of final plat; documents to be submitted with plat.
- Sec. 86-50. - Oversizing of improvements.
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- Sec. 86-54. - Completion of land improvements.
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- Sec. 86-56. - Release of guarantee for completion.
- Sec. 86-57. - Payment of fees.
- Sec. 86-58. - Fee schedule.
- Secs. 86-59—86-80. - Reserved.

Sec. 86-31. - APPLICABILITY.

The provisions hereof shall be applicable to all subdivisions in the city and within all unincorporated areas lying within 1½ miles of the corporate limits of the city, to the extent permitted by law.

(Code 1996, § 16.12.010)

Sec. 86-32. - RECOMMENDATION AND APPROVAL OF VARIATIONS.

The planning and zoning commission may recommend and the city council may approve variations from the requirements of this chapter in specific cases, when the planning and zoning commission finds that there is compliance with the following standards:

- (1) The granting of the variance will not be detrimental to the public safety, health, or welfare or injurious to other property;
- (2) Because of the shape, topography, or other physical conditions of the proposed subdivision or its surroundings:
 - a. A hardship or practical difficulty would be caused by strict compliance with these requirements; and/or
 - b. The purposes of these requirements would be served to a greater extent by an alternative design;
- (3) The conditions upon which the variation request is based are unique to the proposed subdivision and are not generally applicable to other property;
- (4) The variation granted is the minimum adjustment necessary for the reasonable use of the land.

(Code 1996, § 16.12.020; Ord. No. 08-3676, § 2 (Exh. B), 5-12-2008)

Sec. 86-33. - FILING OF PRELIMINARY PLAT.

A subdivider shall file 25 copies of the preliminary plat with the building division a minimum of 30 calendar days prior to the planning and zoning commission meeting at which it will be an agenda item, accompanied by the filing fee in accordance with the schedule of fees contained herein.

(Code 1996, § 16.12.030; Ord. No. 08-3676, § 2 (Exh. B), 5-12-2008)

Sec. 86-34. - REFERRAL OF PRELIMINARY PLAT.

The building division shall distribute copies of the preliminary plat to the city staff. The building division shall distribute to the planning and zoning commission copies of the preliminary plat and the city staff's comments and recommendations, for plan commission review.

(Code 1996, § 16.12.040; Ord. No. 08-3676, § 2 (Exh. B), 5-12-2008)

Sec. 86-35. - PLANNING AND ZONING COMMISSION REVIEW OF PRELIMINARY PLAT; TIME LIMIT FOR ACTION BY PLANNING AND ZONING COMMISSION.

The city staff and planning and zoning commission shall review the preliminary plat for conformance with the comprehensive plan, the provisions hereof, and all other applicable city ordinances. Pursuant to 65 ILCS 5/11-12-8, the planning and zoning commission shall disapprove or recommend approval of the preliminary plat within 90 days from the date of the application or the date of filing of the last item of required supporting data, whichever date is later. Such time may be extended by mutual consent of the subdivider and the planning and zoning commission.

(Code 1996, § 16.12.050; Ord. No. 08-3676, § 2 (Exh. B), 5-12-2008)

Sec. 86-36. - PLANNING AND ZONING COMMISSION DISAPPROVAL OF PRELIMINARY PLAT.

Planning and zoning commission disapproval of a preliminary plat shall be in writing and shall state the reasons therefor and how the proposed preliminary plat fails to conform to the comprehensive plan, the provisions hereof, and other applicable city ordinances. A copy of such disapproval shall be mailed or delivered to the subdivider and the city council. Pursuant to 65 ILCS 5/11-12-8, if the planning and zoning commission disapproves the preliminary plat, it shall be considered denied and shall be presented to the city council for final action.

(Code 1996, § 16.12.060; Ord. No. 08-3676, § 2 (Exh. B), 5-12-2008)

Sec. 86-37. - PLANNING AND ZONING COMMISSION APPROVAL OF PRELIMINARY PLAT.

Planning and zoning commission recommendation of approval of a preliminary plat shall be in writing and may include conditions for such approval, which conditions shall be consistent with the requirements set forth herein. A copy of the recommendations and any conditions shall be forwarded to the city council and subdivider.

(Code 1996, § 16.12.070; Ord. No. 08-3676, § 2 (Exh. B), 5-12-2008)

Sec. 86-38. - TIME LIMIT FOR CITY COUNCIL ACTION ON PRELIMINARY PLAT.

Pursuant to 65 ILCS 5/11-12-8, the city council shall approve or disapprove the preliminary plat not later than 30 days after the next regular city council meeting following the date of the planning and zoning commission's approval, unless such time is extended by mutual consent of the city council and subdivider.

(Code 1996, § 16.12.080; Ord. No. 08-3676, § 2 (Exh. B), 5-12-2008)

Sec. 86-39. - CITY COUNCIL DISAPPROVAL OF PRELIMINARY PLAT.

City council disapproval of a preliminary plat shall be in writing and shall state the reasons therefor. City council disapproval may be based upon any one or more of the following criteria:

- (1) The proposed preliminary plat fails to conform to the comprehensive plan.
- (2) The proposed plat may have an adverse impact to adjacent property or to the value of adjacent property.
- (3) That approval of the proposed plat would not be in the best interest of the city because of the shape, location, topography, or other physical condition of the land described in the proposed plat.
- (4) That approval of the plat would not be in the best interest of the city because approval of the plat would result in additional costs to those governmental entities serving the city in amounts greater than the anticipated real estate tax revenues which those governmental entities would receive.

(Code 1996, § 16.12.090)

Sec. 86-40. - CITY COUNCIL APPROVAL OF PRELIMINARY PLAT.

City council approval of a preliminary plat shall be in writing and may include conditions for such approval, which conditions shall be consistent with the requirements set forth herein. A copy of the approval and any conditions shall be mailed or delivered to the subdivider.

(Code 1996, § 16.12.100)

Sec. 86-41. - PERIOD OF VALIDITY OF PRELIMINARY PLAT.

A preliminary plat shall remain valid for a period of one year from the date of city council approval. If a complete application for approval of a final plat for all or any part of the land encompassed by the preliminary plat is submitted within such one year period of validity, the preliminary plat shall remain valid for one additional year commencing upon submittal of such application or until the city council approves or disapproves such final plat, whichever is earlier. If a final plat is approved and recorded encompassing all or any part of the land included on the preliminary plat, the preliminary plat as to the balance shall remain valid for a period of five years from the date of its initial approval, unless specifically revoked by the city council.

(Code 1996, § 16.12.110)

Sec. 86-42. - ENGINEERING PLAN APPROVAL.

The subdivider shall submit to the building division ten copies of the engineering plan described herein. The building division shall refer the engineering plan to the city staff for review. Such plan shall be in substantial conformance with the preliminary plat, with respect to all items specifically shown on the preliminary plat. If the city staff determines that the engineering plan meets the requirements of this Code, the building division shall so notify the subdivider. The subdivider shall reimburse the city for review in accordance with the schedule of fees contained herein.

(Code 1996, § 16.12.120)

Sec. 86-43. - ENGINEERING PLAN VARIATIONS.

If the city staff determines that the engineering plan does not meet the requirements of this Code, the subdivider may file a written request for approval of a variation or variations. Such request shall be referred to the planning and zoning commission and city council for review. To the extent permitted by law, the city council may grant variations from the engineering plan requirements in specific cases in accordance with the provisions hereof governing variations.

(Code 1996, § 16.12.130; Ord. No. 08-3676, § 2 (Exh. B), 5-12-2008)

Sec. 86-44. - SUBMITTAL AND REVIEW OF FINAL PLAT.

The subdivider shall file one original and three inked mylar reproducible copies, ten blue line copies (no paper sepia's allowed) and two computer disks compatible with the city's operating system with the building division after notification of engineering plan approval. The final plat must be submitted a minimum of 30 days prior to the planning and zoning commission meeting at which it will be an agenda item. The building division shall refer the final plat to the city staff and planning and zoning commission for review and recommendation. The final plat shall substantially conform to the preliminary plat. The final plat shall include substantially the same geographic area as the engineering plan.

(Code 1996, § 16.12.140; Ord. No. 08-3676, § 2 (Exh. B), 5-12-2008)

Sec. 86-45. - PLANNING AND ZONING COMMISSION DISAPPROVAL OF FINAL PLAT.

A recommendation of disapproval of the final plat by the planning and zoning commission shall be in writing and shall state how proposed final plat fails to conform to the approved preliminary plat, the provisions hereof, and other applicable city ordinances. A copy of such recommendation shall be mailed or delivered to the subdivider and to the city council within 60 days.

(Code 1996, § 16.12.150; Ord. No. 08-3676, § 2 (Exh. B), 5-12-2008)

Sec. 86-46. - PLANNING AND ZONING COMMISSION APPROVAL OF FINAL PLAT.

The planning and zoning commission shall not recommend approval or disapproval of a final plat until it has received notice of approval of the engineering plans by the city staff; provided, however, that the final plat and a request for engineering plan variations may be considered simultaneously. A planning and zoning commission recommendation of approval of the final plat shall be in writing and may include conditions for such approval, which conditions shall be consistent with the requirements set forth herein. A copy of the recommendations and any conditions shall be forwarded to the subdivider and the city council within 60 days after all other conditions have been met. The planning and zoning commission must approve or disapprove.

(Code 1996, § 16.12.160; Ord. No. 08-3676, § 2 (Exh. B), 5-12-2008)

Sec. 86-47. - TIME LIMIT FOR CITY COUNCIL ACTION ON FINAL PLAT.

After receiving the planning and zoning commission's recommendation of approval or disapproval, the city council shall approve or disapprove the final plat within 60 days following the filing of the last required document, unless such time is extended by mutual consent of the city council and subdivider.

(Code 1996, § 16.12.170; Ord. No. 08-3676, § 2 (Exh. B), 5-12-2008)

Sec. 86-48. - CITY COUNCIL DISAPPROVAL OF FINAL PLAT.

City council disapproval of a final plat shall be in writing and shall state the reasons therefor. City council disapproval may be based upon any one or more of the following criteria:

- (1) The proposed final plat fails to conform to the approved preliminary plat, or any part thereof.
- (2) The proposed final plat fails to comply with the city's Code and ordinances.
- (3) The proposed final plat fails to conform to the comprehensive plan.
- (4) The proposed final plat may have an adverse impact to adjacent property or to the value of adjacent property.
- (5) That approval of the proposed final plat would not be in the best interest of the city because of the shape, location, topography, or other physical condition of the land described in the proposed plat.
- (6) That approval of the plat would not be in the best interest of the city because approval of the plat would result in additional costs to those governmental entities serving the city in amounts greater than the anticipated real estate tax revenues which those governmental entities would

receive.

(Code 1996, § 16.12.180)

Sec. 86-49. - CITY COUNCIL APPROVAL OF FINAL PLAT; DOCUMENTS TO BE SUBMITTED WITH PLAT.

(a) The final plat submitted to the city council shall be accompanied by the following:

- (1) A copy of the state environmental protection agency permit for the sanitary sewer installation, if required;
- (2) A copy of the state environmental protection agency permit for the water main installation, if required;
- (3) An acknowledgement executed by the subdivider accepting the responsibility for the installation of the land improvements as approved by the city;
- (4) A certified estimate of cost of all land improvements prepared by a registered engineer in the state and approved by the city;
- (5) A draft or description of the proposed guarantee for the payment and completion of the land improvements remaining to be installed.

(b) Prior to the approval of a final plat the city council shall have the right to designate which easements, dedications, and land improvements will be accepted by the city. Approval of the final plat by the city council shall be in writing, one copy of which shall be sent to the subdivider and another shown on the plat.

(Code 1996, § 16.12.190)

Sec. 86-50. - OVERSIZING OF IMPROVEMENTS.

In the event the city requests the subdivider to oversize any land improvement, such oversizing shall take place on the following basis: The city staff and the subdivider's engineer shall prepare cost estimates indicating the construction cost for the land improvement as originally requested and for the oversized improvement requested by the city. Such estimates shall be subject to approval of the city manager. The subdivider shall install the oversized improvement in compliance with city ordinance and state and federal requirements. The actual cost difference for materials only will be assumed by the city if the upsizing is deemed necessary by the city staff for future development. Reimbursement for such cost difference shall be made to the subdivider upon completion and acceptance by city council of all improvements requested by the city, provided the city shall be in receipt of a general contractor's affidavit and lien waivers in accordance with the state Mechanics Lien Act, 770 ILCS 60/0.01 et seq., and a bill of sale conveying title to the city free and clear of all liens and encumbrances. All engineering, insurance, and inspection costs due to the oversizing as requested on the preliminary plat and performed by the subdivider's engineer shall be paid by the subdivider. The operation of any state law or city ordinance having general applicability to all entities in a class including subdivider shall not be deemed to be a request by the city as herein described.

(Code 1996, § 16.12.200)

Sec. 86-51. - TRANSFER OF DEDICATIONS AND EASEMENTS.

After approval of a final plat and prior to signature by the city manager and city engineer, the subdivider shall submit the following for acceptance by the city council:

- (1) Title, free and clear of all liens and encumbrances, to the land dedications which the city has designated for acceptance; and
- (2) At no cost to the city, easements which the city has designated for acceptance.

(Code 1996, § 16.12.210)

Sec. 86-52. - GUARANTEE FOR COMPLETION OF IMPROVEMENTS.

After approval of a final plat and prior to signature by the city manager and city engineer, the subdivider shall submit a guarantee for completion of the land improvements. Subject to the approval of the city council, completed land improvements may be omitted from the amount of the guarantee. For purposes of this section, completed land improvements shall be those land improvements (a) which have been previously accepted by the city council, or (b) which have been installed, approved by city staff, and for which the subdivider submits a bill of sale and a contractor's affidavit and lien waivers in accordance with the Illinois Mechanic's Lien Act, 770 ILCS 60/0.01 et seq., or (c) which the city has not designated for acceptance, and which the city staff acknowledges as complete. The guarantee shall be in one of the following described formats, with the form, amount and provider being subject to approval of the city council:

- (1) Deposit with the city a subdivider's bond in the amount of 110 percent of the approved estimated cost of the land improvements remaining to be completed;
- (2) Deposit with the city cash in the amount of 110 percent of the estimated cost of the land improvements remaining to be completed;
- (3) An undertaking by the subdivider guaranteeing completion of the land improvements remaining to be completed, as secured by an irrevocable letter of credit certifying that adequate funds are and will be available at a sound and reputable banking or financial institution authorized to do business in the state. Such irrevocable letter of credit shall be in effect for a period of 2½ years from the date of recording of the final plat, shall run in favor of the city and shall indicate there are sufficient funds available for 110 percent of the approved estimated cost of all the land improvements remaining to be completed, and that such funds are held for such purposes only and for no other purposes. Such undertaking and irrevocable letter of credit shall be in a form to allow the city to procure the funds to complete the land improvements if construction of said improvements is not completed in accordance with the provisions hereof, and shall otherwise be in a form acceptable to the city council.

(Code 1996, § 16.12.220)

Sec. 86-53. - RECORDING OF FINAL PLAT.

The city shall record the final plat at the county recorder's office within 30 days of receipt by the city of the last item herein required to be submitted prior to recording. In the event such recording has not occurred within six months of the date of city council approval, the final plat and accompanying documents shall be reviewed by the building division and city staff to determine continued conformity with then-existing law and ordinance. The results of such review and recommendation shall be referred to the city council for

revocation or extension of the final plat approval, with such conditions as the city council may approve.

(Code 1996, § 16.12.230)

Sec. 86-54. - COMPLETION OF LAND IMPROVEMENTS.

(a) All land improvements as defined in this chapter shall be installed and completed within a period of two years after recording of the final plat, unless prior to the expiration of the two-year period an extension of time is requested by the subdivider to complete all of said improvements. Failure of the subdivider to complete all of the said improvements within such two-year period or any extension thereof shall result in forfeiture of the guarantee collateral. A request for an extension shall not be granted unless adequate guarantee collateral has been received and approved by the city council. In the event building permits have been issued for more than 50 percent of the lots, no extension of the time period shall be granted, except the city council may provide a time extension for completion of sidewalk, tree planting, and parkway restoration improvements; such time extension request shall be accompanied by a guarantee for completion of improvements as required in section 86-52

(b) In the event of failure to complete the land improvements in the required period, or any extension thereof, as stated above, the city council may direct that no further building permits be issued for property in such subdivision until acceptance or acknowledgment of completion by the city council of the land improvements.

(Code 1996, § 16.12.240)

Sec. 86-55. - INSPECTION OF LAND IMPROVEMENTS.

All land improvements to be installed under the provisions of this chapter shall be inspected during the course of construction, by the subdivider or agent, and construction observed by city staff. The subdivider shall employ a professional engineer registered in the state to certify and guarantee to the city that the improvements were installed in accordance with the plans and specifications as approved by the city. The consulting engineer shall submit to the city all applicable material and quality control test results. The cost of any reinspection of any land improvement found to be faulty or not in accordance with the approved plans and specifications shall be paid for by the subdivider to the city.

(Code 1996, § 16.12.250)

Sec. 86-56. - RELEASE OF GUARANTEE FOR COMPLETION.

The guarantee for completion of the land improvements shall be released only upon fulfillment, by the subdivider, of the following conditions:

- (1) The completion of the land improvements;
- (2) The submission of one set of reproducible (mylar) or electronic disk as-built drawings of the land improvements;
- (3) A bill of sale and a contractor's affidavit and lien waivers in accordance with the state Mechanic's Lien Act, 770 ILCS 60/0.01 et seq., for all land improvements which have been designated by the city council for acceptance;
- (4) The submission to the city of a deposit in cash, irrevocable letter of credit (subject to approval of the city council), or surety bond, equal to ten percent of the cost of the land improvements. This

deposit shall be a guarantee of satisfactory performance of the land improvements and shall be held by the city for a period of 24 months after acceptance by the city council. After such 24 months the deposit shall be refunded if no potential defects have been detected, then the remaining deposit shall be released, subject to payment for amounts expended or to be expended in correcting defects;

(5) Final acceptance, by resolution of the city council, of the land improvements which have been designated by the city council for acceptance, and acknowledgment, by resolution of the city council, of completion of the land improvements which have not been designated for acceptance.

(Code 1996, § 16.12.260)

Sec. 86-57. - PAYMENT OF FEES.

(a) *Generally.* The subdivider and those making land improvements shall pay all filing, review, and inspection fees per the schedule of fees established by the city council, and shall reimburse the city for the costs of court reporter fees, recording fees, and all fees of attorneys, engineers, and other consultants that may be required by the city pertaining to the submitted applications. Fees associated with the work of individuals (not employees of the city), corporations, or other entities shall have five percent added to the fee charged to the city.

(b) *Reimbursement for staff review time.* Every applicant for rezoning, special use permit, planned unit development, concept plan, preliminary plat or plan, final plat or plan, land banking for future public use, site plan reviews to include new parking facilities in any commercial or industrial district, and any land improvements shall reimburse the city for expenses incurred by the city in connection with all legal, engineering, land planning, and other professional services required during the review of applications required by the city and to assure compliance with the standards contained in this Code.

(1) With the exception of a lot previously subdivided, the applicant shall deposit into a specified account with the city at the time of the first application affecting the applicant's project an amount not less than \$500.00 and not more than \$2,500.00. The amount shall be determined by the city manager or his designee and shall be based upon the expected complexity of the proposed application and the anticipated amount of time required by the city staff and its consultants to review the application and supporting documentation. The final fee billed to the applicant may be more or less than the city manager's estimate.

(2) Such expenses shall include, but are not limited to, the following:

- a. Meetings with the applicant will be charged at the prevailing hourly charges of all staff members and consultants deemed necessary by the city. However, charges will not be made for a first "introductory" meeting with the city staff and consultants.
- b. The prevailing hourly charges of all city staff members and consultants deemed necessary by the city, for time spent on reviewing applications.
- c. Any and all filing and other fees that affect the applicant's project that are required by the city.

(3) All proceedings in connection with the rezoning, special use permit, planned unit development, or land improvement shall be stayed until such sum so designated is deposited with the city as required.

(4) Upon submission of bills by the city attorney, city engineer, city planner or other consultant hired to review the application, the city shall pay these fees out of the specified account. At such time the balance of the account reaches one-fourth of the original amount deposited, the city manager or his designee may demand from the applicant a sum of money that, in addition to the balance of the account, shall equal the amount originally required by the city, or such lesser fraction thereof that the city manager or his designee may in such case determine.

a. All proceedings with regard to such rezoning, special use permit, planned unit development, or land improvement shall be stayed until said subsequent demands for payment of fees shall be deposited in said account.

b. Any demand or subsequent demand of the city not deposited by the applicant within ten working days of the date of the demand shall, at the discretion of the city council and upon written notice to the applicant, terminate and render null and void the application for the proposed rezoning, special use permit, planned unit development, or land improvement.

(5) The city shall present a final statement by the city attorney, city engineer, city planner or other consultant hired to review the application within 60 days of the approval of the application. If, upon payment of these fees, any balance is remaining in the specified account, said balance shall be repaid to the applicant.

(Code 1996, § 16.12.270; Ord. No. 03-3196, 10-27-2003)

Sec. 86-58. - FEE SCHEDULE.

All fees and charges for services related to the filing and review of all subdivision plans and the inspection of subdivision improvements' construction shall be established and modified from time to time by city council resolution.

(Code 1996, § 16.12.280)

Secs. 86-59—86-80. - RESERVED.

ARTICLE III. - PLATS AND PLANS

DIVISION 1. - GENERALLY

DIVISION 2. - PRELIMINARY PLAT

DIVISION 3. - ENGINEERING PLAN

DIVISION 4. - FINAL PLAT

DIVISION 5. - CHECKLISTS

DIVISION 1. - GENERALLY

[Secs. 86-81—86-100. - Reserved.](#)

Secs. 86-81—86-100. - Reserved.**DIVISION 2. - PRELIMINARY PLAT**

Sec. 86-101. - Requirements generally.
Sec. 86-102. - Identification and description.
Sec. 86-103. - Existing conditions.
Sec. 86-104. - Proposed subdivision design features.
Sec. 86-105. - Protective covenants.
Sec. 86-106. - Street standards.
Secs. 86-107—86-120. - Reserved.

Sec. 86-101. - REQUIREMENTS GENERALLY.

The preliminary plat shall show the information required by this division. The preliminary plan shall be accompanied by a properly executed checklist as set forth in section 86-181.

Sec. 86-102. - IDENTIFICATION AND DESCRIPTION.

Identification and description of the preliminary plat shall be shown as follows:

- (1) Proposed name of subdivision;
- (2) Location by section, town, and range, or by other legal description;
- (3) Names and addresses of owner, or subdivider having control of the tract, name and seal of registered engineer or surveyor who prepared topographical survey, and designer of the plat;
- (4) Graphic (engineering) scale not smaller than one inch to 100 feet;
- (5) North point (designated as true north);
- (6) Date of preparation;
- (7) Drawn on 24-inch by 36-inch sheets.

(Code 1996, § 16.36.020)

Sec. 86-103. - EXISTING CONDITIONS.

Existing conditions shall be shown on the preliminary plat as follows:

- (1) Boundary line of proposed subdivision clearly indicated;
- (2) Total approximate acreage therein;
- (3) Existing zoning district;
- (4) Location, widths, and names of all existing or previously platted streets, or other rights-of-way, showing type of improvement, if any, railroad and utility rights-of-way, parks, and other public open

spaces, permanent buildings and structures, easements, and section and corporate lines, within the tract and to a distance of 100 feet beyond the tract;

(5) Location and size of existing sewers, water mains, culverts, or other underground facilities within the tract and to a distance of 100 feet beyond the tract, also indicating such data as grades, invert elevations, and locations of catchbasins, manholes and hydrants;

(6) Location map, drawn at a scale of not less than one inch equals 1,000 feet, showing boundary lines of adjoining unsubdivided or subdivided land within an area bounded by nearest streets or other natural boundaries, identifying type of use and ownership of surrounding land and showing alignments of existing streets;

(7) Topographic data including existing and proposed contours at vertical intervals of not more than two feet and first floor elevations of all existing and proposed buildings or structures. Topographic data shall be indicated in feet above mean sea level. Watercourses, marshes, rock outcrops, other significant features and soil boring data at locations at depths as may be required by the director of public works;

(8) Locations of or reference to locations of existing monuments, benchmarks, and survey markers used in preparation of the plat.

(Code 1996, § 16.16.030)

Sec. 86-104. - PROPOSED SUBDIVISION DESIGN FEATURES.

Proposed subdivision design features shall be shown on the preliminary plat as follows:

(1) *Street plan.*

a. The arrangement, character, extent, width, grade, and location of all streets shall conform to the comprehensive plan and shall be considered in their relation to existing and planned streets, to reasonable circulation of traffic within the subdivision and adjoining lands, to topographical conditions, to runoff of stormwater, to public convenience and safety, and in their appropriate relations to the proposed uses of the area to be served.

b. Every street in any subdivision shall be dedicated as a public street and no private streets shall be approved.

c. The layout of streets shall show right-of-way widths and street names (not duplicating the name of any street heretofore used in the city or its environs unless the street is an extension of an already named street, in which case the name shall be used) and showing a proposed through street extended to the boundaries of the subdivision.

1. Right-of-way widths of primary trafficways including freeways, parkways, and secondary thoroughfares shall be in accordance with those designated on the comprehensive plan.

2. All right-of-way widths shall conform to the following minimum dimensions:

i. Secondary (collector) streets, 74 feet;

ii. Minor streets, 66 feet;

- iii. Cul-de-sac streets, 60 feet.
- 3. A cul-de-sac street shall not be more than 500 feet in length measured along its centerline from the street of origin to the end of its right-of-way, unless there are less than 16 lots abutting the cul-de-sac street. Each cul-de-sac shall have a terminus of nearly circular shape with a minimum diameter of 120 feet.
- 4. Provisions shall be made for serving lots abutting primary (arterial) streets and highways be either the use of:
 - i. Minor streets; or
 - ii. Backing lots to the primary street with a screen planting contained in a nonaccess reservation along the rear property line.
- 5. It must be evidenced that all street intersections and confluences encourage safe and efficient traffic flow. The intersection of more than two streets shall be avoided unless specific conditions of design indicate otherwise.
- 6. Minor streets shall be so aligned that their use by through traffic will be discouraged.
- 7. Where there is a deflection in the street alignment in excess of ten degrees, a curve shall be inserted with a radius of not less than:
 - i. Secondary (collector) streets, 300 feet;
 - ii. Minor street, 100 feet.
- 8. Tangents at least 50 feet long shall be introduced between reverse curves on secondary (collector) streets.
- d. The existing and proposed cross-section of each street shall be shown, indicating also when a new subdivision abuts a previously dedicated street right-of-way, that all required street improvements out to the centerline of this existing street bounding the new subdivisions shall be installed to meet and comply with the current standards of the city.
 - 1. Where there is a deflection in the horizontal centerline within a given block at any one point in excess of ten degrees, a curve shall be inserted with a radius of not less than:
 - i. Secondary (collector) streets, 300 feet;
 - ii. Minor streets, 100 feet.
 - 2. Gradients of streets shall be at least five-tenths percent and shall not exceed on:
 - i. Secondary (collector) streets, five percent;
 - ii. Minor streets, seven percent.
- e. The preliminary plat shall show or a certificate shall be submitted to the effect that the subdivider is aware of his responsibility for the installation of all the following items in accordance with the current standards and specifications of the city as set forth:

1. Pavements;
2. Curbs and gutters;
3. Street lights;
4. Sidewalks;
5. Street signs;
6. Parkway seeding;
7. Storm sewers and structures;
8. Sanitary sewers and structures;
9. Water main and related appurtenances.

(2) *Block standards.*

- a. The maximum lengths of blocks shall be 1,200 feet. Blocks over 900 feet long may require pedestrian ways at their approximate centers. The use of additional access ways to schools, parks, or other destinations may be specified by the planning and zoning commission.
- b. No specific rule concerning the shape of blocks is made, but blocks must fit readily into the overall plan of the subdivision and their design must evidence consideration of topographical conditions, lot planning, traffic flow, and public open space area.
- c. Blocks intended for commercial, industrial, and institutional use must be designated as such.
- d. Where a subdivision borders on or contains a railroad right-of-way or limited access thoroughfare right-of-way, the planning and zoning commission may require a street approximately parallel to and on each side of such right-of-way at a distance suitable for the appropriate use of the intervening land as for:
 1. Park purposes;
 2. Deep residential lots backing to railroad or primary street with a planting screen in a nonaccess area at rear property lines of lots; or
 3. Motor vehicle parking, business or industry with due regard for the requirements of approach grades and future grade separations.

(3) *Lot standards.*

- a. In general, lots should be as nearly rectangular in shape as practicable.
- b. The minimum lot dimensions for residential development shall be 70 feet wide at the established building line and not less than 100 feet in average depth, and containing not less than the minimum lot area requirements of the zoning ordinance (chapter 110). These minimum requirements shall not apply to land subdivided for nonresidential development.
- c. All lots shall have not less than the minimum width of the lot at the setback line abutting on

a publicly dedicated street.

- d. Side lines of lots shall be right angles or radial to the street line, or substantially so.
- e. Corner lots shall be not less than 90 feet in average width.
- f. Double frontage lots are not permitted except:
 - 1. Where lots back upon a primary street, and in such instances vehicular and pedestrian access between lots and the primary street is prohibited; and
 - 2. Where topographic or other conditions render subdividing otherwise unreasonable, such double frontage lots shall have an additional depth of at least 20 feet in order to allow for a protective screen planting on one frontage.
- g. Lots abutting upon a watercourse, drainageway, channel, or stream shall be of an additional depth or width, as required, to provide an acceptable building site.
- h. In the subdividing of any land within the city or within 1½ miles of the corporate limits, due regard shall be shown for all natural features, such as tree growth, watercourses, historic spots, or similar conditions.
- i. The layout, numbers, areas, and dimensions of lots to the nearest foot, and the proposed land use for each lot, parcel, or tract shall be indicated.
- j. The minimum front and side street building setback lines shall be shown and dimensioned in accordance with the applicable zoning ordinance requirements.
- k. Lots shall be continuously numbered from one plat to another in the same subdivision.

(4) *Utilities.*

- a. Points of connection to the city's existing water and sewer systems;
- b. Stormwater drainage:
 - 1. Complete storm sewer system, including pipe sizes, inlets, and inverts;
 - 2. A proposed surface water drainage pattern for each individual lot, block, and street;
 - 3. Stormwater management plan as required by chapter 22, article XIII;
- c. All easements as required in section 86-122 shall be indicated.

(Code 1996, § 16.16.040; Ord. No. 08-3676, § 2 (Exh. B), 5-12-2008)

Sec. 86-105. - PROTECTIVE COVENANTS.

An outline of all proposed protective covenants shall accompany the preliminary plat and shall include a protection against the obstruction of any surface water drainage easement. The enforcement of these covenants shall be the responsibility of the homeowner's association.

(Code 1996, § 16.16.050)

Sec. 86-106. - STREET STANDARDS.

Street standards are as follows:

TABLE 1. URBAN SECTION STREET STANDARDS

Street Type	R.O.W. To Be Dedicated (feet)	ADT	
Pavement Width, C + G,			
Sidewalks			
Primary (arterial) streets:			
Four-lane divided with shoulders	120	10,000+	48 feet, four 12-foot lanes, 20-foot median, 8-foot shoulders
Four-lane not divided	100	10,000+	67 feet, B-B, four 12-foot lanes, 14 feet bidirectional
Two-lane	80	6,000+	33 feet, B-B, two 14-foot lanes
Secondary (collector) streets	70	3,500	39 feet, B-B, two 11-foot lanes, two 8-foot parking lanes, 4-foot sidewalk
Industrial	66	3,500	31 feet, B-B, No parking, five-foot sidewalk
Minor streets:			
1,000 feet or more in length	66	1,000	39 feet, B-B, two 11-foot lanes for single-family development; and two 8-foot parking lanes, 4-foot sidewalk in all multifamily, commercial and industrial development
Less than 1,000 feet in length in single-family development, cul-de-sac streets and frontage streets	60	400	31 feet, B-B, two 11-foot lanes, one 8-foot parking lane, 4-foot sidewalk
Alleys	25	100	20 feet

Special note: Parkways shall be a minimum of nine feet exclusive of a four- or five-foot sidewalk as indicated.

Street Type				
Minimum to				
Maximum Gradient	Minimum Structural Design Number	Minimum Horizontal Curve	Minimum Vertical Curve	Minimum Soil Support (IBR)

Primary	0.50% to 5.0%	4.0	500'	300'	3.0
Secondary (collector)	0.50% to 5.0%	2.9	300'	200'	3.0
Industrial	0.50% to 5.0%	3.2	300'	200'	3.0
Minor:					
1,000' or more	0.40% to 7.0%	2.5	200'	100'	3.0
Less than 1,000'	0.40% to 7.0%	2.5	200'	100'	2.2
Cul-de-sac	0.40% to 7.0%	2.5	200'	100'	2.2
Access roads	0.40% to 7.0%	2.5	200'	100'	3.0
Alleys	0.40% to 7.0%	2.5	200'	100'	2.0

(Code 1996, ch. 16.16)

Secs. 86-107—86-120. - RESERVED.

DIVISION 3. - ENGINEERING PLAN

[Sec. 86-121. - Requirements generally.](#)

[Sec. 86-122. - Easements.](#)

[Sec. 86-123. - Public utilities.](#)

[Sec. 86-124. - Sewers.](#)

[Sec. 86-125. - Water supply.](#)

[Sec. 86-126. - Street improvements.](#)

[Secs. 86-127—86-150. - Reserved.](#)

Sec. 86-121. - Requirements generally.

The engineering plan shall show the information required in this division. The engineering plan shall be accompanied by a properly executed checklist as set forth in section 86-182.

(Code 1996, § 16.20.010)

Sec. 86-122. - EASEMENTS.

(a) Easements shall be provided for all overhead or underground utility services or surface water drainage where necessary. They shall be ten feet wide and shall be established at the rear or front of each lot and along such other lot lines as necessary to provide continuity of alignment from block to block. At deflection points in these easements, if overhead utility lines are contemplated, additional easements shall be established for pole line anchors.

(b) In a subdivision containing 60 acres or more, where lots are to be served by individual water supply and sewage disposal systems, and future resubdivision may be contemplated upon the installation of

public or community water and sanitary sewer facilities, easements of required width shall be shown for utility and street installation at locations necessary to serve lots in any future resubdivision.

(c) Where a subdivision is traversed by a watercourse, drainageway, channel, or stream there shall be provided a drainage easement conforming substantially with the lines of such watercourse. It shall include an additional area at least 15 feet wide adjoining both edges of the established area that has been affected by damaging flood waters, as certified by the subdivider or his engineer.

(d) All existing drainage and underground utility installations which traverse property to be subdivided shall be protected by easements.

(Code 1996, § 16.20.020)

Sec. 86-123. - PUBLIC UTILITIES.

(a) All utility lines for telephone, TV cable, and electric service shall be line easements when carried on overhead poles.

(b) Where telephone, electric, TV cable, and gas service lines are placed underground entirely throughout a subdivision area, conduits or cables shall be placed within easements or dedicated public ways in a manner which will not conflict with other underground services.

(Code 1996, § 16.20.030)

Sec. 86-124. - SEWERS.

(a) All sanitary sewer plans and installations shall conform to the standards and specifications in chapter 98, article IV.

(b) Sanitary sewer lines shall be installed to serve all properties in the subdivision except subdivisions where individual sewage disposal systems are permitted.

(c) A storm sewer system shall be constructed throughout the entire subdivision to carry off water from all inlets and catchbasins, and shall be connected to an adequate outfall as determined by the city staff. Such sewers shall provide for an extension to land lying within the upland drainage area, whether such land is within the subdivision or not. Storm sewers shall be designed by the Rational Method, and copies of the design computations shall be submitted with the plans. Inlets shall be provided so that surface water is not carried across or around any intersection, nor for a distance of more than 350 feet in the gutter. The stormwater drainage system shall be separate and independent of the sanitary sewer systems. Surface water drainage patterns shall be shown for each and every individual lot and block. The engineer shall design the stormwater management facility including stormwater detention in accordance with chapter 22, article XIII. The engineer shall submit all calculations for the determination of said drainage facility.

(Code 1996, § 16.20.040)

Sec. 86-125. - WATER SUPPLY.

(a) All water main plans and installations, including all appurtenances thereto, shall conform to the standards and specifications in chapter 98, article III.

(b) Water distribution facilities, including all pipes, fittings, hydrants, valves, vaults, etc., shall be installed to serve all properties within the subdivision.

(Code 1996, § 16.20.050)

Sec. 86-126. - STREET IMPROVEMENTS.

All streets shall be completely improved to the full right-of-way in accordance with the following requirements and standards:

- (1) The general street layout shall conform to that shown on the approved preliminary plat.
- (2) Pavements shall be constructed in accordance with the minimum standards as shown in section 86-106
- (3) Combination concrete curb and gutter, Type M6-18, shall be constructed as part of the pavement.
- (4) All pavement widths are measured back-to-back of curbs.
- (5) Heavily traveled streets in industrial areas shall be considered on an individual basis and pavement designs shall be based on specific engineering data for each street.
- (6) The minimum curb radius at intersections of minor streets shall be 20 feet; at intersections of minor streets and secondary streets, the minimum curb radius shall be 30 feet; and at intersections of secondary streets, the minimum curb radius shall be 40 feet; arterial streets shall be specifically designed.
- (7) Concrete sidewalks four feet wide (except that the city council may require wider sidewalks along arterial streets or in areas with higher pedestrian traffic) and four inches thick shall be constructed along both sides of the street and shall be located within parkways one-half foot off the right-of-way lines. Sidewalks constructed through approach areas should be six inches thick on a four-inch stone base. Through excavated trenches, two #4 re-bar, ten feet long, shall be centered in the sidewalk over the excavated areas.
- (8) Street signs and traffic control devices will be installed by the city in accordance with current standards, and the subdivider will be required to pay for the costs, including labor and materials, for these sign installations.
- (9) Streetlights will be installed by the city at all intersections and cul-de-sacs and at other suitable locations along the streets in accordance with current city standards and the subdivider will be required to pay for the costs, including labor and materials, for these streetlight installations.
- (10) A complete storm drainage system including appropriate stormwater retention and detention facilities shall be constructed throughout the subdivision. The storm drainage system must discharge into a storm sewer or drainageway with adequate capacity for the additional flow and adequate provisions must be made for surface overflow when the capacity of the storm drainage system is exceeded to ensure that buildings are not flooded or threatened by flooding, stormwater retention and detention facilities must be located on public lands with appropriate provisions for access and maintenance.
- (11) All parkways within the right-of-way shall be cleared of all stumps, rocks, trees that cannot be saved and construction debris and shall be graded with a minimum of four inches of topsoil and seeded.

(12) Cul-de-sac turnabouts shall have a pavement width of not less than 90 feet in diameter.

(13) Approaches shall be constructed of PC concrete, six inches thick from the back of curb to the right-of-way line, on a four-inch compacted stone base, except in commercial areas the approach pavement shall be designed based upon projected traffic figures.

(Code 1996, § 16.20.060)

Secs. 86-127—86-150. - RESERVED.

DIVISION 4. - FINAL PLAT

[Sec. 86-151. - Requirements generally.](#)

[Sec. 86-152. - Conformance with statutory provisions; drawing specifications.](#)

[Sec. 86-153. - Required information.](#)

[Sec. 86-154. - Certificates.](#)

[Secs. 86-155—86-180. - Reserved.](#)

Sec. 86-151. - REQUIREMENTS GENERALLY.

The final plat shall show the information required by this division. The final plat shall be accompanied by a properly executed checklist as set forth in section 86-183.

(Code 1996, § 16.24.010)

Sec. 86-152. - CONFORMANCE WITH STATUTORY PROVISIONS; DRAWING SPECIFICATIONS.

(a) Final plats shall conform to all statutory provisions pertaining to plats.

(b) All information required shall be shown accurately, drawn with waterproof India ink on mylar, or equal, in a manner that clear and legible contact prints or photostatic copies may be made. Two computer disks compatible with the city's operating system are also required.

(Code 1996, § 16.24.020)

Sec. 86-153. - REQUIRED INFORMATION.

Additional delineation shall be required on the final plat as follows:

(1) Accurate angular and lineal dimensions for all lines, angles, and curvatures with functions used to describe all boundaries including perimeter survey of tract, streets, easements, areas to be reserved for public use, and other important features. Error of closure of boundary line surveys shall not exceed one in 100,000 (one foot for each 100,000 feet of perimeter survey). Lot lines to show dimensions in feet and hundredths, and when an angle occurs in any lot line between lot corners the measurement of the angle shall be shown;

(2) Lots to be consecutively numbered in any subdivision and street names to show continuity in the community and be approved by planning and zoning commission;

(3) True angles and distances to the nearest established street lines and official monuments (not less than three), which shall be accurately described in the plat by location and size;

(4) Municipal, township, county, or section lines and section corners accurately tied to lines of the subdivision by distances and angles;

(5) Accurate location of all monuments which shall be Portland cement concrete four inches by four inches by 24 inches, or approved equal, with a one-half-inch diameter iron rod cast in the center. Permanent stone or concrete monuments shall be set at each corner or angle on the outside boundary. Pipes of one-inch diameter or steel rods of five-eighths diameter, by 30-inch lengths, shall be placed at the corners of each lot and block, at angle points, and at the ends and suitable intervals along curves. All U.S., state, county, city, or other official benchmarks, monuments, or triangulation stations in or adjacent to the property shall be preserved in precise position;

(6) Accurate outlines and legal descriptions of any area to be dedicated or reserved for public use, or for the exclusive use of property owners within the subdivision, with the purposes indicated thereon;

(7) Protective covenants shall be lettered on the final plat, or appropriately referenced thereon. The enforcement of these covenants shall be the responsibility of the homeowners' association.

(Code 1996, § 16.24.030; Ord. No. 08-3676, § 2 (Exh. B), 5-12-2008)

Sec. 86-154. - CERTIFICATES.

Appropriate certificates are as follows:

(1) *Surveyor's certificate.*

SURVEYOR'S CERTIFICATE

STATE OF ILLINOIS	)
	) SS
COUNTY OF	)

This is to certify that I, _____ Illinois Land Surveyor No. _____ surveyed and subdivided the following described property:

I further certify that (no) (a) part of the property covered by _____ is located within a special flood hazard area as identified by the Federal Emergency Management Agency.

Given under my hand and seal at _____, Illinois, this _____ day of _____, 20. _____

(Seal)

(2) *Owner's certificate.*

OWNER'S CERTIFICATE

STATE OF ILLINOIS	)
	) SS
CITY OF	)

We, _____, Owners certify the lands there represented on the plat hereon, do certify that the said plat was prepared at our request and under our direction by, _____, IL Registered Land Surveyor for the firm of _____. After said lands were duly surveyed by said surveyor, the corners of said lots were marked by substantial iron pins. The parts of the said lands described as streets are hereby dedicated to the City of Rochelle, for use as streets by the public in accordance with the laws of the State of Illinois, governing and controlling the dedication of and uses of ordinance adopted by the City of Rochelle, State of Illinois and those described as follows:

The following protective covenants regulating the use of the property shown hereon are hereby submitted without reservation:

(Covenants)

Dated this _____ day of _____, 20_____.

(3) *Notary certificate.*

NOTARY CERTIFICATE

STATE OF ILLINOIS	)
	) SS
COUNTY OF	)

I, _____, a notary public, in and for said County, in the state aforesaid, a notary public, do hereby and certify that _____, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such owners, appeared before me this day in person and acknowledged that they signed and delivered the annexed plat as their own free and voluntary act for the uses and purposes therein set forth. Given under my hand and Notarial Seal this _____ day of _____, 20_____, at _____, Illinois.

Notary Public:

(Seal)

My Commission Expires On

(4) *County clerk tax certificate.*

COUNTY CLERK TAX CERTIFICATE

STATE OF ILLINOIS	)
	) SS
COUNTY OF OGLE	)

I, _____, County Clerk of Ogle County, Illinois, do hereby certify that there are no delinquent general taxes, no unpaid forfeited taxes and no redeemable tax sales against any of the land included in the annexed plat.

I further certify that I have received all statutory fees in connection with the annexed plat.

Given under my hand and seal at _____, Illinois, this _____ day of _____, 20____.

(Seal)

County Clerk:

(5) *Certificate as to special assessments.*

CERTIFICATE AS TO SPECIAL ASSESSMENTS

STATE OF ILLINOIS	)
	) SS
COUNTY OF OGLE	)

I do hereby certify that there are delinquent or unpaid current or forfeited social assessments or any deferred installments thereof that have not been apportioned against the tract of land included in the plat. Dated this _____ day of _____, 20____, at _____, Illinois.

Collector of Special Assessments:

(6) *Plan commission certificate.*

PLAN COMMISSION CERTIFICATE

STATE OF ILLINOIS	)
	) SS
COUNTY OF OGLE	)

We, the undersigned members of the Plan Commission for the City of Rochelle, hereby approve the Plat of _____ to the City of Rochelle as set forth above and hereon.

Given under our hands and seals this _____ day of _____, 20_____.

President:

Secretary:

(7) *City engineer certificate.*

CITY ENGINEER CERTIFICATE

STATE OF ILLINOIS	)
	) SS
COUNTY OF OGLE	)

I, _____, do hereby certify that the required improvements have been installed, or the required improvements have been installed, or the required guarantee bond has been posted for the completion of all required land improvements. Dated at _____, Illinois, this _____ day of _____, 20_____.

(Seal)

City Engineer:

License Number:

(8) *City council acceptance resolution.*

CITY COUNCIL ACCEPTANCE RESOLUTION

STATE OF ILLINOIS	)
	) SS
COUNTY OF	)

OGLE	

WHEREAS, _____, Owners of the land shown hereon have caused same to be subdivided and platted as shown, and,

WHEREAS, the said land lies within the Corporate Limits of the City of Rochelle, Ogle County, Illinois.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Rochelle that the plat hereon be accepted and approved subject to the provisions of all applicable Ordinances of the City of Rochelle.

Passed this _____ day of _____, 20_____.

City Clerk:

Mayor:

(9) *Engineer and owners drainage certificate.*

ENGINEER AND OWNERS DRAINAGE CERTIFICATE

STATE OF ILLINOIS	)
	) SS
COUNTY OF OGLE	)

Pursuant to 765 ILCS 205/2, we hereby certify that to the best of our knowledge and belief, the drainage of surface water will not be changed by the construction of this subdivision or any part thereof, or that if such surface water drainage will be changed, adequate provision has been made for the collection and diversion of such surface water into water retention areas, public use areas, or drains which the subdivider has the right to use, and that such surface waters will not be deposited on the property of adjoining lands in such concentrations as may cause damage to the adjoining property because of the construction of the subdivision. Dated this _____ day of _____, 20_____.

Professional Engineer:

(Seal)

Owner:

(10) *County recorder's certificate.*

COUNTY RECORDER'S CERTIFICATE

STATE OF ILLINOIS	)
	) SS
COUNTY OF OGLE	)

Filed for record this _____ day of _____, 20_____ at _____
 o'clock in Book _____ of Plats, Page _____ and examined. Microfilm Number
 _____, Document Number _____.

County Recorder:

(Code 1996, § 16.24.040)

Secs. 86-155—86-180. - RESERVED.

DIVISION 5. - CHECKLISTS

Sec. 86-181. - Preliminary plat checklist.
 Sec. 86-182. - Engineering plan checklist.
 Sec. 86-183. - Final plat checklist.
 Secs. 86-184—86-200. - Reserved.

Sec. 86-181. - PRELIMINARY PLAT CHECKLIST.

The preliminary plat checklist is set forth as follows:

Name of Subdivision:

Date of Submission:

Due Date of Recommendation (45 Days):

NOTE: To properly execute this checklist, the subdivider or his engineer shall:

- A. Insert the required information.
 - B. Denote compliance with applicable ordinances by placing his initials in all spaces where applicable.
 - C. Denote those items which the subdivider considers "not applicable" to this particular subdivision by the abbreviation "N.A."
1. Ten copies of preliminary plat submitted.

2. Plats are on 22-inch by 34-inch sheets.
3. Plat scale is not less than one inch to 100 feet.
4. A title sheet is included with each set of preliminary plats.
5. Name of proposed subdivision is shown.
6. Location given by town, range, section, or other legal description.
7. Name and address of owner, trust, corporation or subdivider having control of project is shown.
8. Name and seal of registered engineer or surveyor who prepared topographic survey is shown.
9. Name and address of the designer of the plat is shown.
10. North direction is shown.
11. Date of preparation and date of revision, if any, is shown.
12. A location map is included indicating:
 - a. A scale of not less than one inch to 1,000 feet;
 - b. Boundary lines of adjoining land within an area bounded by the nearest arterial streets or other natural boundaries;
 - c. Use of surrounding land;
 - d. Ownership of the surrounding land;
 - e. Alignment of existing streets;
 - f. Section and corporate lines.
13. Boundary line of proposed subdivision is clearly shown.
14. Total approximate acreage is shown.
15. Existing zoning classification is indicated.
16. The following existing items, if within the boundaries of the subdivision, or located 100 feet or less outside the boundaries, are shown:
 - a. Previously platted streets and other right-of-ways, with improvements, if any, indicating:
 1. Location.
 2. Widths.
 3. Names.
 - b. Railroad rights-of-way:
 1. Location.

2. Dimensions.
- c. Utility rights-of-way:
 1. Location.
 2. Width.
 3. Type:
 - a. Sewer.
 - b. Water.
 - c. Gas.
 - d. Telephone.
 - e. Electric.
 - f. Other.
- d. Parks and other open spaces indicating:
 1. Location.
 2. Area.
- e. Easements, indicating:
 1. Location.
 2. Width.
 3. Purpose.
- f. Existing buildings and structures, indicating:
 1. Location.
 2. Setback lines.
 3. Names of owners.
- g. Existing sanitary sewers, indicating:
 1. Location.
 2. Size.
 3. Manholes.
 4. Invert elevations at manholes.
- h. Existing water mains, indicating:

1. Location.
 2. Size.
 3. Valves, indicating:
 - a. Valve manhole; or
 - b. Valve box.
 4. Fire hydrants and auxiliary valves.
- i. Culverts indicating:
1. Type.
 2. Location.
 3. Size.
 4. Invert elevations.
- j. Storm sewers, indicating:
1. Location.
 2. Size.
 3. Catchbasins.
 4. Invert elevations.
- k. Watercourses, indicating:
1. Type.
 2. High-water width and elevation.
 3. Width of easement.
 4. Location of easement.
- l. Marshes, indicating:
1. Location.
 2. Dimensions.
 3. Soil bearing capacity.
- m. Rock outcrops, indicating:
1. Location.
 2. Dimensions.

- n. Monuments and survey markers, indicating:
 - 1. Location.
 - 2. Type.
 - o. Legal wetlands:
 - 1. Location.
 - 2. Type.
17. The topographic area is given in feet above mean sea level within the tract and to a distance of 100 feet beyond, indicating:
- a. Existing contours at vertical levels of not more than two feet.
 - b. Proposed contours at vertical intervals of not more than two feet.
 - c. Bench mark tied to USGS, indicating:
 - 1. Location.
 - 2. Description.
 - 3. Elevation.
18. Soil bearing data is given, if required by the city engineer, indicating:
- a. Location of tests.
 - b. Depth of tests.
 - c. Soil bearing capacity.
 - d. Moisture content.
19. The following proposed items, if within the boundaries of the subdivision or located 100 feet or less outside of the boundaries, are shown:
- a. Layout of streets, indicating:
 - 1. Secondary (collector) streets, indicating:
 - a. 74-foot right-of-way width.
 - b. 45-foot roadway width, back to back of curbs.
 - 2. Minor streets, indicating:
 - a. 66-foot right-of-way width.
 - b. 37-foot roadway width, back-to-back of curbs.
 - 3. Cul-de-sac streets, less than 1,000 feet, indicating:

- a. 60-foot right-of-way width.
 - b. 31-foot roadway width, back to back of curbs.
 - c. The length does not exceed 500 feet unless there are less than 16 lots abutting the cul-de-sac street.
 - d. Terminus is circular, or nearly so, and right-of-way is at least 120 feet in diameter.
 - e. Terminus roadway width is 90 feet in diameter.
4. Through street shown extended to boundaries of subdivision.
5. Stormwater runoff pattern on paving.
- b. Names of streets:
 1. Not duplicating the name of any street heretofore used in the city or its environs, unless the street is an extension of any already existing street, in which case the name shall be used.
 2. Streets are to run north and south.
 3. Avenues are to run east and west.
- c. Utility easements:
 1. Located at the rear or front of each lot and other necessary locations.
 2. Not less than ten feet in width on each lot.
 3. Purpose is indicated.
 4. Stormwater runoff is indicated.
- d. Pedestrian ways, when required, indicating:
 1. Location at approximately the center of blocks in excess of 900 feet in width.
 2. Width not less than ten feet.
- e. Block layout, indicating:
 1. Blocks do not exceed 1,200 feet in length.
 2. Additional access ways to parks, schools, etc., are shown in accordance with the plan commission's requirements.
 3. Blocks fit readily into the overall plan of the subdivision, with due consideration given to:
 - a. Topographical conditions.

- b. Lot planning.
 - c. Traffic flow pattern.
 - d. Public open space areas.
- 4. Block numbers.
- 5. Blocks intended for commercial, industrial, or institutional use are so designated.
- f. Lot layout, indicating:
 - 1. Lot dimensions.
 - 2. Lot areas, not less than those stipulated in the appropriate district regulations of the zoning ordinance (areas may be listed by schedule).
 - 3. Building setback lines shown and properly dimensioned.
 - 4. Proposed land use.
 - 5. Lot numbers.
 - 6. Corner lots are sufficiently larger than interior lots to allow maintenance of building setback lines on both street frontages and still allow a buildable width equal to that of the smallest interior lot in the block (minimum width 90 feet).
 - 7. All lots abut a publicly dedicated street for a distance not less than the minimum width of the lot.
 - 8. Lots are as nearly rectangular in shape as is practicable.
 - 9. Lots are not less than 100 feet in depth, nor 70 feet in width (at setback).
 - 10. Lot lines are substantially at right angles to the street lines and radial to curved street lines.
 - 11. Double frontage lots only where:
 - a. Lots back upon a primary street and front on an access street.
 - b. Topographic or other conditions make subdividing otherwise unreasonable.
 - c. Lot can be made an additional 20 feet deeper than average.
 - d. A protective screen planting is indicated on one frontage.
 - 12. Lots abutting or traversed by a watercourse, drainageway, channel, or stream, indicate:
 - a. Additional width and depth to provide an acceptable building site.
 - b. Width of easement is at least 15 feet wider on each side of watercourse at high-water level.

13. Due regard for natural features, such as:
 - a. Trees.
 - b. Watercourses.
 - c. Historic items.
 - d. Other similar conditions.
- g. Areas intended to be dedicated for public use, indicating:
 1. Plan conforms to general development plan of the city.
 2. Purpose.
 3. Acreage.
- h. Source of domestic water supply, indicating:
 1. Connection to existing water mains.
 2. Location of site for community water plant.
- i. Provision for sewage disposal, indicating:
 1. Connection to existing sanitary sewer mains.
 2. Location of site for community sewage disposal plant.
- j. School sites, indicating:
 1. Location.
 2. Dimensions.
 3. Acreage.
- k. Topographic information, indicating:
 1. Proposed changes in elevation of land show that any flooding would be relieved.
 2. Adequate installation of storm sewers would remove the possibility of flooding.
 3. Drainage calculations.
- l. Sanitary sewer layout, indicating:
 1. Location.
 2. Size.
 3. Invert elevations at manholes.
 4. Manhole locations.

- m. Water main layout, indicating:
 - 1. Location.
 - 2. Size.
 - 3. Looped pattern where practicable.
 - 4. Fire hydrants, spaced not more than 400 feet apart.
 - 5. Valve locations.
 - n. Storm sewer layout, indicating:
 - 1. Location.
 - 2. Catchbasins at not more than 350-foot intervals.
 - 3. Stormwater is not carried across or around any intersection.
 - 4. Surface water drainage pattern for each individual lot and block.
 - 5. Tile for sump pump along front or rear.
 - o. Streetlight layout, indicating locations and typical streetlight detail.
20. An outline of proposed covenants accompanies the plans, indicating the intention of the subdivider to have the covenants recorded with the final plat.
21. Typical street cross section, showing base construction, surfacing, concrete curb and sidewalk in accordance with the land improvements ordinance.
22. Indication that sidewalks will be installed along all lot lines coincidental with street rights-of-way.
23. Indication on drawings or by certificate that subdivider is aware of his responsibility for installation of street signs.

Completed by:

Name:

Address:

Date:

(SEAL) IRP Engineer:

License Number:

Date:

Considered by Plan Commission on:

Date:

Chairman:

(Code 1996, § 16.36.010)

Sec. 86-182. - Engineering plan checklist.

The checklist for engineering plans is set forth as follows:

Name of Subdivision:

Date of Submission:

Due Date:

NOTE: To properly execute this checklist, the subdivider or his engineer shall:

- A. Insert the required information.
- B. Denote compliance with applicable ordinances by placing his initials in all spaces where applicable.
- C. Denote those items which the subdivider considers "not applicable" to this particular subdivision by the abbreviation "N.A."
 - 1. Plans have been submitted within 12 months of the date of approval by the city council of the preliminary plat.
 - 2. Ten copies of engineering plans submitted.
 - 3. Plans are on 22-inch by 34-inch sheets.
 - 4. A title sheet is included with each set of plans, and includes:
 - a. Name of subdivision and unit number.
 - b. Type of work covered.
 - c. Location map showing relation of area to be improved to streets.
 - d. An index of sheets.
 - e. A summary of quantities.
 - f. Name, address, and seal of registered engineer preparing the plans.
 - g. Date of preparation and revisions, if any, is shown.
 - 5. Plan and profiles:
 - a. Horizontal scale is no less than one inch to 50 feet.
 - b. Vertical scale is no less than one inch to five feet.
 - 6. Cross sections: Horizontal and vertical scales are no less than one inch to ten feet.
 - 7. North direction is shown for each separate plan view.

8. An adequate number of benchmarks are shown with elevations referenced to USGS, to facilitate checking of elevations.
9. Delineation is shown of all easements necessary to serve all lots with underground and overhead utilities, and to allow for perpetual maintenance of these facilities.
10. An application for a state environmental protection agency permit for the sanitary sewer extension accompanies the plans.
11. Sanitary sewer plans and specifications are complete and conform to the city standards and requirements and denote all of the following:
 - a. All properties in the subdivision are served and house service connections are provided.
 - b. The minimum size main is eight inches I.D.
 - c. The plan conforms to the overall city plan for any trunk sewers traversing the subdivision.
 - d. The distance between manholes does not exceed 400 feet.
 - e. The invert elevation of each manhole is shown.
 - f. The grade of each section of sewer is shown by percentage in accordance with accepted engineering practice.
 - g. Extra strength pipe and extra strength manhole wall construction is specified and shown on the plans and in the estimate of quantities where the depth of installation exceeds 12 feet.
 - h. Profile of existing and proposed ground surfaces.
 - i. Risers are shown for individual house service laterals where depth of main exceeds 12 feet.
 - j. Pipe joints are of permitted type.
 - k. Minimum manhole cover weights are correct:
 1. 540 pounds in secondary (collector) streets.
 2. 400 pounds in minor and cul-de-sac streets.
 3. 335 pounds in rear lot easements.
 - l. Specifications include provisions for checking of infiltration or exfiltration.
 - m. Standard details are shown and include:
 1. Standard manhole.
 2. Drop manhole.
 3. Standard manhole cover.
 4. Standard riser.

5. Standard service installation.
 6. Concrete cradle.
12. An application for a state environmental protection agency permit for the water main installation accompanies the plans.
13. Water distribution plans and specifications are complete and conform to city requirements and include all of the following:
- a. All properties in the subdivision are served and provisions are made for service connections within the property lines.
 - b. The minimum size main is six inches I.D.
 - c. The plan conforms to the city's overall plan for any trunk lines which might traverse the subdivision.
 - d. Valve and hydrant spacing and location conform to the city's standards.
 - e. Material and joint specifications comply with the city's standards.
 - f. Specifications include provisions for testing and sterilization of all new water distribution facilities.
 - g. Standard details are shown and include the following:
 1. Valve installation.
 2. Standard cover.
 3. Standard hydrant installation.
14. Street plans, including storm sewers, are complete and conform to city requirements, and include all of the following:
- a. The location of streets and width of pavements conform to those indicated on the approved preliminary plat.
 - b. Plan shows curb, gutter and sidewalk locations, and includes the following information:
 1. Corner curb radius is not less than 20 feet.
 2. Curve data for all horizontal curves.
 3. Direction of flow along all curbs.
 4. No surface water is carried across or around any street intersection, nor for a distance greater than 350 feet.
 - c. Cross sections are submitted as necessary to indicate feasibility of proposed street elevations in relation to adjacent lot elevations, and include sidewalk location.
 - d. Profiles are submitted for all paving centerlines and storm sewers and indicate:

1. Catchbasin invert elevations.
2. Minimum pipe size is 12 inches I.D. (except that a lead from a single inlet may be ten inches I.D.).
3. The grade of each section of sewer is shown by percentage in accordance with accepted engineering practice.
4. Storm sewer elevations do not conflict with any other underground utilities.
5. Storm sewer is connected with an adequate outfall.
6. Curve data is given for vertical road curves.
- e. The storm sewer system is designed to provide sufficient capacity for the draining of upland areas contributing to the stormwater runoff on the street.
 1. Storm sewer design computations are submitted with plans.
- f. A surface water drainage pattern is shown for each block.
- g. Material specifications comply with city standards and include:
 1. Paving base materials.
 2. Paving surface materials.
 3. Concrete.
 4. Pipe materials.
 5. Backfill material.
- h. Typical cross sections and details include the following:
 1. Secondary (collector) street.
 2. Minor or cul-de-sac street.
 3. Concrete curb and gutter.
 4. Concrete sidewalk.
 5. Standard manhole.
 6. Standard cover.
 7. Catchbasin.
15. Street light plans are complete and include the following:
 - a. Pole locations.
 - b. Spacing.

- c. Easements for wires.
- 16. Parkway improvement specifications are complete and include provisions for:
 - a. Removal of stumps, trees that cannot be saved, boulders and all other similar items.
 - b. Grading, installation of topsoil, and seeding or sodding.
- 17. Street signs are shown to be installed, at all street intersections not previously marked.

Completed by:

Name:

Address:

(Seal) Reviewed by:

Date IRP Engineer:

License Number:

Date:

Considered by Planning and Zoning Commission on Date:

Chairman:

(Code 1996, § 16.36.020; Ord. No. 08-3676, § 2 (Exh. B), 5-12-2008)

Sec. 86-183. - Final plat checklist.

The final plat checklist is set forth as follows:

Name of Subdivision:

Date of Submission:

Due Date of Recommendation (45 days):

NOTE: To properly execute this checklist, the subdivider or his engineer shall:

- A. Insert the required information.
 - B. Denote compliance with applicable ordinances by placing his initials in all spaces where applicable.
 - C. Denote those items which the subdivider considers "not applicable" to this particular subdivision by the abbreviation "N.A."
- 1. Plat has been submitted prior to expiration of the preliminary plat approval.
 - 2. Engineering plan has been submitted.
 - 3. One original drawing of the final plat has been submitted.

4. Three transparency prints of the final plat has been submitted.
5. Ten copies of the final plat have been submitted on mylar and two copies of the final plat on computer disks.
6. Plat is drawn with waterproof India ink on heavy linen tracing cloth or equal.
7. North direction is shown.
8. Scale is shown (minimum one inch equals 100 feet).
9. Section corners and section lines are accurately tied into subdivision by distances and angles.
10. Official survey monuments are shown as required.
11. All necessary easements are shown and dimensioned.
12. Building setback lines are shown and dimensioned in accordance with the zoning ordinance.
13. Lot areas are in accordance with the applicable zoning regulations.
14. Street names are shown.
15. Areas to be dedicated or reserved for public use are shown and described and the purpose is designated.
16. Protective covenants are lettered on the plat or are appropriately referenced.
17. Required certificates are shown and signed, including:
 - a. Surveyor's certificate (including legal description).
 - b. Owner's certificate.
 - c. Notary certificate.
 - d. County clerk certificate.
 - e. Certificate as to special assessments.
 - f. Planning and zoning commission certificate.
 - g. City engineer certificate.
 - h. City council certificate.
 - i. Engineer's and owner's drainage certificate.
 - j. County recorder's certificate.
18. The following items have been submitted with the final plat:
 - a. Detailed specifications for all required land improvements not previously submitted and approved with the engineering plans.

- b. A copy of the state environmental protection agency permit for sanitary sewer installation.
- c. A copy of the state environmental protection agency permit for water main installation.
- d. An affidavit by the subdivider acknowledging responsibility for the proper installation of all required land improvements.
- e. A certified estimate of cost of all required land improvements prepared by a registered engineer.
- f. A description of the bond or guarantee collateral intended to be submitted after contingent approval is granted by the city council.

Completed by:

Name:

Address:

Date:

(Seal) Reviewed by:

IRP Engineer:

License Number:

Date:

Considered by Planning and Zoning Commission on Date:

Chairman:

(Code 1996, § 16.36.030; Ord. No. 08-3676, § 2 (Exh. B), 5-12-2008)

Secs. 86-184—86-200. - RESERVED.

ARTICLE IV. - LAND IMPROVEMENTS

[Sec. 86-201. - Generally.](#)

[Sec. 86-202. - Applicability.](#)

[Sec. 86-203. - Sanitary sewer construction.](#)

[Sec. 86-204. - Water main construction.](#)

[Sec. 86-205. - City streets.](#)

[Sec. 86-206. - Stormwater management.](#)

[Sec. 86-207. - Landscaping.](#)

[Sec. 86-208. - Lands for parks and schools.](#)

[Secs. 86-209—86-230. - Reserved.](#)

Sec. 86-201. - GENERALLY.

(a) The following standards and specifications set forth in this article outline the minimum requirements of the city. The standard specifications are covered under six primary headings of:

- (1) Sanitary sewers;
- (2) Water mains;
- (3) Street construction;
- (4) Stormwater management;
- (5) Landscaping;
- (6) Lands for parks and schools.

(b) The standard specifications are followed by a series of general specifications which outline in detail the materials to be used and the methods to be followed in accomplishing the work.

(Code 1996, § 16.44.010)

Sec. 86-202. - APPLICABILITY.

(a) In cases of conflict, the special provisions shall take precedence over the standard specifications.

(b) Sewer and water main construction shall be performed using methods and materials in strict accordance with the latest edition of Standard Specifications for Water and Sewer Main Construction in Illinois, however, special drawings or notes herein take precedence.

(Code 1996, § 16.44.020)

Sec. 86-203. - SANITARY SEWER CONSTRUCTION.

Sanitary sewer design and construction shall be in accordance with chapter 98, article IV.

(Code 1996, § 16.44.030)

Sec. 86-204. - WATER MAIN CONSTRUCTION.

Water main design and construction shall be in accordance with chapter 98, article III.

(Code 1996, § 16.44.040)

Sec. 86-205. - CITY STREETS.

The standard specifications for street construction referred to herein is the latest edition of the Standard Specifications for Road and Bridge Construction of the Illinois Department of Transportation, and the supplemental specifications adopted thereafter, and all recurring special provisions. The following special provisions are to be considered as a part of these standards and specifications and if a conflict arises, the following special provisions will govern.

- (1) *Design generally; payment of costs.* All streets shall be designed in accordance with the classifications of said streets by the planning and zoning commission. The classification shall be as

specified in section 86-1 and as indicated in section 86-106. The developer shall be responsible for the complete construction of all minor and secondary streets. The city will construct all primary (arterial) streets as determined by the planning and zoning commission when the need and budget allows for the primary street to be developed. The city will also pay for the upsizing of the street from the minimums listed in section 86-106. The upsizing required will be determined by the city staff. Reimbursement for such cost difference shall be made to the developer upon acceptance of such land improvements by the city council subject to budget and timing as may be in accordance with law and as may be agreed on by the developer and the city, all in accordance with section 86-50

(2) *Surfacing.* The structural design number shall be used to determine the thickness required for the base and surface of any particular street. To obtain the structural design factor, the following table shall be used in conjunction with the materials used:

Aggregate base course type B	0.13 per inch
Bituminous concrete C1 I	0.33 per inch
PC concrete	0.40 per inch

If any other materials are used, the structural design number will be the same as that approved by the state department of transportation. As part of the structural design, the bituminous surface shall be a minimum thickness of three inches. The surface shall be placed in a minimum of two lifts. The binder lift shall be placed in year one and the surface during year two. This will allow for corrective action and provide a better finished surface. The final lift or binder shall not be placed until after one winter or as approved by the city staff.

(3) *Storm sewer pipe.* All storm sewer pipe shall be reinforced concrete pipe conforming to ASTM C-443 or approved equal. Prior approval must be obtained if the material is proposed to be other than reinforced concrete. In no case shall the material be used if not approved by the state department of transportation.

(4) *Inlets.* All inlets shall be a Type A or Type B Special as specified on the standard drawings attached. Inlets shall be placed no further than 350 feet apart and more often if required by your engineering study.

(5) *Supplemental tile line.* A supplemental tile line shall be installed to facilitate a discharge point for sump pumps. This tile shall be connected to a part of the storm sewer system for a proper outlet. The size of the tile shall be a minimum of four inches and enlarged as determined by the number of hookups.

(6) *Backfill.* State-approved trench backfill material will be required. All backfill operations and compaction methods must be approved by the city staff and performed in accordance with IDOT standards. In all cases where a backfill operation is conducted, the developer shall be responsible for any settlement for a period of two years. To insure the city of any failure the city shall retain the bond for the additional required time.

(7) *Removal of topsoil.* All topsoil shall be removed from the core out and the core out approved by the city engineer prior to the placement of any aggregate base material.

(8) *Curb and gutter.* The curb and gutter shall be a M6.18 curb and shall be placed on a bed of four-inch compacted stone as indicated on the standard drawing. Two No. 4 reinforcement bars shall be installed in the curb. The reinforcement bars shall run continuously for the entire length of the curb. The reinforcement bar shall be installed eight inches from the front and back of the curb and four and one-half inches from the bottom of the curb.

(9) *Sidewalks.* All sidewalks shall be PC concrete four feet wide except that the city council may require wider sidewalks along arterial streets or in areas of higher pedestrian traffic, and four inches in thickness, except where sidewalks cross driveways, a six-inch thickness will be required. The sidewalk shall be placed on a bed of four-inch compacted stone. Two No. 4 reinforcement bars shall be installed in the sidewalk. The reinforcement bars shall be 16 inches from each edge of the sidewalk and centered in the depth of the concrete. The sidewalk shall be placed six inches off the property line. The sidewalk shall not be constructed until the house is built, unless the house is not completed during the two-year bond period. In that case the sidewalk shall be built before the release of the bond.

(10) *Accessibility ramps.* Accessibility ramps shall be installed at all intersections between the street pavement and the sidewalk. The ramp shall provide a consistent slope from the intersection of perpendicular sidewalks to the flowline of the curb. The ramp slope shall not exceed a 1:12 slope (1" per foot). A minimum four feet by four feet landing area shall be constructed at the intersection of perpendicular sidewalks. The ramp shall be a minimum of 4 feet wide with concrete side flares. The side flares shall begin at the intersection of the ramp and the sidewalk shall be a minimum of 1 foot wide at the back of curb. There shall be a smooth transition between the ramp and the side flares. All ramps shall be PC concrete, six inches in thickness, with three No. 4 reinforcing bars installed the entire length of the ramp. Three No. 4 reinforcing bars shall also be installed between the curb and the ramp. The ramp shall include cast iron truncated dome detectable warning plates. The warning plates shall be powder coated yellow. The detectable warning area shall be a minimum of 24 inches by 48 inches (full width of ramp).

(11) *Street signs.* Street signs shall be installed by the city in accordance with current standards, and the developer shall be required to pay for the costs, including labor and materials, for these sign installations.

(12) *Streetlights.* Streetlights shall be installed by the city at all intersections and cul-de-sacs and at other suitable locations along the streets in accordance with current standards and the developer shall be required to pay for the costs, including labor and materials, for these streetlight installations.

(Code 1996, § 16.44.050; Ord. No. 07-3532, 4-9-2007; Ord. No. 08-3676, § 2 (Exh. B), 5-12-2008)

Sec. 86-206. - STORMWATER MANAGEMENT.

(a) The stormwater management facilities shall be developed in accordance with chapter 22, article XIII. The developer shall submit the stormwater management plan for the entire property being developed even if consideration at this time is only a small portion of the whole. The plan shall also include on-site and offsite drainage to ensure that the proposed subdivision does not have an adverse impact on drainage for the adjoining property.

(b) The developer's engineer shall include in the land improvements plans (for review by the city) the following:

(1) Existing contours, at two-foot intervals, of entire property with elevation based on USGS

datum;

(2) Proposed contour of developed area with spot elevations at the corners of each lot, and building first floor elevation;

(3) Drainage patterns of each lot with outlet for all surface water;

(4) Finish grade of lot (at foundation) shall not exceed 18 inches above the curb, not less than 12 inches above the top of the curb;

(5) Storm sewer system must be designed to properly handle all runoff. The subdivider's engineer must submit calculations;

(6) Retention and/or detention requirements. Overflow, outfall, allowable discharge control and bottom treatment must be included with the plans.

(Code 1996, § 16.44.060)

Sec. 86-207. - LANDSCAPING.

A landscaping plan shall be delivered on the same date and be on the same review schedule as the engineering plans.

(Code 1996, § 16.44.070)

Sec. 86-208. - LANDS FOR PARKS AND SCHOOLS.

The planning and zoning commission may make recommendations to the city council concerning criteria for lands to be provided for parks and schools.

(Code 1996, § 16.44.080; Ord. No. 08-3676, § 2 (Exh. B), 5-12-2008)

Secs. 86-209—86-230. - RESERVED.

ARTICLE V. - DEDICATION OF SCHOOL SITES AND PARK LANDS; PAYMENT OF FEES IN LIEU THEREOF

- Sec. 86-231. - Final plat approval.
- Sec. 86-232. - Criteria for requiring school site dedication.
- Sec. 86-233. - Criteria for requiring park and recreation land dedication.
- Sec. 86-234. - Population density.
- Sec. 86-235. - Location of sites.
- Sec. 86-236. - Conveyance of site.
- Sec. 86-237. - Criteria for requiring a cash contribution in lieu of school and park sites.
- Sec. 86-238. - Reservation of additional land.
- Sec. 86-239. - Combining with adjoining developments.
- Sec. 86-240. - Intergovernmental agreements/indemnity.
- Sec. 86-241. - Table of estimated ultimate population per dwelling unit.

Sec. 86-231. - FINAL PLAT APPROVAL.

As a condition of approval of a final plat of subdivision, or of a final plat of a planned unit development, each subdivider or developer shall be required to dedicate land for school sites and park and recreation purposes to serve the immediate and future needs of the residents of the development, a cash contribution in lieu of actual land dedication, or a combination of both, at the option of the city with advice from the Community Consolidated School District 231 ("elementary school district"), or the township High School District 212 ("high school district"), or the King's Consolidated School District 144 (King's School district) or the Flagg-Rochelle Community Park District ("park district"), or all together as appropriate (the elementary school district, the high school district, the King's School district, and the park district being collectively referred to herein as "the benefiting districts" and individually as the "benefiting district"), in accordance with this article.

(Ord. No. 04-3263, § 16.50.010, 12-27-2004; Ord. No. 05-3341, 8-8-2005)

Sec. 86-232. - CRITERIA FOR REQUIRING SCHOOL SITE DEDICATION.

(a) *Student to land ratio.*

- (1) The ultimate number of students to be generated by a subdivision or planned unit development shall bear directly upon the amount of land required to be dedicated for school sites. The land dedication requirement for school sites shall be calculated as follows:

$$\begin{array}{rcl}
 \begin{array}{c} \text{Estimated} \\ \text{number of stu-} \\ \text{dents per} \\ \text{school classifi-} \\ \text{cation} \end{array} & \times & \begin{array}{c} \text{Minimum} \\ \text{number if} \\ \text{acres per} \\ \text{school classifi-} \\ \text{cation} \end{array} \\
 \hline
 \text{Maximum number of students per} & = & \text{School acreage} \\
 \text{school classification} & & \text{required}
 \end{array}$$

(2) The term "estimated number of students per school classification" shall mean the number of students for each school classification and type of unit as shown in the table included in section 86-241. For purposes of the calculation in subsection (a)(1) of this section, it shall be assumed that each single-family detached dwelling unit will have three bedrooms, and that each single-family attached dwelling unit and each apartment will have two bedrooms.

(3) The terms "minimum number of acres per school classification" and "maximum number of students per school classification" shall be determined in accordance with the table included in subsection (b) of this section.

(4) Cash in lieu of land contributions is governed by section 86-237

(b) *School classification and site size.* Classifications and size of school sites within the city shall be determined in accordance with the following criteria.

Classification by Grade Group	Maximum Number of Students for Each Such School Classification	Minimum Acres of Land per Student Population
Elementary, grades K—5	400	12
Middle school, grades 6—8 (served by elementary school district)	600	30
High school, grades 9—12	1,000	50

(Ord. No. 04-3263, § 16.50.020, 12-27-2004)

Sec. 86-233. - CRITERIA FOR REQUIRING PARK AND RECREATION LAND DEDICATION.

(a) *Requirement and population ratio.*

(1) The ultimate density of a proposed development bears directly upon the amount of land

required for dedication for park and recreation sites. The land dedication requirement for park and recreation sites shall be calculated as follows:

$$\frac{\text{Sum of populations for all dwelling units}}{1,000 \text{ population}} \times \text{Eight acres} = \text{Park acreage required}$$

(2) The term "sum of populations for all dwelling units" shall be determined by multiplying the estimated population per dwelling unit shown on the table included in section 86-241, for each type of unit, by the estimated number of such unit types in the development, and then totaling the figures for each unit type. For purposes of the calculation in subsection (a)(1) of this section, it shall be assumed that each single-family detached dwelling unit will have three bedrooms, and that each single-family attached dwelling unit and each apartment will have two bedrooms.

(3) The ratio of eight acres per 1,000 calculation, as used in the calculation in subsection (a)(1) of this section, was approved by the park district board of the park district on April 26, 2004. The breakdown of the eight acres per 1,000 calculation of three acres for play lot and neighborhood parks ("neighborhood type") and five acres for community-type parks and park lands are set out in the Flagg-Rochelle Community Park District Master Plan 2002—2007.

(4) Cash in lieu of land contributions is governed by section 86-237

(b) *Credit for private open spaces and recreation areas.* When subdividers or developers provide their own open space for recreation areas and facilities, it has the effect of reducing the demand for local public recreational services. Depending on the size of the development, a portion of the park and recreation area in subdivisions or planned unit developments may, at the option of the city council, be provided in the form of private open space in lieu of dedicated public open space. The extent of the same shall be determined by the city council, based upon the needs of the projected residents and in conformance to the total park and recreation land for the general area. In general, a substitution of private open space for dedicated parks will imply a substantially higher degree of improvement and the installation of recreational facilities, including equipment by the developer as part of the developer's obligation. Detailed plans of such areas, including specifications of facilities to be installed, must be approved by the city, and before any credit is given for private recreation areas, the subdivider or developer must guarantee, by the execution of the appropriate legal documents, that these private recreation areas will be permanently maintained for such use. Private swimming clubs are included in this provision. When an adjustment for private recreation areas is warranted, it will be necessary to compute the total park land dedication that would have been required from the subdivision or planned unit development and then subtract the credit to be given.

(Ord. No. 04-3263, § 16.50.030, 12-27-2004)

Sec. 86-234. - POPULATION DENSITY.

The estimated population generated by a development shall be determined by application of the population density table as set out in section 86-241. This population density table is generally indicative of current and short-range projected trends in family size for new construction. The populations listed in

said table shall be used for all calculations required by this division unless a written objection is filed by the subdivider or developer with the city clerk and the senior administrator of each benefiting district prior to approval of the final plat. If a written objection is filed, the subdivider or developer shall file a demographic study showing the estimated additional student population to be generated from the subdivision or planned unit development. The final determination of the population density to be used in the calculations shall be made by the city council based upon the demographic information submitted by the subdivider or developer and upon such other demographic information as may be submitted by the benefiting districts or others.

(Ord. No. 04-3263, § 16.50.040, 12-27-2004)

Sec. 86-235. - LOCATION OF SITES.

Sites dedicated pursuant to this division shall be located in accordance with plans and standards adopted by the city with advice from the benefiting district.

(1) *School sites.* School sites dedicated pursuant to this division shall be located in accordance with plans and standards adopted by the city with advice from the appropriate school district.

(2) *Park sites.* Unless otherwise waived, lands to be dedicated to any applicable park district shall conform to the park district master plan, as then in effect and adopted by the applicable park district, as a guideline in determining the general location of park sites. Generally, neighborhood park sites should be accessible to the public and serve a population within a one-half to one mile radius from the site, depending on the classification of the park. Park sites should be located in conjunction with and adjacent to school sites whenever possible and desirable. Community parks are intended to serve a broader area and should offer a greater variety of facilities and activities.

(Ord. No. 04-3263, § 16.50.050, 12-27-2004)

Sec. 86-236. - CONVEYANCE OF SITE.

Any lands to be conveyed as a site pursuant to this article shall be conveyed to the appropriate benefiting district within 30 days of the recording of the final plat. The conveyance shall be in accordance with the following criteria:

(1) *Title to site.* All sites shall be conveyed to the appropriate benefiting district either by warranty or trustee's deed. The subdivider or developer shall be responsible for conveying good, merchantable title, free of encumbrances, unless the encumbrances are waived by the benefiting district. The conveyance shall be accompanied by a commitment for title insurance issued by a reputable title insurance company licensed to do business in the state. The subdivider or developer shall be responsible for the payment of all real estate taxes to the date of conveyance.

(2) *Topography, grading and general suitability.* The slope, topography and geology of the dedicated site, as well as its immediate surroundings, must be suitable for its intended purpose. The site must be free of environmental and archaeological concerns.

(3) *Site improvements.* All sites shall be dedicated in a condition ready for full service of electrical, water, sewer, drainage and streets as applicable to the location of the site, or acceptable provision made therefor.

(4) *Sale of land.* When, in the opinion of the benefiting district, any parcel of land conveyed pursuant to this article becomes unnecessary, unsuitable, or inconvenient for the uses of the

benefiting district, such parcel may be sold as provided by applicable law. The proceeds of such sale shall be used in a manner consistent with the purposes of this division.

(5) *Park area.* The minimum area of any parcel of land to be conveyed pursuant to this article for a park site or for recreational purposes shall be one acre.

(6) *Stormwater and surface water detention and retention areas.* Dedications of stormwater and surface water detention and retention areas will be accepted at the discretion of the applicable park district and will not count towards the total land area to be conveyed.

(7) *Wetlands and other natural areas.* Dedication of wetland areas and other natural areas will be accepted at the discretion of the applicable park district, and acceptance by the applicable park district of such areas shall not count towards the total land area to be conveyed.

(8) *Dimensions of sites.* Generally, any parcel of land to be dedicated and conveyed to an applicable park district for a park site should be rectangular in shape with dimensions proportionate to the ratio of depth of three to a width of two. These criteria shall not apply to sites contemplated for extraordinary types of facilities such as, but not limited to, trails and shoreline frontage.

(9) *Frontage.* Generally, any parcel of land to be dedicated and conveyed to an applicable park district shall have 30 feet of street frontage per acre with a minimum of 150 feet of street frontage.

(10) *Seeding of sites.* Any parcel of land to be dedicated and conveyed to an applicable park district shall be seeded by the developer in its entirety with a blend approved by the applicable park district. Seeding shall include placement, watering, as necessary, and mowing until such time as a full stand of turf is established and accepted by the applicable park district, but not less than one full growing season.

(11) *Building permit.* Building permits shall not be issued to the developer until the required conveyances in accordance with this article have been made.

(Ord. No. 04-3263, § 16.50.060, 12-27-2004)

Sec. 86-237. - CRITERIA FOR REQUIRING A CASH CONTRIBUTION IN LIEU OF SCHOOL AND PARK SITES.

When the development is small and the resulting site is too small to be practical or when the available land is inappropriate for a park or school site, as recommended by the park or school district, the city shall require the subdivider or developer to pay cash contributions in lieu of the land dedication required. The term "fair market value (FMV) per acre" shall mean the amount determined pursuant to subsection (3) of this section.

(1) *School's cash contribution in lieu of land.*

a. The cash contribution for school sites shall be calculated as follows:

School acreage required	×	FMV per acre	=	Cash contribution required (schools)

b. The term "school acreage required" shall mean the acreage determined pursuant to section 86-232(a).

(2) *Park's cash contribution in lieu of land.*

a. The cash contribution for park sites shall be calculated as follows:

((Park acreage required: neighborhood type) × (FMV Per acre))	+	((Park acreage required: community type and park lands) × (FMV per acre))	=	Cash contribution required (parks)

b. The term "park acreage required" shall mean the acreage determined pursuant to section 86-233(a).

(3) *Fair market value.* The cash contribution in lieu of land shall be based on the fair market value of improved, subdivided land, as platted within the development's final plat, that otherwise would have been dedicated as benefiting district sites. The city, based upon its investigation, has determined the fair market value of any particular parcel, for purposes of school sites in this article, to be \$84,000.00 per acre. The city has determined the fair market value of any particular parcel, for purposes of park lands and sites in this article, to be \$75,000.00 per acre for neighborhood-type park sites and \$18,750.00 per acre for community parks and park lands. The foregoing fair market value shall be used in the determination of cash contributions unless the subdivider, developer, or any other subdivider or developer or objecting party shall submit an appraisal showing the fair market value of such improved land in the area of the development. Final determination of the fair market value per acre of such improved land shall be made by the city council based upon such information submitted by the subdivider or developer, information from other sources which may be submitted to the city council by affected parties, and information, reports and analyses provided to the city council by its own staff and consultants.

(4) *Time and manner of payment.* The cash contribution required in this section shall be paid at the time of applying for a building permit for each housing unit. No building permit shall be issued until said payment has been made. Payments hereunder shall be payable to the city and shall be held in trust until semiannual (January and July) disbursements are made to the benefiting districts.

(5) *Criteria for requiring dedication and a fee.* There will be situations in subdivisions or planned unit developments when a combination of land dedication and a contribution in lieu of land are both necessary. These occasions will arise when:

a. Only a portion of the land to be developed is proposed as the location for a benefiting district site. That portion of the land within the subdivision falling within the benefiting district location shall be dedicated as a site as aforesaid, and a cash contribution in lieu thereof shall be required for any additional land that would have to be dedicated.

b. A major part of the benefiting district site has already been acquired and only a small portion of land is needed from the development to complete the site. The remaining portions shall be required by dedication, and a cash contribution in lieu thereof shall be required.

(Ord. No. 04-3263, § 16.50.070, 12-27-2004)

Sec. 86-238. - RESERVATION OF ADDITIONAL LAND.

Where the plans of the city call for a larger benefiting district site in a particular proposed subdivision or planned unit development than the developer is required to dedicate, the land needed beyond the developer's contribution shall, if so determined by the city council, be reserved for subsequent purchase by the appropriate benefiting district, provided that such acquisition is made within one year from the date of approval of the final plat.

(Ord. No. 04-3263, § 16.50.080, 12-27-2004)

Sec. 86-239. - COMBINING WITH ADJOINING DEVELOPMENTS.

Where the subdivision or planned unit development is less than 40 acres, a benefiting district site which is to be dedicated should, where possible, be combined with dedications from adjoining developments in order to produce usable benefiting district sites without hardship on a particular developer.

(Ord. No. 04-3263, § 16.50.090, 12-27-2004)

Sec. 86-240. - INTERGOVERNMENTAL AGREEMENTS/INDEMNITY.

Prior to receiving a dedication of land or a cash contribution in lieu of land pursuant to section 86-231, each benefiting district shall execute intergovernmental agreements with the city in which the benefiting district agrees to indemnify and hold the city harmless, including all associated costs and reasonable attorney fees incident to any suits filed in which the validity or application of any section of this article is challenged. The selection of counsel to defend any such action shall be by the affected benefiting district.

(Ord. No. 04-3263, § 16.50.100, 12-27-2004)

Sec. 86-241. - TABLE OF ESTIMATED ULTIMATE POPULATION PER DWELLING UNIT.

The following table is generally indicative of current and short range projected trends in family size for new construction and shall be used in calculating the required land or cash in lieu of land contribution.

Table of Estimated Ultimate Population per Dwelling Unit Children Per Unit

Type of Unit
Pre-school
0—4 Years
Grades K—5
5-11 Years
Junior High
Grades 6-8
12-13 Years
Total
Grades K-8
5-13 Years
High School
Grades 9-12
14-17 Years

Adults

18+ Years							
Total per Dwelling							
Unit							
Detached Single-Family							
2 Bedroom	0.113	0.136	0.048	0.184	0.020	1.700	2.017
3 Bedroom	0.292	0.369	0.173	0.542	0.184	1.881	2.899
4 Bedroom	0.418	0.530	0.298	0.828	0.360	2.158	3.764
5 Bedroom	0.238	0.345	0.248	0.593	0.300	2.594	3.770
Attached Single-Family							
1 Bedroom	0.000	0.000	0.000	0.000	0.000	1.193	1.193
2 Bedroom	0.064	0.088	0.048	0.136	0.038	1.752	1.990
3 Bedroom	0.212	0.234	0.058	0.292	0.059	1.829	2.392
4 Bedroom	0.323	0.322	0.154	0.476	0.173	2.173	3.145
Apartments							
Efficiency	0.000	0.000	0.000	0.000	0.000	1.294	1.294
1 Bedroom	0.000	0.002	0.001	0.003	0.001	1.754	1.758
2 Bedroom	0.047	0.086	0.042	0.128	0.046	1.693	1.914
3 Bedroom	0.052	0.234	0.123	0.357	0.118	2.526	3.053

Note: There are only three significant categories provided in this chart. Because of similarity of yields of all type of attached single-family dwelling units, only one category is provided. The same is true with apartments; thus, only one category. Because of the relatively short history of some newer types of detached and attached single-family units, individual evaluations may be necessary. Copyright 1996, Ehlers & Associates (formerly Associate Municipal Consultants, Inc.) 630/355-6100, Naperville, IL

(Ord. No. 04-3263, § 16.50.110, 12-27-2004)

Chapters 87—89 - RESERVED

Chapter 90 - TAXATION

ARTICLE I. - IN GENERAL

ARTICLE II. - MUNICIPAL AUTOMOBILE RENTING USE TAX

ARTICLE III. - MUNICIPAL AUTOMOBILE RENTING OCCUPATION TAX

ARTICLE IV. - HOTEL TAX

ARTICLE V. - FOREIGN FIRE INSURANCE COMPANY TAX

ARTICLE VI. - NON-HOME RULE MUNICIPAL RETAILERS' OCCUPATION AND SERVICE OCCUPATION TAX

ARTICLE VII. - MUNICIPAL GAS TAX

ARTICLE VIII. - MUNICIPAL ELECTRICITY TAX

ARTICLE I. - IN GENERAL

[Secs. 90-1—90-30. - Reserved.](#)

Secs. 90-1—90-30. - RESERVED.

ARTICLE II. - MUNICIPAL AUTOMOBILE RENTING USE TAX

[Sec. 90-31. - Imposed; rate.](#)

[Sec. 90-32. - Collection.](#)

[Sec. 90-33. - Payment.](#)

[Secs. 90-34—90-60. - Reserved.](#)

Sec. 90-31. - IMPOSED; RATE.

A tax is imposed upon the privilege of using in this city an automobile which is rented from a renter outside the state and which is titled or registered with an agency of this state's government in this city at the rate of one percent of the rental price of such automobile while this article is in effect, in accordance with the provisions of 65 ILCS 5/8-11-8.

(Code 1996, § 3.30.010)

Sec. 90-32. - COLLECTION.

The tax provided for in this article shall be collected from the persons whose address for titling or registration purposes is given as being in this city.

(Code 1996, § 3.30.020)

Sec. 90-33. - PAYMENT.

The tax imposed by this article shall be paid to the state department of revenue.

(Code 1996, § 3.30.030)

Secs. 90-34—90-60. - RESERVED.**ARTICLE III. - MUNICIPAL AUTOMOBILE RENTING OCCUPATION TAX**

[Sec. 90-61. - Imposed; rate.](#)

[Sec. 90-62. - Reports to state department of revenue.](#)

[Sec. 90-63. - Payment.](#)

[Secs. 90-64—90-90. - Reserved.](#)

Sec. 90-61. - IMPOSED; RATE.

A tax is imposed upon all persons engaged in the business of renting automobiles in this city at the rate of one percent of the gross receipts from such rentals made in the course of such business while this article is in effect, in accordance with the provisions of 65 ILCS 5/8-11-7.

(Code 1996, § 3.35.010)

Sec. 90-62. - REPORTS TO STATE DEPARTMENT OF REVENUE.

Every such person engaged in such business in the city shall file on or before the last day of each calendar month, the report to the state department of revenue required by 35 ILCS 155/2 and 35 ILCS 155/3, as amended.

(Code 1996, § 3.35.020)

Sec. 90-63. - PAYMENT.

At the time such report is filed, there shall be paid to the state department of revenue the amount of tax imposed on account of the renting of automobiles during the preceding month.

(Code 1996, § 3.35.030)

Secs. 90-64—90-90. - RESERVED.**ARTICLE IV. - HOTEL TAX ^[11]**

⁽¹¹⁾ **Editor's note—** Ord. No. 09-3860, Exh. A, adopted Oct. 13, 2009, amended Art. IV in its entirety to read as herein set out. Former Art. IV, §§ 90-91—90-96, pertained to hotel, motel tax. See the Code Comparative Table for complete derivation.

Sec. 90-91. - Imposed.
Sec. 90-92. - Rate.
Sec. 90-93. - Administration and enforcement of tax; penalties and interest; lien.
Sec. 90-94. - Use of revenue.
Secs. 90-95. - Reserved.
Secs. 90-96. - Reserved.
Secs. 90-97—90-120. - Reserved.

Sec. 90-91. - IMPOSED.

Pursuant to 65 ILCS 5/8-3-14a, a tax is imposed upon the privilege of renting or leasing rooms in a hotel within the city. The term *hotel* as used in this article has the meaning set forth in Section 2 of the Hotel Operators' Occupation Tax Act, 35 ILCS 145/2, as follows: Any building or buildings in which the public may, for a consideration, obtain living quarters, sleeping or housekeeping accommodations, including inns, motels, tourist homes or courts, lodging houses, rooming houses and apartment houses. The tax authorized under this article does not apply to any rental or lease payment by a permanent resident of that hotel.

(Ord. No. 09-3860, Exh. A, 10-13-2009)

Sec. 90-92. - RATE.

The amount of the tax shall be five percent of the rental or lease payment.

(Ord. No. 09-3860, Exh. A, 10-13-2009)

Sec. 90-93. - ADMINISTRATION AND ENFORCEMENT OF TAX; PENALTIES AND INTEREST; LIEN.

(a) Each hotel within the city shall collect the tax from the person making the rental or lease payment at the time that the payment is tendered to the hotel or motel, shall segregate said taxes from other receipts and hold same in trust for the benefit of the city, and shall, as trustee, remit the tax to the city on or before the 15th day of each month for all such taxes received during the preceding month. Each hotel shall maintain records of all such taxes received, which shall be made available to the city upon request of the city clerk or designee.

(b) Penalties and interest shall be imposed for late remittance of taxes received under this article as follows:

(1) A penalty of five percent of the amount of taxes received and not timely remitted to the city, subject to abatement by the city clerk upon a showing that the late remittance was due to reasonable cause;

(2) Simple interest calculated on a daily basis on the unremitted taxes, at the short term federal rate established under section 6221 of the Internal Revenue Code, as adjusted semiannually on January 1 and July 1; and

(3) All costs of collection incurred by the city, including without limitation, reasonable attorney's fees.

(c) The city may impose a lien upon real property owned by the hotel, as provided in 65 ILCS 5/8-3-15. The procedures for notice and enforcement of the lien shall be the same as that provided in the Retailers'

Occupation Tax Act, 35 ILCS 120/1 et seq., as now or hereafter amended, for state tax liens.

(Ord. No. 09-3860, Exh. A, 10-13-2009)

Sec. 90-94. - USE OF REVENUE.

All moneys collected from the taxes imposed pursuant to this article shall be maintained separately by the city clerk and shall be used only to promote tourism and conventions within the city or otherwise to attract nonresident overnight visitors to the city, in a manner authorized by the city council. No moneys received under this article may be used to advertise for or otherwise promote new competition in the hotel business.

(Ord. No. 09-3860, Exh. A, 10-13-2009)

Secs. 90-95. - RESERVED.

Editor's note— Ord. No. 09-3860, Exh. A, adopted Oct. 13, 2009, deleted § 90-95, which pertained to reimbursement. See the Code Comparative Table for complete derivation.

Secs. 90-96. - RESERVED.

Editor's note— Ord. No. 09-3860, Exh. A, adopted Oct. 13, 2009, deleted § 90-96, which pertained to enforcement of collection. See the Code Comparative Table for complete derivation.

Secs. 90-97—90-120. - RESERVED.

ARTICLE V. - FOREIGN FIRE INSURANCE COMPANY TAX ^[12]

⁽¹²⁾ **State Law reference—** Foreign fire insurance company tax or license fee, 65 ILCS 5/11-10-1 et seq.

[Sec. 90-121. - Compliance.](#)

[Sec. 90-122. - Rate.](#)

[Sec. 90-123. - Reports.](#)

[Sec. 90-124. - Due date for payment.](#)

[Secs. 90-125—90-130. - Reserved.](#)

Sec. 90-121. - COMPLIANCE.

It is unlawful for any corporation or association not incorporated under the laws of the state to engage in effecting fire insurance in the city or to transact any business of fire insurance in the city without fully complying with the provisions of this article.

(Code 1996, § 5.35.010)

Sec. 90-122. - RATE.

Any corporation or association referred to in this article shall pay to the treasurer for the maintenance, use and benefit of the fire department, a sum of money equal to two percent of the gross receipts each year

received for premiums by any and all agents of any such corporation or association or received as premiums in any way for fire insurance policies on any property in the city. Such payments shall be made for the year ending July 1 of each year.

(Code 1996, § 5.35.020)

Sec. 90-123. - REPORTS.

Every person acting as a representative for or on behalf of any company or association referred to in this article shall, on or before July 15 of each year, render to the city treasurer a full, true and just account, verified by oath, of all premiums which have been received by him on behalf of the company during the year ending the preceding July 1 on such fire insurance policies.

(Code 1996, § 5.35.030)

Sec. 90-124. - DUE DATE FOR PAYMENT.

All payments under the provisions of this article shall be made on or before July 15 following the termination of the year for which such payments are due.

(Code 1996, § 5.35.040)

Secs. 90-125—90-130. - RESERVED.

ARTICLE VI. - NON-HOME RULE MUNICIPAL RETAILERS' OCCUPATION AND SERVICE OCCUPATION TAX

[Sec. 90-131. - Imposed; rate.](#)

[Secs. 90-132—90-140. - Reserved.](#)

Sec. 90-131. - IMPOSED; RATE.

Pursuant to 65 ILCS 5/8-11-1.3, a tax is imposed upon all persons engaged in the business of selling tangible personal property at retail in the city, in the amount of three-quarters ($\frac{3}{4}$) of one (1) percent of the gross receipts from such sales made in the course of such business.

Pursuant to 65 ILCS 5/8-11-1.4, a tax is imposed upon all persons engaged in the business of making sales of service, in the amount of three-quarters ($\frac{3}{4}$) of one (1) percent of the selling price of all tangible personal property transferred by such servicemen either in the form of tangible personal property or in the form of real estate as an incident to a sale of service.

The tax hereby imposed shall be subject to the exclusions and exemptions contained in the statutes which authorize the tax, and shall be used for expenditures on public infrastructure or property tax relief, or both.

(Ord. No. 07-3502, § 2, 1-8-2007)

Secs. 90-132—90-140. - RESERVED.

ARTICLE VII. - MUNICIPAL GAS TAX

Sec. 90-141. - Imposed; rate.

Sec. 90-142. - Definitions.

Sec. 90-143. - Due date of returns and taxes.

Sec. 90-144. - Credit for erroneous payments; limitations.

Sec. 90-145. - Penalty.

Sec. 90-146. - Use of taxes; utility tax fund.

Secs. 90-147—90-150. - Reserved.

ARTICLE VII. MUNICIPAL GAS TAX

Sec. 90-141. IMPOSED; RATE.

Pursuant to 65 ILCS 5/8-11-2, a tax is imposed on all persons in the business of distributing, supplying, furnishing, or selling gas for use or consumption within the corporate limits of the City, and not for resale, at the rate of 1.5% of the gross receipts therefrom.

No tax is imposed by this Section with respect to any transaction in interstate commerce or otherwise to the extent to which such business may not, under the Constitution and statutes of the United States, be made subject to taxation by the State of Illinois (the "State") or any political subdivision thereof; nor shall any persons engaged in the business of distributing, supplying, furnishing, selling or transmitting gas be subject to taxation under the provisions of this Section for those transactions that are subject to taxation under the provisions of Article VI of this Chapter.

Such tax shall be in addition to the payment of money, or value of products or services furnished to the City 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 taxpayer's business.

Sec. 90-142. DEFINITIONS

For the purpose of this Article, the following definitions shall apply

- (a) "Gas" shall mean natural gas.
- (b) "Gross receipts" means the consideration received for distributing, supplying, furnishing or selling gas for use or consumption and not for resale, as the case may be; 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 for the cost of transmitting said messages without any deduction on account of the cost of the service, product or commodity supplied, the cost of materials used, labor or service cost, or any other expenses whatsoever; provided, however that "gross receipts" shall not include any amounts specifically excluded from the definition of gross receipts in Section 8-11-2(d) of the Illinois Municipal Code.
- (c) "Person" means any natural individual, firm, trust, estate, partnership, association, joint stock company, joint adventure, corporation, limited liability company, municipal corporation, the State or any of its political subdivisions, any State university created by statute, or a receiver, trustee, guardian, or other representative appointed by order of any court.

Sec. 90-143. DUE DATE OF RETURNS AND TAXES.

- (a) The tax provided for in this Article shall be based on the gross receipts, as herein defined, actually paid to the taxpayer for services billed on or after the first day of May, 2013 through and including the last day of April, 2018.
- (b) On or before the last day of June, 2013 each taxpayer shall make a return to the City Treasurer for the Month of May, 2013, stating:
 - (1) His name;
 - (2) His principal place of business;
 - (3) His gross receipts during those months upon the basis of which tax is imposed.
 - (4) Amount of tax; and
 - (5) Such other reasonable and related information as the corporate authorities may require.

On or before the last day of every month thereafter until May 2018, each taxpayer shall make a like return to the City Treasurer for a corresponding one month period.

(c) 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.

Sec. 90-144. CREDIT FOR ERRONEOUS PAYMENTS; LIMITATIONS.

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 therefore 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.

Sec. 90-145. PENALTY.

Any taxpayer who fails to make a return, or who makes a fraudulent return, or who willfully violates any other provision of this Article is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than one hundred dollars (\$100) nor more than seven hundred fifty dollars (\$750) and in addition shall be liable in a civil action for the amount of tax due, plus costs of collection, including reasonable attorney's fees.

Sec. 90-146. USE OF TAXES; UTILITY TAX FUND.

All payments received pursuant to the taxes imposed by this Article shall be deposited by the City Treasurer in a special fund hereby created, to be known as the "Utility Tax Fund." All monies received shall be retained in the Utility Tax Fund until allocated as provided in this Section.

Annually, during the budget process, the City Council shall allocate available funds in the Utility Tax Fund for the following projects: sidewalk repair or replacement, construction or reconstruction of sidewalk accessibility ramps and warning surfaces or premanufactured plates, new or missing sidewalk extensions and/or connections, pedestrian bridge and/or ramp facilities, shared use paths, alley approach aprons from the street edge of pavement to the street right-of-way line, curb and gutter repair or replacement, the construction of urban street improvements in residential areas lacking curb and gutter and sidewalks, items associated with the restoration of said areas in which the work is completed and other professional services and engineering associated with the project. Allocation shall be based upon the amount authorized in the budget for each of the projects during the next fiscal year.

Secs. 90-147--90-150. RESERVED.

ARTICLE VIII. MUNICIPAL ELECTRICITY TAX**Sec. 90-151. IMPOSED; RATE.**

Pursuant to 65 ILCS 5/8-11-2, a tax is imposed upon the privilege of using or consuming electricity acquired in a purchase at retail or used or consumed within the corporate limits of the City at the following rates, calculated on a monthly basis for each purchaser:

- (1) For the first 2,000 kilowatt-hours used or consumed in a month; 0.135 cents per kilowatt hour;
- (2) For the next 48,000 kilowatt-hours used or consumed in a month; 0.132 cents per kilowatt hour;
- (3) For the next 50,000 kilowatt-hours used or consumed in a month; 0.084 cents per kilowatt hour;
- (4) For the next 400,000 kilowatt-hours used or consumed in a month; 0.0845 cents per kilowatt hour;
- (5) For the next 500,000 kilowatt-hours used or consumed in a month; 0.086 cents per kilowatt hour;
- (6) For the next 2,000,000 kilowatt-hours used or consumed in a month; 0.105 cents per kilowatt hour;
- (7) For the next 2,000,000 kilowatt-hours used or consumed in a month; 0.115 cents per kilowatt hour;
- (8) For the next 5,000,000 kilowatt-hours used or consumed in a month; 0.120 cents per kilowatt hour;
- (9) For the next 10,000,000 kilowatt-hours used or consumed in a month; 0.125 cents per kilowatt hour;
- (10) For all electricity used or consumed in excess of 20,000,000 kilowatt-hours in a month; 0.130 cents per kilowatt hour;

The tax imposed by this Article is in addition to all taxes, fees, and other revenue measures imposed by the City, the State, or any other political subdivision of the State.

Notwithstanding any other provisions of this Article, the tax imposed by this Article shall not be imposed if and to the extent that imposition of collection of the tax would violate the Constitution or statutes of the United States or the Constitution of the State.

Sec. 90-152. COLLECTION OF TAX.

The tax imposed under this Article shall be collected from purchasers by the person maintaining a place of business in this State who delivers electricity to such purchasers. The tax shall constitute a debt of the purchaser to the person who delivers the electricity to the purchaser and is recoverable at the same time and in the same manner as the original charge for delivering the electricity.

Any tax required to be collected under this Article, and any tax in fact collected, shall constitute a debt owed to the city by the person delivering the electricity, provided, that the person delivering the electricity shall be allowed credit for such tax related to deliveries of electricity the charges for which are written off as uncollectible, and provided further, that if such charges are thereafter collected, the delivering supplier shall be obligated to remit such tax.

Persons delivering electricity shall collect the tax from the purchaser by adding such tax to the gross charge for delivering the electricity. Persons delivering the electricity shall also be authorized to add to such gross receipts an amount equal to 3% of the tax they collect to reimburse them for their expenses incurred in keeping records, billing customers, preparing and filing returns, remitting the tax and supplying data to the City upon request. For purposes of this Article, any partial payment of a billed amount not specifically identified by the purchaser shall be deemed to be for the delivery of electricity.

Sec. 153. DEFINITIONS.

For the purposes of this Article, the following definitions shall apply:

- (1) "Person" means any natural individual, firm, trust, estate, partnership, association, joint stock company, joint adventure, corporation, limited liability company, municipal corporation, the State or any of its political subdivisions, any State university created by statute, or a receiver, trustee, guardian, or other representative appointed by order of any court.
- (2) "Person maintaining a place of business in this State" means any person having or maintaining within this State, directly or by a subsidiary or other affiliate, an office, generation, facility, distribution facility, transmission facility, sales office, or other place of business, or any employee, agent, or other representative operating within this State under the authority of the person or its subsidiary or other affiliate, irrespective of whether such place of business of agent or other representative is located in this State permanently or temporarily, or whether such person, subsidiary, or their affiliate is licensed or qualified to do business in this State.
- (3) "Purchase at retail" means any acquisition of electricity by a purchaser of use or consumption, and not for resale, but shall not include the use of electricity by a public utility, as defined in Section 8-11-2 of the Illinois Municipal Code (65 ILCS 5/8-11-2), directly in the generation, production, transmission, delivery, or sale of electricity.
- (4) "Purchaser" means any person who uses or consumes, with the corporate limits of the City, electricity acquired in a purchase at retail.
- (5) "Tax collector" means the person delivering electricity to the purchaser.

Sec. 90-154. DUE DATE OF RETURNS AND TAXES.

The tax provided for in this Article shall be imposed with respect to the use or consumption of electricity, beginning with the first bill issued to customers on or after the first day of May, 2013, through and including the last bills issued to customers on or before the last day of April, 2018.

On or before the last day of June, 2013, each tax collector shall make a return to the City Treasurer for the month of May, 2013 on a form prescribed by the City. On or before the last day of every month thereafter until May, 2018, each taxpayer shall make a like return to the City Treasurer for a corresponding one month period.

If the person delivering electricity fails to collect the tax from the purchaser, then the purchaser shall file a return on a form prescribed by the City and pay the tax directly to the City on or before the last day of the month following the month during which the electricity is used or consumed.

Sec. 90-155. CREDIT FOR ERRONEOUS PAYMENTS; LIMITATIONS.

If it shall appear that an amount of tax has been paid which was not due under the provisions of this Article, whether as a result of a mistake of fact or an error of law, then such amount shall be credited against any 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 therefore shall be so credited.

No action to recover any amount of tax has been paid which was not due under the provisions of this Article shall be commenced more than three (3) years after the due date of such amount.

Sec. 90-156. VIOLATIONS; PENALTY.

Any taxpayer who fails to make a return, or who makes a fraudulent return, or who willfully violates any other provision of this Article is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than one hundred dollars (\$100 nor more than seven hundred fifty dollars (\$750) and in addition shall be liable in a civil action for the amount of tax due.

Sec. 90-157. USE OF TAXES; UTILITY TAX FUND.

All payments received pursuant to the taxes imposed by this Article shall be deposited by the City Treasurer in a special fund hereby created, to be known as the "Utility Tax Fund." All monies received shall be retained in the Utility Tax Fund until allocated as provided in this Section.

Annually, during the budget process, the City Council shall allocate available funds in the Utility Tax Fund for the following projects: sidewalk repair or replacement, construction or reconstruction of sidewalk accessibility ramps and warning surfaces or premanufactured plates, new or missing sidewalk extensions and/or connections, pedestrian bridge and/or ramp facilities, shared use paths, alley approach aprons from the street edge of pavement to the street right-of-way line, curb and gutter repair or replacement, the construction of urban street improvements in residential areas lacking curb and gutter and sidewalks, items associated with the restoration of said areas in which the work is completed and other professional services and engineering associated with the project. Allocation shall be based upon the amount authorized in the budget for each of the projects during the next fiscal year.

(Ord. No. 08-3636, § 1, 1-14-2008; Ord. No. 12-4255, 11/13/2012))

Secs. 90-158--90-160. RESERVED.

Sec. 90-141. - IMPOSED; RATE.

Pursuant to 65 ILCS 5/8-11-2, a tax is imposed on all persons in the business of distributing, supplying, furnishing, or selling gas for use or consumption within the corporate limits of the city, and not for resale, at the rate of one and one half percent of the gross receipts therefrom.

No tax is imposed by this section with respect to any transaction in interstate commerce or otherwise to the extent to which such business may not, under the Constitution and Statutes of the United States, be made subject to taxation by the State of Illinois (the "state") or any political subdivision thereof; nor shall any persons engaged in the business of distributing, supplying, furnishing, selling or transmitting gas be subject to taxation under the provisions of this section for those transactions that are subject to taxation under the provisions of article VI of this chapter.

Such tax shall be in addition to the payment of money, or value of products or services furnished to the city 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 taxpayer's business.

(Ord. No. 08-3636, § 1, 1-14-2008)

Sec. 90-142. - DEFINITIONS.

For the purpose of this article, the following definitions shall apply:

Gas shall mean natural gas.

Gross receipts means the consideration received for distributing, supplying, furnishing or selling gas for use or consumption and not for resale, as the case may be; 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 for the cost of transmitting said messages without any deduction on account of the cost of the service, product or commodity supplied, the cost of materials used, labor or service cost, or any other expenses whatsoever; provided, however that "gross receipts" shall not include any amounts specifically excluded from the definition of gross receipts in Section 8-11-2(d) of the Illinois Municipal Code.

Person means any natural individual, firm, trust, estate, partnership, association, joint stock company, joint adventure, corporation, limited liability company, municipal corporation, the state or any of its political subdivisions, any state university created by statute, or a receiver, trustee, guardian, or other representative appointed by order of any court.

(Ord. No. 08-3636, § 1, 1-14-2008)

Sec. 90-143. - DUE DATE OF RETURNS AND TAXES.

(a) The tax provided for in this article shall be based on the gross receipts, as herein defined, actually paid to the taxpayer for services billed on or after the first day of May, 2008, through and including the last day of April, 2013.

(b) On or before the last day of June, 2008, each taxpayer shall make a return to the city treasurer for the month of May, 2008, stating:

- (1) His name;
- (2) His principal place of business;
- (3) His gross receipts during those months upon the basis of which tax is imposed;
- (4) Amount of tax; and
- (5) Such other reasonable and related information as the corporate authorities may require.

On or before the last day of every month thereafter until May 2013, each taxpayer shall make a like return to the city treasurer for a corresponding one month period.

(c) 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.

(Ord. No. 08-3636, § 1, 1-14-2008)

Sec. 90-144. - CREDIT FOR ERRONEOUS PAYMENTS; LIMITATIONS.

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 years prior to the filing of a claim therefore 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 years after the due date of such amount.

(Ord. No. 08-3636, § 1, 1-14-2008)

Sec. 90-145. - PENALTY.

Any taxpayer who fails to make a return, or who makes a fraudulent return, or who willfully violates any other provision of this article is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100.00 nor more than \$750.00 and in addition shall be liable in a civil action for the amount of tax due, plus costs of collection, including reasonable attorney's fees.

(Ord. No. 08-3636, § 1, 1-14-2008)

Sec. 90-146. - USE OF TAXES; UTILITY TAX FUND.

All payments received pursuant to the taxes imposed by this article shall be deposited by the city treasurer in a special fund hereby created, to be known as the "utility tax fund." All monies received shall be retained in the utility tax fund until allocated as provided in this section.

Annually, during the budget process, the city council shall allocate available funds in the utility tax fund for the following projects: sidewalk repair or replacement, construction or reconstruction of sidewalk accessibility ramps and warning surfaces or pre-manufactured plates, new or missing sidewalk extensions and/or connections, pedestrian bridge and/or ramp facilities, alley approach aprons from the street edge of pavement to the street right-of-way line, the construction of urban street improvements in areas lacking curb and gutter and sidewalks and all other items associated with the restoration of said areas in which the work is completed. Allocation shall be based upon the amount authorized in the budget for each of the projects during the next fiscal year.

(Ord. No. 08-3636, § 1, 1-14-2008)

Secs. 90-147—90-150. - RESERVED.

ARTICLE VIII. - MUNICIPAL ELECTRICITY TAX

Sec. 90-151. - Imposed; rate.
Sec. 90-152. - Collection of tax.
Sec. 90-153. - Definitions.
Sec. 90-154. - Due date of returns and taxes.
Sec. 90-155. - Credit for erroneous payments; limitations.
Sec. 90-156. - Violations; penalty.
Sec. 90-157. - Use of taxes; utility tax fund.
Secs. 90-158—90-160. - Reserved.

Sec. 90-151. - IMPOSED; RATE.

Pursuant to 65 ILCS 5/8-11-2, a tax is imposed upon the privilege of using or consuming electricity acquired in a purchase at retail or used or consumed within the corporate limits of the city at the following rates, calculated on a monthly basis for each purchaser:

- (1) For the first 2,000 kilowatt-hours used or consumed in a month; 0.135 cents per kilowatt hour;
- (2) For the next 48,000 kilowatt-hours used or consumed in a month; 0.132 cents per kilowatt hour;
- (3) For the next 50,000 kilowatt-hours used or consumed in a month; 0.084 cents per kilowatt hour;
- (4) For the next 400,000 kilowatt-hours used or consumed in a month; 0.0845 cents per kilowatt hour;
- (5) For the next 500,000 kilowatt-hours used or consumed in a month; 0.086 cents per kilowatt hour;
- (6) For the next 2,000,000 kilowatt-hours used or consumed in a month; 0.105 cents per kilowatt hour;
- (7) For the next 2,000,000 kilowatt-hours used or consumed in a month; 0.115 cents per kilowatt hour;
- (8) For the next 5,000,000 kilowatt-hours used or consumed in a month; 0.120 cents per kilowatt hour;
- (9) For the next 10,000,000 kilowatt-hours used or consumed in a month; 0.125 cents per kilowatt hour;
- (10) For all electricity used or consumed in excess of 20,000,000 kilowatt-hours in a month; 0.130 cents per kilowatt hour;

The tax imposed by this article is in addition to all taxes, fees, and other revenue measures imposed by the city, the state, or any other political subdivision of the state.

Notwithstanding any other provisions of this article, the tax imposed by this article shall not be imposed if and to the extent that imposition of collection of the tax would violate the Constitution or Statutes of the United States or the Constitution of the State.

(Ord. No. 08-3636, § 1, 1-14-2008)

Sec. 90-152. - COLLECTION OF TAX.

The tax imposed under this article shall be collected from purchasers by the person maintaining a place of business in this state who delivers electricity to such purchasers. The tax shall constitute a debt of the purchaser to the person who delivers the electricity to the purchaser and is recoverable at the same time and in the same manner as the original charge for delivering the electricity.

Any tax required to be collected under this article, and any tax in fact collected, shall constitute a debt owed to the city by the person delivering the electricity, provided, that the person delivering the electricity shall be allowed credit for such tax related to deliveries of electricity the charges for which are written off as uncollectible, and provided further, that if such charges are thereafter collected, the delivering supplier shall be obligated to remit such tax.

Persons delivering electricity shall collect the tax from the purchaser by adding such tax to the gross charge for delivering the electricity. Persons delivering the electricity shall also be authorized to add to such gross receipts an amount equal to three percent of the tax they collect to reimburse them for their expenses incurred in keeping records, billing customers, preparing and filing returns, remitting the tax and supplying data to the city upon request. For purposes of this article, any partial payment of a billed amount not specifically identified by the purchaser shall be deemed to be for the delivery of electricity.

(Ord. No. 08-3636, § 1, 1-14-2008)

Sec. 90-153. - DEFINITIONS.

For the purposes of this article, the following definitions shall apply:

Person means any natural individual, firm, trust, estate, partnership, association, joint stock company, joint adventure, corporation, limited liability company, municipal corporation, the state or any of its political subdivisions, any state university created by statute, or a receiver, trustee, guardian, or other representative appointed by order of any court.

Person maintaining a place of business in this state means any person having or maintaining within this state, directly or by a subsidiary or other affiliate, an office, generation, facility, distribution facility, transmission facility, sales office, or other place of business, or any employee, agent, or other representative operating within this state under the authority of the person or its subsidiary or other affiliate, irrespective of whether such place of business of agent or other representative is located in this state permanently or temporarily, or whether such person, subsidiary, or their affiliate is licensed or qualified to do business in this state.

Purchase at retail means any acquisition of electricity by a purchaser of use or consumption, and not for resale, but shall not include the use of electricity by a public utility, as defined in Section 8-11-2 of the Illinois Municipal Code (65 ILCS 5/8-11-2), directly in the generation, production, transmission, delivery, or sale of electricity.

Purchaser means any person who uses or consumes, with the corporate limits of the city, electricity acquired in a purchase at retail.

Tax collector means the person delivering electricity to the purchaser.

(Ord. No. 08-3636, § 1, 1-14-2008)

Sec. 90-154. - DUE DATE OF RETURNS AND TAXES.

The tax provided for in this article shall be imposed with respect to the use or consumption of electricity, beginning with the first bill issued to customers on or after the first day of May, 2013, through and including the last bills issued to customers on or before the last day of April, 2018.

On or before the last day of June, 2013, each tax collector shall make a return to the city treasurer for the month of May, 2013 on a form prescribed by the city. On or before the last day of every month thereafter until May, 2018, each taxpayer shall make a like return to the city treasurer for a corresponding one month period.

If the person delivering electricity fails to collect the tax from the purchaser, then the purchaser shall file a return on a form prescribed by the city and pay the tax directly to the city on or before the last day of the month following the month during which the electricity is used or consumed.

(Ord. No. 08-3636, § 1, 1-14-2008; Ord. No. 12-4255, 11/13/2012)

Sec. 90-155. - CREDIT FOR ERRONEOUS PAYMENTS; LIMITATIONS.

If it shall appear that an amount of tax has been paid which was not due under the provisions of this article, whether as a result of a mistake of fact or an error of law, then such amount shall be credited against any 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 years prior to the filing of a claim therefore shall be so credited.

No action to recover any amount of tax has been paid which was not due under the provisions of this article shall be commenced more than three years after the due date of such amount.

(Ord. No. 08-3636, § 1, 1-14-2008)

Sec. 90-156. - VIOLATIONS; PENALTY.

Any taxpayer who fails to make a return, or who makes a fraudulent return, or who willfully violates any other provision of this article is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100.00 nor more than \$750.00 and in addition shall be liable in a civil action for the amount of tax due, plus costs of collection, including reasonable attorney's fees.

(Ord. No. 08-3636, § 1, 1-14-2008)

Sec. 90-157. - USE OF TAXES; UTILITY TAX FUND.

All payments received pursuant to the taxes imposed by this article shall be deposited by the city treasurer in a special fund hereby created, to be known as the "utility tax fund." All monies received shall be retained in the utility tax fund until allocated as provided in this section.

Annually, during the budget process, the city council shall allocate available funds in the utility tax fund for the following projects: sidewalk repair or replacement, construction or reconstruction of sidewalk accessibility ramps and warning surfaces or pre-manufactured plates, new or missing sidewalk extensions and/or connections, pedestrian bridge and/or ramp facilities, shared use paths, alley approach aprons from the street edge of pavement to the street right-of-way line, curb and gutter repair or replacement, the construction of urban street improvements in areas lacking curb and gutter and sidewalks, items associated with the restoration of said areas in which the work is completed and other professional services and engineering associated with the project. Allocation shall be based upon the

amount authorized in the budget for each of the projects during the next fiscal year.

(Ord. No. 08-3636, § 1, 1-14-2008; Ord. No. 12-4255, 11/13/2012)

Secs. 90-158—90-160. - RESERVED.

Chapters 91—93 - RESERVED

Chapter 94 - TRAFFIC AND VEHICLES

ARTICLE I. - IN GENERAL

ARTICLE II. - ADMINISTRATION AND ENFORCEMENT

ARTICLE III. - OPERATION OF VEHICLES

ARTICLE IV. - STOPPING, STANDING AND PARKING

ARTICLE V. - INOPERABLE AND ABANDONED VEHICLES

ARTICLE VI. - BICYCLES, SNOWMOBILES AND OTHER TOY VEHICLES

ARTICLE VII. - VEHICLE EQUIPMENT AND CONDITION

ARTICLE VIII. - LOADS

ARTICLE IX. - SEIZED AND IMPOUNDED VEHICLES

ARTICLE I. - IN GENERAL

Sec. 94-1. - Definitions.

Sec. 94-2. - Adoption of state law.

Sec. 94-3. - Penalty.

Sec. 94-4. - Commercial traffic.

Sec. 94-5. - Weight restrictions.

Sec. 94-6. - Skating or coasting on roadway.

Sec. 94-7. - Hitching or clinging to moving vehicles.

Sec. 94-8. - Walking or bicycling on overpass.

Sec. 94-9. - Penalty for violation of section 94-6, 94-7 or 94-8.

Secs. 94-10—94-40. - Reserved.

Sec. 94-1. - DEFINITIONS.

Words and phrases used in this chapter have the meanings respectively ascribed to them in chapter 1 of the Illinois Motor Vehicle Code, 625 ILCS 5/1-101 et seq.

(Code 1996, § 10.05.010)

Sec. 94-2. - ADOPTION OF STATE LAW.

(a) *Adoption.* The Illinois Vehicle Code, 625 ILCS 5/1-101 et seq., Snowmobile Registration and Safety Act, 625 ILCS 40/1-1 et seq., and Child Passenger Protection Act, 625 ILCS 25/1 et seq., are incorporated by this reference, as though fully set forth in this section, including any amendments to the Illinois Vehicle Code, Snowmobile Registration and Safety Act, and Child Passenger Protection Act which may occur after the date the ordinance from which this section is derived is adopted.

State law reference— Authority to adopt state vehicle code by reference, 625 ILCS 5/20-204; authority to adopt regulations not inconsistent with Snowmobile Registration and Safety Act, 625 ILCS 40/7-1.

(b) *Penalties.* The Illinois Vehicle Code, Snowmobile Registration and Safety Act, and Child Passenger Protection Act, adopted by subsection (a) of this section, shall, upon conviction, be punished as follows:

(1) For the offense of driving while under the influence of alcohol, other drug, or combination thereof (625 ILCS 5/11-501): Every person convicted of violating this section shall be guilty of a class A misdemeanor and be subject to punishment as provided in 625 ILCS 5/11-501. A sentence

of imprisonment or assignment shall not be subject to suspension nor shall the person be eligible for probation in order to reduce the sentence or assignment.

(2) If the Illinois Vehicle Code, Snowmobile Registration and Safety Act, and Child Passenger Protection Act have incorporated a mandatory penalty provision into a particular section, then that penalty provision shall apply.

(3) The following traffic offenses, referenced to the applicable state statute adopted by the city, shall be considered city misdemeanor offenses and shall be punishable by a fine up to \$750.00 and/or incarceration in a penal institution other than the penitentiary not to exceed six months:

- a. 625 ILCS 5/6-303, driving while driver's license, permit or privilege to operate a motor vehicle is suspended or revoked;
- b. 625 ILCS 5/11-503, reckless driving;
- c. 625 ILCS 5/11-401, leaving the scene of an accident involving death or personal injury;
- d. 625 ILCS 5/11-403, failure to give information or render aid after an accident;
- e. 625 ILCS 5/11-404, leaving the scene of an accident involving property damage;
- f. 625 ILCS 5/11-204, fleeing or attempting to elude a police officer.

(4) The following traffic offenses, referenced to the applicable state statute adopted by the city, shall be considered petty offenses for which court supervision shall be available:

- a. 625 ILCS 5/7-601, required liability insurance policy;
- b. 625 ILCS 5/3-708, operation of motor vehicle when registration suspended for non-insurance.

(5) If the mandatory penalty provisions of subsections (b)(1) and (2) of this section do not apply, then the punishment provisions of section 94-3 shall apply.

(Code 1996, §§ 10.10.010, 10.10.020)

Sec. 94-3. - PENALTY. (To Be Updated May 1, 2013 as seen at end of 94-3)

(a) Unless a penalty is provided by section 94-2(b), any person, firm or corporation violating or failing to comply with any provisions of this chapter, except those sections dealing with municipal motor vehicle licenses and parking regulations where special penalty provisions are provided, shall be subject to punishment as provided in section 1-15 for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

(b) In addition to any other penalty or punishment provided for in this chapter, a sentence including probation or supervision, as set forth in chapter 1 of this Code, may be imposed for the following offenses:

- (1) Driving under the influence of alcohol, or drug or combination thereof, as set forth in section 11-501 of the Motor Vehicle Code, 625 ILCS 5/11-501;
- (2) Driving while driver's license, permit or privilege to operate a motor vehicle is suspended or revoked as set forth in section 6-303 of the Motor Vehicle Code, 625 ILCS 5/6-303;

- (3) Reckless driving as set forth in section 11-503 of the Motor Vehicle Code, 625 ILCS 5/11-503;
- (4) 625 ILCS 5/6-101, no valid driver's license;
- (5) 625 ILCS 5/11-1414, passing a school bus loading or unloading.

(Code 1996, § 10.15.040; Ord. No. 12-4235, 10-22-2012))

Sec. 94-3. PENALTY. (Effective May 1, 2013)

(a) Unless a penalty is provided by section 94-2(b), any person, firm or corporation violating or failing to comply with any provisions of this chapter, except those sections dealing with municipal motor vehicle licenses, parking regulations, and Article VIII (Weight Limits and Overweight Vehicles) where special penalty provisions are provided, shall be subject to punishment as provided in section 1-15 for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

(b) In addition to any other penalty or punishment provided for in this chapter, a sentence including probation or supervision, as set forth in chapter 1 of this Code, may be imposed for the following offenses:

- 1. Driving under the influence of alcohol, or drug or combination thereof, as set forth in section 11-501 of the Motor Vehicle Code, 625 ILCS 5/11-501;
- 2. Driving while driver's license, permit or privilege to operate a motor vehicle is suspended or revoked as set forth in section 6-303 of the Motor Vehicle Code, 625 ILCS 5/6-303;
- 3. Reckless driving as set forth in section 11-503 of the Motor Vehicle Code, 625 ILCS 5/11-503;
- 4. 625 ILCS 5/6-101, no valid driver's license;
- 5. 625 ILCS 5/11-1414, passing a school bus loading or unloading.

(Ord. No. 12-4235, 10-22-2012)

Sec. 94-4. - COMMERCIAL TRAFFIC.

(a) It is unlawful to operate any commercial vehicle upon any street of the city other than those streets designated as state or federal highways, except for the purpose of making local deliveries or pickups.

(b) Appropriate signs shall be posted on streets where such traffic is prohibited.

(Code 1996, § 10.65.030)

Sec. 94-5. - WEIGHT RESTRICTIONS. (TO BE REPEALED, EFFECTIVE MAY 1, 2013)

No motor vehicle shall be operated on the streets of the city having a gross weight in excess of 80,000 pounds. (Code 1996, § 10.65.040)

Sec. 94-5 – REPEALED MAY 1, 2013 (Ord. No. 12-4235, 10-22-2013)

Sec. 94-6. - SKATING OR COASTING ON ROADWAY.

It is unlawful for any person upon skates, a coaster, a sled or other toy vehicle to go upon any roadway other than upon a crosswalk.

(Code 1996, § 10.65.010)

Sec. 94-7. - HITCHING OR CLINGING TO MOVING VEHICLES.

It is unlawful for any person on any street riding a bicycle, a motorcycle or any toy vehicle to cling to or attach himself or his vehicle to any moving motor vehicle or wagon.

(Code 1996, § 10.65.020)

Sec. 94-8. - WALKING OR BICYCLING ON OVERPASS.

No person shall walk on or ride a bicycle on an area commonly known as the Rochelle Overpass and defined as being that part of IL Route 251, north of the intersection of Fourth Avenue and the Rochelle Overpass and south of the intersection of Avenue B of the Rochelle Overpass.

(Code 1996, § 10.65.050)

Sec. 94-9. - PENALTY FOR VIOLATION OF SECTION 94-6, 94-7 OR 94-8.

A penalty of \$25.00 shall be assessed to violators of section 94-6, 94-7 or 94-8, if payment is made within ten days of the violation, after which date a violation of any of said sections shall be punishable as provided in section 1-15.

(Ord. No. 03-3205, § 7(10.65.060), 11-24-2003; Ord. No. 08-3639, § 1, 1-28-2008)

Secs. 94-10—94-40. - RESERVED.**ARTICLE II. - ADMINISTRATION AND ENFORCEMENT**

[Sec. 94-41. - Authority of city council.](#)

[Sec. 94-42. - Temporary regulations.](#)

[Sec. 94-43. - Street marking and sign erection.](#)

[Secs. 94-44—94-70. - Reserved.](#)

Sec. 94-41. - AUTHORITY OF CITY COUNCIL.

Except as otherwise provided in section 94-42, the city council shall regulate, control and approve all matters pertaining to vehicular traffic within the city.

(Code 1996, § 10.15.010)

Sec. 94-42. - TEMPORARY REGULATIONS.

The chief of police is empowered to make and enforce temporary regulations to cover emergencies or

special conditions in connection with vehicular traffic.

(Code 1996, § 10.15.020)

Sec. 94-43. - STREET MARKING AND SIGN ERECTION.

It shall be the duty of the superintendent of streets to keep the streets of the city properly marked and to keep erected suitable signs for the enforcement of this chapter as required by the laws of the state, and to erect all traffic signs, signals and markers when authorized to do so by the city council or chief of police.

(Code 1996, § 10.15.030; Ord. No. 08-3639, § 1, 1-28-2008)

Secs. 94-44—94-70. - RESERVED.

ARTICLE III. - OPERATION OF VEHICLES

DIVISION 1. - GENERALLY

DIVISION 2. - RIGHT-OF-WAY

DIVISION 3. - SPEED

DIVISION 4. - ONE-WAY STREETS AND ALLEYS

DIVISION 1. - GENERALLY

[Sec. 94-71. - Negligent driving.](#)

[Secs. 94-72—94-100. - Reserved.](#)

Sec. 94-71. - NEGLIGENCE DRIVING.

(a) It is unlawful for any person to operate a motor vehicle in a negligent manner over and along the public streets and highways of this city.

(b) For the purpose of this section, the term "to operate in a negligent manner" means the operation of a vehicle upon the public streets and highways of this city in such a manner as to endanger any persons or property.

(Code 1996, § 10.60.010)

Secs. 94-72—94-100. - RESERVED.

DIVISION 2. - RIGHT-OF-WAY

[Sec. 94-101. - U-turns.](#)

[Sec. 94-102. - Stop intersections designated.](#)
[Sec. 94-103. - Three-way stop intersections designated.](#)
[Sec. 94-104. - Four-way stop intersections designated.](#)
[Sec. 94-105. - Duties of driver approaching yield sign.](#)
[Sec. 94-106. - Yield intersections designated.](#)
[Secs. 94-107—94-130. - Reserved.](#)

Sec. 94-101. - U-TURNS.

No person operating a vehicle upon any street shall make a U-turn any place on said street, either at intersections or between intersections.

(Code 1996, § 10.35.010)

Sec. 94-102. - STOP INTERSECTIONS DESIGNATED.

The following streets are designated stop intersections:

Through Traffic On	Stop Traffic On
First Avenue	Sixth Street
First Avenue	Eighth Street
First Avenue	Ninth Street
First Avenue	Tenth Street
First Avenue	South Tenth Street
First Avenue	11th Street
First Avenue	South 11th Street
First Avenue	12th Street
First Avenue	Poplar Street
First Avenue	South Second Street
First Avenue	Steam Plant Road
First Avenue	Washington Street
Second Avenue	Sixth Street
Second Street	Seventh Avenue
Second Street	Tenth Avenue
Second Street	Memorial Park
Second Street	School Avenue
Fourth Avenue	Second Street
Fourth Avenue	Third Street
Fourth Avenue	Eighth Street
Fifth Avenue	Eighth Street
Fifth Avenue	12th Street
Sixth Avenue	Sixth Street
Sixth Avenue	Eighth Street
Sixth Avenue	Tenth Street
Sixth Avenue	11th Street
Sixth Avenue	12th Street
Sixth Avenue	Woolf Court
Seventh Avenue	Third Street

Seventh Street	Fourth Avenue
Seventh Street	Fifth Avenue
Seventh Street	Sixth Avenue
Seventh Street	Seventh Avenue
Seventh Street	Eighth Avenue
Seventh Street	Ninth Avenue
Seventh Street	Tenth Avenue
Seventh Street	Willis Avenue
Eighth Avenue	First Street
Eighth Avenue	Sixth Street
Eighth Avenue	Tenth Street
Eighth Avenue	11th Street
Eighth Avenue	12th Street
Eighth Avenue	14th Street
Eighth Street	Third Street
Eighth Street	Seventh Avenue
Eighth Street	Eighth Avenue
Ninth Street	Fourth Avenue
Ninth Street	Fifth Avenue
Ninth Street	Sixth Avenue
Ninth Street	Seventh Avenue
Ninth Street	Eighth Avenue
Ninth Street	Ninth Avenue
Ninth Street	Tenth Avenue
Ninth Street	High School Drive
Ninth Street	Tilton Park Drive
Tenth Avenue	Third Street
Tenth Avenue	Sixth Street
Tenth Avenue	Eighth Street
Tenth Avenue	Tenth Street
Tenth Avenue	11th Street
Tenth Avenue	12th Street
Tenth Avenue	14th Street
Tenth Avenue	15th Street
Tenth Avenue	16th Street
Tenth Avenue	Main Street
Tenth Avenue	Westview Drive (both entrances)
Tenth Avenue	Woolf Court
Twelfth Street	Avenue B
20th Street	Carrie Avenue
Avenue D	Third Street (two-way)
Avenue E	South Second Street
Avenue E	Wood Street
Avenue G	South Third Street
Avenue G	First Street (two-way)
Avenue H	First Street

Avenue H	Second Street
Avenue H	Third Street
Calvin Road	McConaughy Avenue
Caron Road	Seventh Avenue
Caron Road	Carlisle Drive
Caron Road	Drake Avenue
Caron Road	Linder Lane
Caron Road	McConaughy Avenue
Caron Road	School Avenue
Carrie Avenue	14th Street
Carrie Avenue	Clifton Terrace
Carrie Avenue	Gehant Court
Carrie Avenue	McCall Court
Carrie Avenue	Northfield Court
Carrie Avenue	Stoneridge Terrace
Cherry Avenue	Second Street
Cherry Avenue	Third Street
Cleveland	Phyllis Avenue
Flagg Road	North Eighth Street Extension
High School Drive	Eighth Street
IL Route 38	Brookside Drive
IL Route 38	Calvin Road
IL Route 38	Jones Road
IL Route 38	Lincoln Highway
IL Route 38	Springdale Drive
IL Route 38	Turkington Terrace
IL Route 251	First Avenue
IL Route 251	Second Avenue
IL Route 251	Cleveland Avenue
IL Route 251	Fairview Drive
IL Route 251	Lakeview Drive
IL Route 251	Standard Oil Road
IL Route 251	Treatment Plant Road
IL Route 251	Willis Avenue
Lakeview Drive	10th Street
Lakeview Drive	12th Street
Lakeview Drive	South Ninth Street
Lincoln Avenue	Sixth Street
Lincoln Avenue	Eighth Street
Lincoln Avenue	Ninth Street
Lincoln Avenue	Tenth Street
Lincoln Avenue	11th Street
Lincoln Avenue	12th Street
Lincoln Avenue	14th Street
Lincoln Avenue	15th Street
Lincoln Avenue	Woolf Court
Lincoln Highway	Fifth Avenue

Lincoln Highway	Sixth Avenue
Lincoln Highway	Seventh Avenue
Lincoln Highway	Eighth Avenue
Lincoln Highway	Ninth Avenue
Lincoln Highway	Tenth Avenue
Lincoln Highway	Cherry Avenue
Lincoln Highway	Lincoln Avenue
Lincoln Highway	Washington Street
Main Street	Second Avenue
Main Street	Fourth Avenue
Main Street	Fifth Avenue
Main Street	Sixth Avenue
Main Street	Seventh Avenue
Main Street	Eighth Avenue
Main Street	Ninth Avenue
Main Street	Cherry Avenue
McConaughy Avenue	May Mart Drive
School Avenue	Calvin Road
South Main Street	Avenue C
South Main Street	Avenue D
South Main Street	Avenue E
South Main Street	Avenue G
South Main Street	Avenue H
South Main Street	Irene Avenue
South Main Street	Janet Avenue
South Main Street	Power Plant Road
South Main Street	Shirley Avenue
South Main Street	Southview Drive
South Main Street	Standard Oil Road
South Main Street	Willis Avenue
Southview Drive	Lakeland Drive
Southview Drive	Waterway Street
Standard Oil Road	Gary Street
Standard Oil Road	Wood Street
Stoneridge Terrace	Pickwick Drive
Turkington Terrace	McConaughy Avenue
Washington	Second Avenue
Westgate Court	Clifton Terrace
Westgate Court	Northlake Court
Westgate Court	Stoneridge Terrace
Willis Avenue	Cedar Brook
Willis Avenue	Lake Lida Lane
Wood Street	Avenue H
Woolf Court	Fifth Avenue
Woolf Court	Eighth Avenue

(Code 1996, § 10.35.040; Ord. No. 05-3350, § 2, 9-26-2005; Ord. No. 06-3442, exh. A, 5-22-2006; Ord. No. 11-4066, 6-13-2011)

Sec. 94-103. - THREE-WAY STOP INTERSECTIONS DESIGNATED.

The following intersections are designated as three-way stop intersections and the driver of a vehicle approaching any such intersection shall stop before entering the intersection:

- (1) Turkington Terrace and School Avenue; and
- (2) Fourteenth Street and Sixth Avenue.

(Code 1996, § 10.35.045; Ord. No. 05-3350, § 1, 9-26-2005)

Sec. 94-104. - FOUR-WAY STOP INTERSECTIONS DESIGNATED.

The following intersections are four-way stop intersections and the driver of a vehicle approaching any such intersection shall stop before entering the intersection:

- (1) First Avenue and Caron Road.
- (2) First Avenue and Main Street.
- (3) Fifth Avenue and Sixth Street.
- (4) Eighth Avenue and Second Street.
- (5) Carrie Avenue and Joanne Lane.
- (6) Lincoln Avenue and Seventh Street.
- (7) Lincoln Highway and Fourth Avenue.
- (8) Lincoln Highway and Fifth Avenue.
- (9) Pickwick Drive and Carrie Avenue.
- (10) South Second Street and Avenue G.
- (11) Willis Avenue and Cedar Brook.
- (12) Willis Avenue and Lakeland Drive.
- (13) Willis Avenue and Randall Road.

(Code 1996, § 10.35.050)

Sec. 94-105. - DUTIES OF DRIVER APPROACHING YIELD SIGN.

(a) The intersections described in section 94-106 are designated as yield intersections as described in such section.

(b) Where yield signs are erected, in accordance with such section, at the entrances to the yield

intersections, the operator of a vehicle approaching a yield sign shall reduce speed and yield the right-of-way as required by law.

(Code 1996, § 10.35.060)

Sec. 94-106. - YIELD INTERSECTIONS DESIGNATED.

In accordance with section 94-105, the following intersections are yield intersections:

Through Traffic On	Yield Traffic On
Fifth Avenue	Third Street
Fifth Avenue	Tenth Street
Fifth Avenue	11th Street
Seventh Avenue	Third Street
Eighth Street	Ninth Avenue
20th Street	Tenth Avenue
Avenue B	11th Street
Avenue C	Third Street
Avenue E	South Third Street
Avenue G	Wood Street
Calvin Road	Drake Avenue
Calvin Road	Linder Lane
Caron Road	Carlisle Drive
Caron Road	Drake Avenue
Caron Road	Linder Lane
Caron Road	McConaughy Avenue
Caron Road	School Avenue
Clifton Terrace	Sunrise Court
Clifton Terrace	Barbary Court
Clifton Terrace	Pickwick Drive
Dennis Street	Janet Avenue (both sides)
Dennis Street	Phylliss Avenue
Gary Street	Phylliss Avenue
Irene Avenue	Dennis Street
Joanne Lane	Sunset Terrace
Lake Lida Lane	Randall Road
Lake Lida Lane	Cedar Brook
Lake Lida Lane	Lakeland Drive
North Eleventh Street	Fourth Avenue (both sides)
North 14th Street	Sunset Terrace
Poplar Street	Avenue E (both sides)
School Avenue	Parkview Drive
Shirley Avenue	Dennis Street
South First Street	Avenue D
South Second	Street Avenue C
South Second	Street Avenue D
South Ninth Street	Avenue E

Through Traffic On	Yield Traffic On
South Twelfth Street	Garfield Avenue
Southview Drive	Cedar Brook
Westview Drive	Joanne Lane
Woolf Court	Seventh Avenue

(Code 1996, § 10.35.070; Ord. No. 06-3442, exh. B, 5-22-2006; Ord. No. 11-4066, 6-13-2011)

Secs. 94-107—94-130. - RESERVED.

DIVISION 3. - SPEED

Sec. 94-131. - General speed restrictions.
 Sec. 94-132. - Speed limit 20 miles per hour on designated streets.
 Sec. 94-133. - Speed limit 40 miles per hour on designated streets.
 Secs. 94-134—94-160. - Reserved.

Sec. 94-131. - GENERAL SPEED RESTRICTIONS.

It is unlawful to drive any motor vehicle on any street not under the jurisdiction of the state in the county, within an urban district within the city, at a speed in excess of 30 miles per hour, or in an alley at a speed in excess of 15 miles per hour, unless the roadway is posted indicating a designated speed limit for that portion of the roadway, in which case the posted limit shall apply.

(Code 1996, § 10.25.010)

Sec. 94-132. - SPEED LIMIT 20 MILES PER HOUR ON DESIGNATED STREETS.

It is unlawful to drive any motor vehicle on the following public streets in the city at a speed in excess of 20 miles per hour:

- (1) Second Avenue, from Third Street to Sixth Street.
- (2) Fourth Avenue, from Third Street to Sixth Street.
- (3) Fifth Avenue, from Third Street to Sixth Street.
- (4) Sixth Avenue, from Third Street to Sixth Street.
- (5) Tenth Street, from Lincoln Avenue to Fifth Avenue.
- (6) Avenue E, from South Main Street through Poplar Street to First Avenue.
- (7) Cherry Avenue, from Third Street to Lincoln Highway.

(a) (8) commission of any offense in violation of the provisions of the Illinois Cannabis Control

Act, 720 ILCS 550 et seq., as amended from time to time;

- (b) operation or use of a motor vehicle in connection with the commission or attempted commission of unlawful possession of drug paraphernalia in violation of 720 ILCS 600/3.5(a), as amended from time to time;
- (c) operation or use of a motor vehicle in connection with the commission or attempted commission of any offense in violation of the provisions of the unlawful use of weapons statute, 720 ILCS 5/24-1, as amended from time to time, or the commission or attempted commission of any offense in violation of the provisions of the unlawful possession or use of weapons and firearms statute, 720 ILCS 24/5-1.1, as amended from time to time;
- (d) operation or use of a motor vehicle in connection with the commission or attempted commission of possession of a firearm without requisite firearm owner's identification card in violation of the Firearm Owners Identification Card Act, 430 ILCS 65/2(a)(1), as amended from time to time, or the commission or attempted commission of possession of firearm ammunition without requisite firearm owner's identification card in violation of the Firearm Owners Identification Card Act, 430 ILCS 65/2(a)(2), as amended from time to time;
- (e) operation of a motor vehicle when registration is revoked, cancelled or suspended in violation of 625 ILCS 5/3-702 or operation of a motor vehicle when registration is suspended for non-insurance in violation of 625 ILCS 5/3-708;
- (f) operation or use of a motor vehicle during the commission of any felony offense.

In the event that a vehicle is impounded under this Article and it later becomes the subject of asset forfeiture pursuant to 720 ILCS 570/505, or a similar law, that statute shall control.

Sec. 94-133. - SPEED LIMIT 40 MILES PER HOUR ON DESIGNATED STREETS.

It is unlawful to drive any motor vehicle on the following public streets in the city at a speed in excess of 40 miles per hour:

- (1) Caron Road, from Seventh Avenue south to Wiscold Drive.
- (2) Creston Road, from I-88 overpass west to Caron Road.
- (3) Dement Road, from Route 38 south to Creston Road.
- (4) 20th Street, from 8th Avenue to Flagg Road

(Code 1996, § 10.25.030); Ord. No. 12-4209, July 23, 2012

Secs. 94-134—94-160. - RESERVED.

DIVISION 4. - ONE-WAY STREETS AND ALLEYS

Sec. 94-161. - Driving on one-way streets.
Sec. 94-162. - One-way streets designated.
Sec. 94-163. - One-way alleys designated.
Secs. 94-164—94-209. - Reserved.

Sec. 94-161. - DRIVING ON ONE-WAY STREETS.

Upon those streets and parts of streets described in section 94-162, vehicular traffic shall move only in the indicated direction when signs indicating the direction of traffic are erected and maintained at every intersection where movement in the opposite direction is prohibited.

(Code 1996, § 10.40.010)

Sec. 94-162. - ONE-WAY STREETS DESIGNATED.

In accordance with section 94-161, the following streets are designated as one-way streets:

- (1) Cherry Avenue, beginning at the intersection of North Lincoln Highway and terminating at the intersection of North Main Street. The direction of traffic shall be west to east beginning at the intersection of North Lincoln Highway, and terminating at the intersection of North Main Street.
- (2) Memorial Park Road, beginning at the intersection of South Second Street and Avenue C and terminating at Avenue E. The direction of traffic shall be east and south beginning at the arch at South Second Street and Avenue C, and terminating at Avenue D.

(Code 1996, § 10.40.020)

Sec. 94-163. - ONE-WAY ALLEYS DESIGNATED.

The following alleys within the city are designated as one-way alleys. It shall be unlawful for any motor vehicle to travel in a direction other than authorized by this section. Appropriate signs shall be erected designating said alley as a one-way alley.

- (1) The alley between Lincoln Highway and Main Street, from Fifth Avenue to Sixth Avenue, is designated to be one-way, allowing travel in a southbound direction only.
- (2) The alley between Seventh Street and Lincoln Highway, from Tenth Avenue to Highway 38, is designated to be one-way, allowing travel in a northbound direction only.
- (3) The alley between Fourth Avenue and Cherry Avenue, from Main Street to North Third Street, is designated to be a one-way alley, allowing travel in an eastbound direction only.
- (4) The alley between Lincoln Highway and Main Street, from Fifth Avenue to Fourth Avenue, is designated to be one-way, allowing travel in a southbound direction only.

(Code 1996, § 10.40.030; Ord. No. 05-3363, 12-27-2005)

Secs. 94-164—94-209. - RESERVED.

ARTICLE IV. - STOPPING, STANDING AND PARKING

DIVISION 1. - GENERALLY

DIVISION 2. - MUNICIPAL PARKING LOTS

DIVISION 3. - LOADING ZONES

DIVISION 4. - SNOW EMERGENCIES

DIVISION 1. - GENERALLY

Sec. 94-210. - Prohibited parking generally.

Sec. 94-211. - Vehicles to be parked within marked spaces.

Sec. 94-212. - Limited parking generally.

Sec. 94-213. - Towing of vehicles.

Sec. 94-214. - No parking on private property without consent; regulation by city.

Sec. 94-215. - Parking trucks on street.

Sec. 94-216. - Parking trailers, boats, campers, motor homes or other recreational vehicles on street.

Sec. 94-217. - Parking on parkways.

Sec. 94-218. - Lights on stopped or parked vehicles.

Sec. 94-219. - Parking vehicle without state license plates on street.

Sec. 94-220. - Parking for purpose of displaying vehicle for sale or peddling merchandise.

Sec. 94-221. - Resident-only parking zones.

Sec. 94-222. - Diagonal parking.

Sec. 94-223. - Parking prohibited on certain streets except in parking lanes.

Sec. 94-224. - Parking prohibited at specified times on designated streets.

Sec. 94-225. - Night parking prohibited on certain streets.

Sec. 94-226. - Limited parking.

Sec. 94-227. - Penalties.

Sec. 94-228. - Designation and posting of fire lanes; parking in fire lane.

Sec. 94-229. - Temporary truck parking.

Sec. 94-230. - Perpendicular parking on Second Avenue.

Secs. 94-231—94-250. - Reserved.

Sec. 94-210. - PROHIBITED PARKING GENERALLY.

When signs are erected in each block giving notice thereof, no person shall park a vehicle at such places and during the times designated in sections 94-224 and 94-225.

(Code 1996, § 10.45.010)

Sec. 94-211. - VEHICLES TO BE PARKED WITHIN MARKED SPACES.

All vehicles shall be parked within the marked parking spaces.

(Code 1996, § 10.45.015)

Sec. 94-212. - LIMITED PARKING GENERALLY.

When signs are erected in a block giving notice thereof, no person shall park a vehicle for longer than the time designated within the districts or upon any of the streets described in section 94-226.

(Code 1996, § 10.45.020)

Sec. 94-213. - TOWING OF VEHICLES.

The police department and all members thereof assigned to traffic duty are authorized to have removed and towed away any car or other vehicle illegally parked in any place where such parked vehicle creates or constitutes a traffic hazard, blocks the use of a fire hydrant or obstructs or may obstruct the movement of any emergency vehicle, or in any public place where signs have been legally posted either limiting or prohibiting parking; or any vehicle which has been parked in any public street, public parking lot, or other public place for a period of 24 consecutive hours. Cars towed away shall be stored and shall be released to the owner or operator thereof after payment of the expense incurred in removing and storing such vehicles.

(Code 1996, § 10.45.030)

Sec. 94-214. - NO PARKING ON PRIVATE PROPERTY WITHOUT CONSENT; REGULATION BY CITY.

(a) No person shall park a motor vehicle on private property without the consent of the owner of the private property.

(b) The city manager is authorized to enter into contracts on behalf of the city with the owners or lessees of any commercial facility, shopping center, or apartment complex which controls a parking area located within the corporate limits of the city, pursuant to which the city is empowered:

(1) To prohibit the parking of truck tractors, semitrailers, motor homes, mini motor homes and van campers (as defined in the state vehicle code, 625 ILCS 5/1-100 et seq.) in the parking area, or in designated portions of the parking area, during nonbusiness hours; and

(2) To erect and maintain appropriate signs at the entrances to the parking area stating that parking during nonbusiness hours is prohibited by city ordinance.

(c) No contract entered into pursuant to this section shall exceed a period of 20 years, nor shall any contract entered into pursuant to this section with a lessee of a shopping center or apartment complex extend for a longer period of time than the length of the lessee's lease.

(d) All contracts entered into pursuant to this section shall be approved by the city attorney and shall be promptly recorded in the office of the counter register.

(Ord. No. 05-3295, § 10.45.035, 2-28-2005)

Sec. 94-215. - Parking trucks on street.

No truck other than those excepted in this section shall be parked upon the streets or upon any private property, including private driveways, in any district zoned R-1, R-2, R-3, R-4, or R-5, as established by chapter 110, except for and during the time of loading. This section does not apply to half-ton or three-quarter-ton trucks.

(Code 1996, § 10.45.040; Ord. No. 05-3336, 7-11-2005)

Sec. 94-216. - PARKING TRAILERS, BOATS, CAMPERS, MOTOR HOMES OR OTHER RECREATIONAL VEHICLES ON STREET.

No trailer, boat, camper, motor home or other recreational vehicle which is designed to be pulled or transported by a motor vehicle or is self propelled shall be parked upon any street within the city, and

further, the removal of any such vehicle is hereby authorized and the owner is liable for the cost of towing together with any storage costs. Temporary parking not exceeding 24 hours for loading and unloading is exempted. Further, the police department may grant visitor permits for periods exceeding 24 hours but in no event longer than 30 days in a calendar year.

(Code 1996, § 10.45.045)

Sec. 94-217. - PARKING ON PARKWAYS.

No person shall park any vehicle upon any parkway. The term "parkway" means all property between the curb and the adjacent property line.

(Code 1996, § 10.45.050)

Sec. 94-218. - LIGHTS ON STOPPED OR PARKED VEHICLES.

Whenever a vehicle is parked or stopped on a street during the times between one-half hour after sunset and one-half hour before sunrise or at any other time when there is not sufficient light to render clearly discernible any vehicle on the street from a distance of 200 feet, there shall be displayed upon such vehicle one or more lamps projecting a white light visible under normal atmospheric conditions from a distance of 500 feet to the front of such vehicle and projecting a red light visible under like conditions from a distance of 500 feet to the rear, except that such parking light or lights need not be displayed upon any vehicle stopped or parked in accordance with other provisions of this division upon any street designated by the chief of police where there is sufficient light to reveal any person within a distance of 200 feet upon such street.

(Code 1996, § 10.45.060)

Sec. 94-219. - PARKING VEHICLE WITHOUT STATE LICENSE PLATES ON STREET.

It is unlawful to park any vehicle upon any street without state license plates upon it, issued for such vehicle to the owner of the vehicle, in accordance with state statutes.

(Code 1996, § 10.45.070)

Sec. 94-220. - PARKING FOR PURPOSE OF DISPLAYING VEHICLE FOR SALE OR PEDDLING MERCHANDISE.

It is unlawful to park any vehicle upon any street for the purpose of displaying it for sale, or to park any vehicle upon any business street from which vehicle merchandise is peddled.

(Code 1996, § 10.45.080)

Sec. 94-221. - RESIDENT-ONLY PARKING ZONES.

(a) The following areas are designated as resident-only parking zones:

- (1) Second Street, west side, from Fifth Avenue to Sixth Avenue.
- (2) Fifth Avenue, north side, from Second Street west to alley.
- (3) Tenth Street, from First Avenue north to the Burlington Northern Railroad tracks.

- (4) Eleventh Street, from First Avenue north to the Burlington Northern Railroad tracks.
- (5) North Third Street, 150 feet on the west side, south of Ninth Avenue.
- (6) Second Street West side from Tenth Avenue to 100 feet North of School Avenue.
- (7) Second Street East side from School Avenue extending 100 feet North.

(b) It is unlawful to park any vehicle in such zones which is not registered in the name of a person that resides within 300 feet of the location in which the vehicle is parked. The residence of the registrant of the vehicle shall be considered to be the address listed in the most recent state registration of the vehicle.

(Code 1996, § 10.45.100; Ord. No. 04-3268, § 1, 9-13-2004; Ord. No. 11-4061, 5-23-2011)

Sec. 94-222. - DIAGONAL PARKING.

(a) Automobiles, trucks and other vehicles, not in excess of three-fourths-ton capacity, shall be permitted to park diagonally, as designated, along either side of Cherry Avenue between Lincoln Highway and Main Street. Parking in this area shall be diagonal, as designated, only, parallel parking being expressly prohibited. Such diagonal parking shall be so executed that the wheels of the vehicle nearest the curb shall not be farther away from the curb than 12 inches. Parking shall not be permitted within the limits of the intersections as determined by the state or city from intersection studies.

(b) Any person, firm, or corporation violating any of the provisions of this section shall be assessed a penalty of \$10.00, if paid within ten days after the date of the violation, after which date the violation shall be punishable as provided in section 1-15

(Code 1996, § 10.45.110; Ord. No. 08-3639, § 1, 1-28-2008)

Sec. 94-223. - PARKING PROHIBITED ON CERTAIN STREETS EXCEPT IN PARKING LANES.

(a) Automobiles, trucks and other vehicles shall be prohibited from parking along either side of the following streets, with the exception of those areas where parking lanes have been established:

- (1) Fourth Avenue, between Eighth Street and Sixth Street.
- (2) Sixth Street, between Fourth Avenue and Lincoln Avenue.
- (3) Eighth Street, between Fourth Avenue and Lincoln Avenue.
- (4) Lincoln Avenue, between Tenth Street and Sixth Street.
- (5) South Main Street, from First Avenue south to the city limits.
- (6) Intermodal Drive, on the north and south side between State Route 251, the Global III entrance.

(b) Parking lanes have been established as follows:

- (1) Fourth Avenue, both sides, between Eighth Street and Seventh Street.
- (2) Fourth Avenue, along the north side between Seventh Street and Sixth Street.

(c) Parking will not be permitted on adjacent side streets or within the limits of intersections as

determined by the state from intersection studies.

(d) Any person, firm or corporation violating any of the provisions of this section shall be assessed a penalty of \$10.00, if paid within ten days after the date of the violation, after which date the violation shall be punishable as provided in section 1-15

(Code 1996, § 10.45.120; Ord. No. 06-3411, 3-27-2006; Ord. No. 08-3639, § 1, 1-28-2008)

Sec. 94-224. - PARKING PROHIBITED AT SPECIFIED TIMES ON DESIGNATED STREETS.

(a) In accordance with section 94-210, no person shall park a vehicle at any of the designated locations listed below:

- (1) First Avenue, between Jack Dame Road and Caron Road on the south side.
- (2) First Avenue, along either side, between Second Street and Caron Road.
- (3) First Avenue, on the north side, between Tenth Street and 11th Street.
- (4) Second Avenue, on the south side, between Washington Street and a point 175 feet west of the centerline of Washington Street.
- (5) Second Street, east side, from a point at the south curve line of Avenue E to a point 150 feet south of the curve line.
- (6) Fourth Avenue, on the south side, at the intersection of Fourth Avenue and IL Route 251.
- (7) Fifth Avenue, between Lincoln Highway and Main Street only in front of the Rochelle Fire Department.
- (8) Sixth Avenue, for an area approximately 25 feet west of the alley located on the south side of the 500 block.
- (9) Sixth Avenue, along the north side from the alley between Lincoln Highway and Sixth Street, west to Seventh Street.
- (10) Seventh Avenue, on the south side, between North Second Street and the Kyte Creek Bridge.
- (11) Seventh Street, on both sides between the north city limits and the south city limits.
- (12) Seventh Street, along either side, marked IL Route 251, between First Avenue and Eighth Avenue. Parking will not be permitted within the limits of intersections as determined by the state from intersection studies.
- (13) Seventh Street, along either side, between Fourth Avenue and Kyte Creek. Parking will not be permitted within the limits of intersections as determined by the state from intersection studies.
- (14) Seventh Street, within the limits of the intersection of Seventh Street and Lincoln Highway as determined by the state from intersection studies.
- (15) Eighth Avenue, between Seventh Street and Lincoln Highway on the north side.
- (16) Eighth Avenue, between Lincoln Highway and Main Street on the south side.

- (17) Eighth Street, both sides, starting at its intersection with First Avenue and going southerly towards Avenue B and further continuing westerly, around the curve, and ending on Avenue B at its intersection with the alley between South Eighth and South Ninth Streets.
- (18) Ninth Street, from Tilton Park Drive north to Jones Road.
- (19) Ninth Street, between Lincoln Avenue and Jones Road on the west side.
- (20) North 9th Street, on the east side, between 4th Avenue and 5th Avenue, between the hours of 7:00 a.m. and 4:00 p.m. on school days.
- (21) Tenth Avenue, on the south side, from Ninth Street to the alley between Ninth and Tenth Streets.
- (22) Tenth Street, on the west side, between Eighth and Tenth Avenues.
- (23) Americold Drive, along either side of Americold Drive.
- (24) Avenue A, south side, from Eighth Street to Ninth Street, from Memorial Day to Labor Day each year.
- (25) Avenue B, along either side from Seventh Street to Washington Street and Washington Street from Avenue B to First Avenue. Parking is not permitted within the limits on intersections as determined by the state from intersection studies.
- (26) Avenue G, along either side between South Main Street and Wood Street.
- (27) Carrie Avenue, from IL 251 west to North Eighth Street on either side.
- (28) Carrie Avenue, on the north side from Eighth Street west to the west property line of Block 9, Sunset Field Subdivision No. 2.
- (29) Caron Road, along either side of Caron Road.
- (30) Clifton Terrace, on the east side of the roadway.
- (31) Dement Road, along either side of Dement Road.
- (32) Flagg Road, along either side of Flagg Road.
- (33) Gredco Drive, along either side of Gredco Drive.
- (34) IL Route 251, along either side, between Flagg Road and IL Route 38 East. Parking will not be permitted within the limits of intersections as determined by the state from intersection studies.
- (35) Jones Road, on both sides, from the intersection of IL Route 38 and IL Route 251 west to North Ninth Street.
- (36) Lincoln Avenue, from Seventh Street west to the city limits.
- (37) Lincoln Highway, between Sixth Avenue and Route 38 on either side.
- (38) Lincoln Highway, any vehicle which extends a distance greater than 14 feet (measured perpendicular from the curb) from the curb in the following areas of the city where there is diagonal

parking:

- a. On the west side of Lincoln Highway between Sixth Avenue and Second Avenue;
- b. On the north side of Fourth Avenue between Third Street and Sixth Street;
- c. On Cherry Avenue between Main Street and Lincoln Highway.

(39) Northlake Court, on the east side of the roadway to the beginning of the cul-de-sac.

(40) Main Street, from First Avenue south to the city limits.

(41) McConaughy Avenue, between Turkington and North Main Street on either side.

(42) Petro Road, both sides, east from Dement Road to the city limits.

(43) Route 38, both sides, from its intersection with Seventh Street to its intersection with Caron Road, within 22 feet of the centerline of Route 38.

(44) School Avenue, on the south side for 40 feet on either side of the driveway openings into the middle school property.

(45) Short Court, on the westerly side or within the cul-de-sac.

(46) Stoneridge Terrace, on the east side of the roadway.

(47) Westgate Court, on the north side of the roadway to the beginning of the cul-de-sac.

(48) Willis Avenue, along either side between Randall Road and IL Route 251.

(49) Wiscold Drive, along either side of Wiscold Drive.

(b) In addition to the locations listed in subsection (a) of this section, parking is also prohibited at any other location within the city which has been posted "No Parking."

(c) Any person, firm or corporation violating any of the provisions of this section shall be assessed a penalty of \$10.00, if paid within ten days after the date of the violation, after which date the violation shall be punishable as provided in section 1-15

(Code 1996, § 10.45.130; Ord. No. 04-3269, 9-27-2004; Ord. No. 06-3425, 4-24-2006; Ord. No. 08-3639, § 1, 1-28-2008)

Sec. 94-225. - NIGHT PARKING PROHIBITED ON CERTAIN STREETS.

(a) In accordance with section 94-210, no person shall park a vehicle between 2:00 a.m. and 5:00 a.m. on any of the following streets:

- (1) Fourth Avenue, between Seventh Street and Third Street on either side of the street.
- (2) Fifth Avenue, between Seventh Street and Lincoln Highway on either side of the street.
- (3) Lincoln Avenue, between Seventh Street and Sixth Street on either side of the street.
- (4) Lincoln Highway, between Sixth Avenue and Cherry Avenue on either side of the street.

(5) Main Street, between Sixth Avenue and Second Avenue on either side of the street.

(b) In accordance with section 94-210, no person shall park a vehicle between 3:00 a.m. and 5:00 a.m. on any of the following streets:

(1) Cherry Avenue, between Lincoln Highway and Main Street on either side of the street.

(2) Lincoln Avenue, between Sixth Street and Lincoln Highway on either side of the street.

(3) Lincoln Highway, between Cherry Avenue and Second Avenue on either side of the street.

(Code 1996, § 10.45.140; Ord. No. 08-3639, § 1, 1-28-2008)

Sec. 94-226. - LIMITED PARKING.

(a) In accordance with section 94-212, no person shall park a vehicle for longer than the time indicated on the following streets:

(1) For 15 minutes:

a. Fifth Avenue, from Lincoln Highway east to the alley between Lincoln Highway and Main Street.

b. Lincoln Highway, first three spaces north of Fifth Avenue on the east side.

(2) For 30 minutes:

a. Cherry Avenue, first space west of Main Street on the south side.

(b) No parking shall be allowed on the following streets, except for customers of those retail businesses located adjacent to the following streets while the retail businesses are being patronized by the customer:

(1) Fourth Avenue, from Main Street to Sixth Street.

(2) Fifth Avenue, from Main Street to Sixth Street.

(3) Sixth Street, from Fifth Avenue to Lincoln Avenue.

(4) Cherry Avenue, from Main Street to Lincoln Highway.

(5) Lincoln Avenue, from Lincoln Highway to the alley between Sixth Street and Seventh Street.

(6) Lincoln Highway, from Sixth Avenue to Second Avenue except the first three spaces north of Fifth Avenue on the east side.

(7) Main Street, from Fifth Avenue to Chicago and Northwestern tracks.

(c) No parking is permitted at the times designated in the following locations:

(1) Central school area: Fifth Avenue, on the south side between Eighth Street and Ninth Street between 8:00 a.m. and 4:00 p.m. when school is in session.

(2) Tilton school Area: Ninth Street, 8:00 a.m. to 4:00 p.m. on school days on the east side, from Tenth Avenue to Tilton Park Drive.

(3) May school area:

a. On the east side of North Second Street between Tenth Avenue and School Avenue in the area posted "bus loading zone" between the hours of 7:30 a.m. and 4:30 p.m. on those days during which school is in session.

b. For longer than 15 minutes on the south side of School Avenue between North Second Street and Meadow Lane between the hours of 7:30 a.m. and 4:30 p.m. on those days which school is in session.

(d) Any person, firm or corporation violating any of the provisions of this section shall be assessed a penalty of \$10.00, if paid within ten days after the date of the violation, after which date the violation shall be punishable as provided in section 1-15

(Code 1996, § 10.45.150; Ord. No. 04-3268, § 2, 9-13-2004; Ord. No. 08-3639, § 1, 1-28-2008); Ord. No. 12-4210, July 23, 2012;

Sec. 94-227. - PENALTIES.

(a) A penalty of \$10.00 shall be assessed to violators of the following if payment is made within ten days of violation, after which date the violation shall be punishable as provided in section 1-15

- (1) Parking on streets where parking is prohibited during specified hours;
- (2) Parking on a parkway;
- (3) Parking within 20 feet of an intersection crosswalk;
- (4) Parking within 30 feet of a traffic control signal.

(b) A penalty of \$15.00 shall be assessed to violators of the following if payment is made within ten days of violation, after which date the violation shall be punishable as provided in section 1-15

- (1) Blocking a sidewalk or driveway;
- (2) Parking over 12 inches from curb;
- (3) Parking in a no parking zone designated by yellow curb marking;
- (4) Parking on wrong side of roadway;
- (5) Parking so as to obstruct an alley;
- (6) Parking in a posted zone;
- (7) Parking in the same parking space for a period of 24 hours;
- (8) Parking in violation of section 94-216

(c) A penalty of \$25.00 shall be assessed to violators of the following if payment is made within ten days of violation, after which date the violation shall be punishable as provided in section 1-15

- (1) Parking within 15 feet of a fire hydrant;
- (2) Double parking;

(3) Parking so as to obstruct traffic.

(d) A penalty of \$25.00 shall be assessed to violators of the following if payment is made within ten days of violation, after which date the violation shall be punishable as provided in section 1-15

(1) Parking on unplowed public street after three inches of snow have fallen;

(2) Parking in uncleared municipal parking lot after three inches of snow have fallen.

(Code 1996, § 10.45.160; Ord. No. 08-3639, § 1, 1-28-2008)

Sec. 94-228. - DESIGNATION AND POSTING OF FIRE LANES; PARKING IN FIRE LANE.

(a) The fire chief shall designate fire lanes within the city and shall cause to be posted signs establishing the designated fire lanes.

(b) Any vehicle parked in a designated fire lane shall be ticketed and the owner of such vehicle shall be assessed a penalty of \$25.00, if paid within ten days after the date of the violation, after which date the violation shall be punishable as provided in section 1-15

(Code 1996, § 10.45.170; Ord. No. 06-3426, § 2, 4-24-2006; Ord. No. 08-3639, § 1, 1-28-2008)

Sec. 94-229. - TEMPORARY TRUCK PARKING.

(a) Temporary truck parking will be allowed by permit (to be issued to the owner/lessor of the truck parking facility), pursuant to policies established by resolution adopted by the city council.

(b) Any violation of the truck parking policy will result in revocation of the permit.

(Ord. No. 07-3526, 3-26-2007)

Sec. 94-230. - PERPENDICULAR PARKING ON SECOND AVENUE.

(a) Perpendicular parking will be allowed on the north side of Second Avenue in areas where there is no parkway between Washington Street and 7th Street.

(b) Perpendicular parking will be allowed on the south side of Second Avenue in areas where there is no parkway starting 40 feet west of the intersection of Second Avenue and Washington Street and ending 175 feet west of the intersection.

(c) Vehicles cannot extend more than 20 feet from the right-of-way line into the right-of-way.

(Ord. No. 10-3946, 8-9-2010)

Secs. 94-231—94-250. - RESERVED.

DIVISION 2. - MUNICIPAL PARKING LOTS

[Sec. 94-251. - Parking time limit.](#)

[Sec. 94-252. - Vehicles authorized to use.](#)

[Sec. 94-253. - Penalties.](#)

[Secs. 94-254—94-270. - Reserved.](#)

Sec. 94-251. - PARKING TIME LIMIT.

No vehicle shall be parked in a municipal parking lot in the city, other than the municipal parking lot located immediately south of the Rochelle Municipal Utilities building at 333 Lincoln Highway, for a period longer than three hours between the hours of 8:00 a.m. to 6:00 p.m., Monday through Saturday. No vehicle shall be parked in the municipal parking lot located immediately south of the Rochelle Municipal Utilities building at 333 Lincoln Highway between the hours of 3:00 a.m. and 5:00 p.m., except vehicles used by employees of Rochelle Municipal Utilities and customers of Rochelle Municipal Utilities engaged in business at the Rochelle Municipal Utilities building.

(Code 1996, § 10.50.010; Ord. No. 07-3525, 3-12-2007)

Sec. 94-252. - VEHICLES AUTHORIZED TO USE.

No vehicle, other than automobiles and trucks of not in excess of a three-fourths-ton capacity, shall be parked on a municipal parking lot at any time.

(Code 1996, § 10.50.020)

Sec. 94-253. - PENALTIES.

Any person violating the provisions of this division shall be assessed a penalty of \$10.00, if paid within ten days after the date of the violation, after which date the violation shall be punishable as provided in section 1-15.

(Code 1996, § 10.50.030; Ord. No. 08-3639, § 1, 1-28-2008)

Secs. 94-254—94-270. - Reserved.

DIVISION 3. - LOADING ZONES

[Sec. 94-271. - Designation; use generally.](#)

[Sec. 94-272. - Specific use restrictions.](#)

[Secs. 94-273—94-290. - Reserved.](#)

Sec. 94-271. - DESIGNATION; USE GENERALLY.

The chief of police may determine the location of loading zones and cause to be erected or maintained appropriate signs indicating the same. It is unlawful to stop, stand or park a vehicle for a period of time longer than necessary for the unloading and delivery or pickup of materials in any place marked as a loading zone.

(Code 1996, § 10.55.010)

Sec. 94-272. - SPECIFIC USE RESTRICTIONS.

During the times specified in this section, it is unlawful for the driver of a vehicle to stand a passenger vehicle for longer than is necessary to load or unload passengers, not to exceed three minutes, and for the driver to stand any freight-carrying vehicle for a period of time longer than is necessary to load, unload and deliver materials, not to exceed 30 minutes at any of the following places:

- (1) In any public alley, during any hour of the day or night;
- (2) At any place not to exceed 75 feet along the curb before the entrance to any hospital or hotel at any time;
- (3) At any place not to exceed 75 feet along the curb before the entrance to a public building between 8:00 a.m. and 6:00 p.m. except on a Sunday or holiday;
- (4) Directly in front of the entrance to any theater at any time the theater is open for business.

(Code 1996, § 10.55.020)

Secs. 94-273—94-290. - RESERVED.**DIVISION 4. - SNOW EMERGENCIES**

Sec. 94-291. - Times when in effect.
 Sec. 94-292. - Parking prohibited on certain streets.
 Sec. 94-293. - Parking in business district.
 Sec. 94-294. - Parking in municipal parking lots.
 Sec. 94-295. - Parking on streets generally.
 Sec. 94-296. - Towing of illegally parked vehicles.
 Sec. 94-297. - Depositing snow on street or sidewalk.
 Sec. 94-298. - Extreme snow emergency.
 Sec. 94-299. - Penalty.
 Secs. 94-300—94-320. - Reserved.

Sec. 94-291. - TIMES WHEN IN EFFECT.

A snow emergency is in effect immediately after three inches of snow has accumulated and will remain in effect until the snow on the city streets has been plowed or removed to the street curbline.

(Code 1996, § 10.75.010)

Sec. 94-292. - PARKING PROHIBITED ON CERTAIN STREETS.

It is unlawful for any person to park a motor vehicle on the following streets after three inches of snow has fallen until such time as the snow has been plowed to the side of the street:

Seventh Avenue from Caron Road to North Main Street.

Tenth Avenue from 20th Street to Second Street.

Carrie Avenue from North Eighth Street to its west boundary.

North Main Street from Sixth Avenue to Tenth Avenue.

North Ninth Street from Lincoln Avenue to Jones Road.

South Main Street from County Highway 17 to First Avenue.

(Code 1996, § 10.75.020)

Sec. 94-293. - PARKING IN BUSINESS DISTRICT.

(a) It is unlawful for any person to park a motor vehicle on any business district street after three inches of snow has fallen, from 1:00 a.m. to 6:00 a.m. or until the streets are cleared of snow.

(b) The following business district streets are designated streets for snow removal:

Second Avenue from IL Route 251 east to Main Street.

Fourth Avenue from Seventh Street east to Third Street.

Fifth Avenue from Seventh Street east to Main Street.

Sixth Avenue from Seventh Street east to Main Street.

Sixth Street from Lincoln Avenue north to Sixth Avenue.

Cherry Avenue from Lincoln Highway east to Third Street.

Lincoln Avenue from Seventh Street east to Lincoln Highway.

Lincoln Highway, and part of Washington Street, from First Avenue north to Sixth Avenue.

Main Street from the Kyte Creek Bridge, south of First Avenue, north to Sixth Avenue.

(Code 1996, § 10.75.030)

Sec. 94-294. - PARKING IN MUNICIPAL PARKING LOTS.

It is unlawful for any person to park a motor vehicle in any municipal parking lot after three inches of snow has fallen from 1:00 a.m. to 6:00 a.m., or until such time as the municipal parking lots are cleared of snow.

(Code 1996, § 10.75.040; Ord. No. 08-3639, § 1, 1-28-2008)

Sec. 94-295. - PARKING ON STREETS GENERALLY.

(a) It is unlawful for any person to park a motor vehicle on any public street in the city at any time after a snowfall of three inches or more has accumulated, except as follows:

(1) Vehicles may be parked on that side of the street where even-numbered buildings are or would be located, between the hours of 7:00 a.m. on that day to 7:00 a.m. on the following day on even-numbered calendar days.

(2) Vehicles may be parked on that side of the street where odd-numbered buildings are or would

be located, between the hours of 7:00 a.m. that day to 7:00 a.m. of the following day on odd-numbered calendar days.

(3) The restrictions in subsections (a)(1) and (2) of this section shall remain in effect for not less than 48 hours after the snowfall ceases, to permit both sides of the street to be plowed to the curbline. It shall automatically terminate on the end of the third day at 7:00 a.m., or when all snow has been cleared from the street, whichever shall occur later.

(b) This section shall not affect other parking restrictions and shall not be deemed to permit parking where otherwise prohibited by this section or other ordinances.

(Code 1996, § 10.75.050)

Sec. 94-296. - TOWING OF ILLEGALLY PARKED VEHICLES.

(a) The superintendent of streets, the chief of police and all members of the police department are authorized to remove and tow away or have removed or towed away by a commercial towing service or by city-operated vehicles any car or other vehicle illegally parked which prevents and obstructs snow removal from public streets or municipal parking lots.

(b) Cars or vehicles so towed away for illegal parking shall be stored in a safe place and shall be restored to the owner or operator of such vehicle upon the payment of the towage and storage fees.

(Code 1996, § 10.75.060; Ord. No. 08-3639, § 1, 1-28-2008)

Sec. 94-297. - DEPOSITING SNOW ON STREET OR SIDEWALK.

(a) It is unlawful for any person to deposit or cause to be deposited any snow upon any street or alley of the city on that portion of the traveled way cleared or scheduled for snow clearance.

(b) It is also unlawful for any person to deposit or cause to be deposited any snow in such a manner as to obstruct a public sidewalk, that portion of a private driveway located on the parkway portion of a public street, or in such a manner as to hamper vision at an intersection of traveled roadways.

(Code 1996, § 10.75.070)

Sec. 94-298. - EXTREME SNOW EMERGENCY.

(a) When the following conditions exist within the corporate limits of the city, the city manager is authorized, under the procedures set forth in this section, to declare an extreme state of snow emergency and to completely ban parking on part or all of the streets of the city:

(1) When an accumulation of five inches or more of snow has fallen in a short period of time, making normal snow removal procedures ineffective;

(2) When three or more inches of snow have fallen in combination with heavy winds, creating drifts, which make normal snow removal operations ineffective;

(3) When any other circumstance arises necessitating the imposition of emergency procedures for the protection of life and property.

(b) The extreme state of snow emergency shall be implemented as follows:

(1) At any time it becomes necessary to implement this section, the city manager shall execute a sworn statement in writing, listing the reasons for the implementation of this section and the specific restrictions on parking to be implemented. This statement shall be filed with the city clerk as soon as is practicable.

(2) A copy of this statement shall be delivered to the local radio station and newspapers and shall be posted upon the bulletin board at the city police station and fire department and shall take effect immediately upon the conclusion of the first broadcast by the local radio station, notifying the public of the state of extreme snow emergency and of the new restrictions which have been imposed.

(3) The extreme snow emergency shall continue in effect until the first to occur of the following conditions:

a. A declaration by the city manager or the city council that the extreme snow emergency has ended, which shall be published in the same manner as set forth in subsection (b)(2) of this section; or

b. The conclusion of the next regularly scheduled meeting of the city council.

(c) Penalties for violation of any restrictions imposed hereunder shall be the same as are stated in section 94-299

(Code 1996, § 10.75.080)

Sec. 94-299. - Penalty.

Any person, firm or corporation violating any of the provisions of this division is guilty of a misdemeanor and, upon conviction, shall be fined in an amount of \$25.00. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such under this section assessed a penalty of \$25.00, if paid within ten days after the date of the violation, after which date the violation shall be punishable as provided in section 1-15.

(Code 1996, § 10.75.090; Ord. No. 08-3639, § 1, 1-28-2008)

Secs. 94-300—94-320. - RESERVED.

ARTICLE V. - INOPERABLE AND ABANDONED VEHICLES

[Sec. 94-321. - Definitions.](#)

[Sec. 94-322. - Declaration of nuisance.](#)

[Sec. 94-323. - Removal.](#)

[Sec. 94-324. - Notice.](#)

[Sec. 94-325. - Exceptions.](#)

[Sec. 94-326. - Penalty.](#)

[Sec. 94-327. - Abandoned vehicles.](#)

[Secs. 94-328—94-360. - Reserved.](#)

Sec. 94-321. - DEFINITIONS.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Inoperable vehicle means any motor vehicle from which, for a period of at least seven days, the engine, wheels or other parts have been removed, or on which the engine, wheels or parts have been altered, damaged or otherwise so treated that the vehicle is incapable of being driven under its own power. Inoperable vehicles shall not include a motor vehicle which has been rendered temporarily incapable of being driven under its own motor power in order to perform ordinary service or repair operations.

Person means any person, firm, partnership, association, corporation, company or organization of any kind.

Vehicle means a machine propelled by power other than human power designed to travel along the ground by use of wheels, treads, runners or slides and transport persons or property or pull machinery and includes, without limitation, automobile, truck, trailer, motorcycle, tractor, buggy and wagon.

(Code 1996, § 10.80.010)

Sec. 94-322. - Declaration Of Nuisance.

All inoperable motor vehicles, whether on public or private property and in view of the general public, are a nuisance and shall be subject to the provisions of this article.

(Code 1996, § 10.80.020)

Sec. 94-323. - REMOVAL.

The city police department is authorized to remove after seven days any inoperable motor vehicle or parts thereof after notice, as provided in this article.

(Code 1996, § 10.80.030)

Sec. 94-324. - NOTICE.

The owner of an inoperable motor vehicle or a person who has an inoperable motor vehicle under his control shall receive a notice substantially in the following form either in person or by affixing said notice to the vehicle before its removal by the city police department:

TO:

THIS VEHICLE IS DECLARED TO BE A NUISANCE

You are hereby notified to remove the following described vehicle by the day of _____ or the Rochelle Police Department will remove said vehicle.

(Code 1996, § 10.80.040)

Sec. 94-325. - EXCEPTIONS.

Nothing in this article shall apply to any motor vehicle that is kept within a building when not in use, to operable historic vehicles over 25 years of age, or to a motor vehicle on the premises of a place of business engaged in the wrecking or junking of motor vehicles.

(Code 1996, § 10.80.050)

Sec. 94-326. - PENALTY.

Any person found guilty of violating any provision of this article shall be fined not less than \$50.00, or more than \$750.00. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable hereunder as such.

(Code 1996, § 10.80.060)

Sec. 94-327. - ABANDONED VEHICLES.

Abandoned vehicles shall be subject to the provisions of 625 ILCS 5/4-201 et seq., which has been incorporated into this Code.

(Code 1996, § 10.80.070)

Secs. 94-328—94-360. - RESERVED.

ARTICLE VI. - BICYCLES, SNOWMOBILES AND OTHER TOY VEHICLES

DIVISION 1. - GENERALLY

DIVISION 2. - BICYCLES

DIVISION 3. - SNOWMOBILES AND ALL-TERRAIN VEHICLES

DIVISION 4. - ROLLERSKATES, STREET SKATES AND SKATEBOARDS

DIVISION 5. - MOTORIZED SKATEBOARDS, ROLLERSKATES, SCOOTERS AND BICYCLES

DIVISION 1. - GENERALLY

[Secs. 94-361—94-380. - Reserved.](#)

Secs. 94-361—94-380. - RESERVED.

DIVISION 2. - BICYCLES

[Sec. 94-381. - Equipment.](#)

[Sec. 94-382. - Applicability of traffic laws to persons riding bicycles.](#)

[Sec. 94-383. - Riding on sidewalk.](#)

[Sec. 94-384. - Responsibility of parent or guardian.](#)

[Sec. 94-385. - Penalty.](#)

[Secs. 94-386—94-410. - Reserved.](#)

Sec. 94-381. - EQUIPMENT.

(a) *Lamps and reflectors.* Every bicycle when in use at nighttime shall be equipped with a lamp on the front, which shall emit a white light visible from a distance of at least 500 feet to the front, and with a red reflector on the rear of a type which shall be visible from all distances from 50 feet to 300 feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle. A lamp emitting a red light visible from a distance of 500 feet to the rear may be used in addition to the red reflector.

(b) *Bell.* No person shall operate a bicycle unless it is equipped with a bell or other device capable of giving a signal audible for a distance of at least 100 feet, except that a bicycle shall not be equipped with nor shall any person use upon a bicycle any siren or whistle.

(Code 1996, § 10.85.010)

Sec. 94-382. - APPLICABILITY OF TRAFFIC LAWS TO PERSONS RIDING BICYCLES.

Every person riding a bicycle upon a roadway shall be granted all of the rights and shall be subject to all the duties applicable to the driver of a vehicle by the laws of this state declaring rules of the road applicable to vehicle or by the traffic ordinances of this city applicable to the driver of a vehicle, except as to special regulations in this division and except to those provisions of laws and ordinances which by their nature can have no application.

(Code 1996, § 10.85.020)

Sec. 94-383. - RIDING ON SIDEWALK.

It shall be unlawful to ride or operate a bicycle on the sidewalks in the downtown area. The downtown area is defined for the purpose of this section as that area bounded by Sixth Avenue on the north, the Chicago and Northwestern Railroad tracks on the south, Sixth Street on the west, and Main Street on the east, and shall include the sidewalks and public right-of-way on both sides of any boundary street.

(Code 1996, § 10.85.030)

Sec. 94-384. - RESPONSIBILITY OF PARENT OR GUARDIAN.

The parent of any child and the guardian of any ward shall not authorize or knowingly permit any such child or ward to violate any of the provisions of this division.

(Code 1996, § 10.85.040)

Sec. 94-385. - PENALTY.

A penalty of \$25.00 shall be assessed to violators of this division if payment is made within ten days of the violation, after which date the violation shall be punishable as provided in section 1-15.

(Code 1996, § 10.85.050; Ord. No. 03-3205, § 8(10.85.050), 11-24-2003; Ord. No. 08-3639, § 1, 1-28-2008)

Secs. 94-386—94-410. - RESERVED.

DIVISION 3. - SNOWMOBILES AND ALL-TERRAIN VEHICLES

Sec. 94-411. - State law adopted.
Sec. 94-412. - Additional regulations.
Sec. 94-413. - Penalty.
Secs. 94-414—94-440. - Reserved.

Sec. 94-411. - STATE LAW ADOPTED.

All of the provisions of the Illinois Snowmobile Registration and Safety Act, 625 ILCS 40/I-I et seq., and any other state laws regulating snowmobiles and all-terrain vehicles are incorporated into and declared to be a part of this division the same as if they were expressly set forth herein.

(Code 1996, § 10.70.010)

Sec. 94-412. - ADDITIONAL REGULATIONS.

(a) *Speed.* No person shall operate a snowmobile or all-terrain vehicle on any street or public ways within the city and designated routes at a speed in excess of 15 miles per hour.

(b) *Hours of operation.* Snowmobiles and all-terrain vehicles shall be operated only between the hours of 8:00 a.m. to 1:30 a.m.

(c) *Designated routes.* The operation of snowmobiles and all-terrain vehicles is restricted to travel on certain designated routes as shown on a map which is on file in the office of the city clerk. Persons, however, will be permitted to travel the shortest distance from their residence to the designated snowmobile route.

(d) *Manner of riding.* Snowmobiles and all-terrain vehicles shall travel in single file and to the far right on routes, trails and streets.

(e) *Unattended vehicles.* No person shall leave or allow a snowmobile or all-terrain vehicle owned or operated by him to be unattended on any public highway or public property while the motor is running or with the starting key left in the ignition.

(f) *Operation on sidewalk or pedestrian way prohibited.* No person shall operate a snowmobile or all-terrain vehicle on any sidewalk or pedestrian way within the city.

(g) *Operation on private premises restricted.* No person shall operate a snowmobile or all-terrain vehicle on any private property, not owned or controlled by him, within the city without the express consent or permission of the owner.

(Code 1996, § 10.70.020)

Sec. 94-413. - PENALTY.

Any person who shall violate any provision of this division shall be deemed guilty of a misdemeanor and, upon conviction, shall be subject to punishment as provided in section 1-15. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

(Code 1996, § 10.70.030)

Secs. 94-414—94-440. - RESERVED.**DIVISION 4. - ROLLERSKATES, STREET SKATES AND SKATEBOARDS**

Sec. 94-441. - Applicability.

Sec. 94-442. - Riding on street.

Sec. 94-443. - Skating or skateboarding on sidewalks prohibited in downtown area.

Sec. 94-444. - Skating or skateboarding in reckless manner.

Sec. 94-445. - Penalty.

Secs. 94-446—94-470. - Reserved.

Sec. 94-441. - APPLICABILITY.

No person shall rollerskate or ride a skateboard anywhere in the city without complying with the terms of this division. As used in this division, the term "to skate" means to skate on any type of rollerskates or street skates.

(Code 1996, § 10.90.010)

Sec. 94-442. - RIDING ON STREET.

No person shall rollerskate or ride a skateboard on any street except for the purpose of crossing the street. The rules relating to pedestrians crossing streets shall apply to persons crossing a street on rollerskates or a skateboard.

(Code 1996, § 10.90.020)

Sec. 94-443. - SKATING OR SKATEBOARDING ON SIDEWALKS PROHIBITED IN DOWNTOWN AREA.

It shall be unlawful to rollerskate or ride a skateboard on the sidewalks in the downtown area. The downtown area is defined for the purpose of this section as that area bounded by Sixth Avenue on the north, the Chicago and Northwestern Railroad tracks on the south, Sixth Street on the west, and Main Street on the east, and shall include the sidewalks and public right-of-way on both sides of any boundary street.

(Code 1996, § 10.90.030)

Sec. 94-444. - SKATING OR SKATEBOARDING IN RECKLESS MANNER.

No person shall rollerskate or ride a skateboard in a reckless manner on any public sidewalk. No person shall ride a skateboard or rollerskate on a sidewalk without exercising due care for the safety of other persons using the sidewalk.

(Code 1996, § 10.90.040)

Sec. 94-445. - PENALTY.

A penalty of \$25.00 shall be assessed to violators of this division if payment is made within ten days of the

violation, after which date the violation shall be punishable as provided in section 1-15.

(Ord. No. 03-3205, § 9(10.90.050), 11-24-2003; Ord. No. 08-3639, § 1, 1-28-2008)

Secs. 94-446—94-470. - RESERVED.

DIVISION 5. - MOTORIZED SKATEBOARDS, ROLLERSKATES, SCOOTERS AND BICYCLES

[Sec. 94-471. - Definitions.](#)

[Sec. 94-472. - Compliance.](#)

[Sec. 94-473. - Operation prohibited on streets, sidewalks and municipal parking areas; operation on private property.](#)

[Sec. 94-474. - Exceptions.](#)

[Sec. 94-475. - Penalty.](#)

[Secs. 94-476—94-500. - Reserved.](#)

Sec. 94-471. - DEFINITIONS.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Motor-assisted bicycle means a device capable of being propelled by both human and motorized power upon which any person may ride, having two tandem wheels.

Motorized rollerskates means devices worn on the feet with a combination of wheels which are motorized, and includes devices commonly known as motorized in-line skates.

Motorized scooter means any two-wheeled device that has handlebars, is designed to be stood on or sat upon by the operator, and is powered by an electrical motor or an internal combustion engine, which cannot be registered as a motor driven cycle by the state.

Motorized skateboard means a device with two or more tandem axles and a combination of wheels connected by a platform designed for standing which is motorized.

(Ord. No. 04-3232, § 10.100.010, 4-26-2004)

Sec. 94-472. - COMPLIANCE.

No person shall operate a motorized skateboard, motorized rollerskates, a motorized scooter, or a motor-assisted bicycle anywhere within the city without complying with the terms of this division.

(Ord. No. 04-3232, § 10.100.020, 4-26-2004)

Sec. 94-473. - OPERATION PROHIBITED ON STREETS, SIDEWALKS AND MUNICIPAL PARKING AREAS; OPERATION ON PRIVATE PROPERTY.

No person shall operate a motorized skateboard, motorized rollerskates, a motorized scooter, or a motor-assisted bicycle upon any sidewalk, street, roadway or public way, or in or upon any municipal

parking area, within the corporate boundaries of the city, or on any private property without the express consent of the owner, at any time.

(Ord. No. 04-3232, § 10.100.030, 4-26-2004)

Sec. 94-474. - EXCEPTIONS.

The provisions of this division shall not apply to any of the devices, defined in section 94-471, when operated by a participant in a parade authorized by the city, or when operated by a law enforcement officer in the performance of official duties, or to a motorized wheelchair or scooter which is being used to transport a physically challenged person.

(Ord. No. 04-3232, § 10.100.040, 4-26-2004)

Sec. 94-475. - PENALTY.

A penalty of \$25.00 shall be assessed to violators of this division if payment is made within ten days of the violation, after which date the violation shall be punishable as provided in section 1-15.

(Ord. No. 04-3232, § 10.100.050, 4-26-2004; Ord. No. 08-3639, § 1, 1-28-2008)

Secs. 94-476—94-500. - Reserved.

ARTICLE VII. - VEHICLE EQUIPMENT AND CONDITION

[Sec. 94-501. - Compression release engine brakes prohibited.](#)

[Secs. 94-502—94-530. - Reserved.](#)

Sec. 94-501. - COMPRESSION RELEASE ENGINE BRAKES PROHIBITED.

(a) No person shall operate or cause to be operated at or upon any public highway, located within 1,000 feet of any area of the city that contains any single-family or multifamily dwelling units, any compression/engine brake on any vehicle for any reason. For purposes of this section, a compression release engine brake is defined as any mechanical exhaust device designed to and in braking or deceleration of any vehicle by converting engine power to compressed air which results in additional, excessive, loud or explosive noise from such vehicle.

(b) Any person found to be in violation of this section shall be subject to punishment as provided in section 1-15

(Code 1996, §§ 10.20.010, 10.20.020)

Secs. 94-502—94-529. - RESERVED.

ARTICLE VIII. – WEIGHT LIMITS AND OVERWEIGHT VEHICLES

(New Sections Effective May 1, 2013)

[Sec. 94-530 – Designated Truck Routes.](#)

[Sec. 94-531. - Weight limitations on Dement Road and Ranger Road.](#)

[Sec. 94-532. – Gross Weight Limits.](#)

[Sec. 94-533 – Exempt Vehicles](#)

[Sec. 94-534 – Special Permits](#)

[Sec. 94-535 – Appeal for Hardship Exemption](#)

[Sec. 94-536 – Enforcement](#)

[Sec. 94-537 – Penalty for Violating Sec. 94-532](#)

[Sec. 94-538 – Weighing of Vehicles and Removal of Excess Loads](#)

[Sec. 94-539 – Liability for Damages to Street or Roadway Improvements](#)

[Sec. 94-540 – Fees for Police Escort](#)

[Sec. 94-541 – Vehicle Length, Width and Height](#)

[Sec. 94-542 – Trucking Advisory Committee.](#)

[Secs. 94-543 – 94-549 Reserved.](#)

Sec. 94-531. - WEIGHT LIMITATIONS ON DEMENT ROAD AND PETRO ROAD.

(a) Dement Road and Petro Road are classified as class 2 roads and, therefore, the maximum weight limits of vehicles upon the roadways shall be 20,000 pounds on a single axle, 34,000 pounds on a tandem, and up to 80,000 pounds on a five-axle combination, depending upon axle spacings.

(b) The weight limitations in subsection (a) of this section shall not apply to those vehicles which have received special permits issued by the state to exceed the normal weight restrictions and which have been allowed to travel on Interstate 39.

(c) These restrictions shall apply to that part of Dement Road extending north of IL Route 38, 750 feet, to the north line of Petro Road. These restrictions shall also apply to the entire roadway known as Petro Road.

(Code 1996, § 10.30.010)

Sec. 94-532. - DESIGNATED TRUCK ROUTES.

(a) The following streets are designated and shall be posted as routes for trucks and commercial vehicles in excess of 73,280 pounds within, to, or through the city:

1st Ave. from IL. Rt. 38 to Caron Rd.

2nd Ave. from N. Main St east approx. 1350 feet to termination.

4th Ave. from N. 15th St. to N. 14th St.

4th Ave. from N. 8th St. to N. 6th St. — Class II (State of Illinois Jurisdiction)

4th Ave. from N. Main St. east to termination at approximately 400 feet east of N. 2nd St.

6th Ave. from IL. Rt. 251 to N. 2nd St.

7th Ave. from N. 2nd St. to Caron Rd.

8th Ave. from 20th St. to N. 14th St.

Americold Dr. from Wiscold Dr. south approximately 428 feet to termination — Class II

Avenue E from Avenue G to Popular St.

Avenue G from Wood St. to Avenue E.

Avenue H from Wood St. east approximately 700 feet to termination.

Brush Grove Rd. from Intermodal Drive west approximately 7600 feet to the Rochelle Corporate Limits (approximately 300' north of Kyte River)

Caron Rd. from Steward Rd. to Flagg Rd. — Class II

Cherry Ave. from N. Main St. east to N. 2nd St.

Creston Rd. from Caron Rd. to Dement Rd. — Class II

Dement Rd. from Creston Rd. to approx. 615 feet north of Petro Rd. — Class II

Flagg Rd. from IL Rt. 251 to 20th St. - Class III (Ogle Co. Jurisdiction)

Flagg Rd. from IL Rt. 251 to Caron Rd. — Class II

IL. Rt. 251 from Gurler Rd. to Twombly Rd. — Class II (State Jurisdiction)

IL. Rt. 38 (Lincoln Ave.) from west Rochelle Corporate Limits to N. 6th St. — Class II (State Jurisdiction)

IL. Rt. 38 from IL. Rt. 251 to east municipal boundary — Class II (State Jurisdiction)

Intermodal Dr. from IL. Rt. 251 to Global III Intermodal entrance — Class II

N. 2nd St. from Cherry Av. to 7th Av.

N. 6th St. from Lincoln Ave. (IL. Rt. 38) to 4th Ave. — Class II (State Jurisdiction)

N. 8th St. from Lincoln Ave. (IL. Rt. 38) to 4th Ave. — Class II (State Jurisdiction)

N. 14th St. from Lincoln Ave. (IL. Rt. 38) to 8th Ave.

N. 15th St. from Lincoln Ave. (IL. Rt. 38) to 4th Ave.

N. 15th St. from 8th Ave. south approximately 717 feet to termination.

N. Main St. from 1st Ave. to 4th Ave.

Petro Rd. from approximately 285 west of Dement Rd. to approximately 1150 feet east of Dement Rd. — Class II

Popular St. from Avenue E to 1st Ave.

Quarry Rd. from Standard Oil Rd. to Wood St.

Ranger Dr. from Dement Rd west approx 600' to termination.

S. Main St. from Steward Rd. to Veterans Parkway.

Standard Oil Rd. from S. Main St. to Quarry Rd.

Steam Plant Rd. from S. Main St. to Caron Rd.

Steward Rd. from IL. Rt. 251 to Ogle/Lee County line — Class III (Ogle Co. Jurisdiction)

Timber Ln. from Caron Road east approx 1100' to termination — Class II

Veterans Parkway from IL. Rt. 251 to S. Main St.

Washington St. from IL. Rt. 251 to 1st Ave.

Wiscold Dr. from Caron Rd. to Americold Dr. — Class II

Wood St. from Quarry Rd. to Avenue G.

(b) No truck or commercial vehicle in excess of 73,280 pounds shall be operated on any streets within the city, other than those streets identified in this section, except for the purpose of loading, unloading, food, fuel, repairs, and rest, in accordance with the provisions of the Illinois Vehicle Code, 625 ILCS 5/15-111(f-1) and (f-2).

(c) All truck routes designated in this section shall be properly signed in accordance with the Illinois Manual on Uniform Traffic Control Devices.

(Effective May 1, 2013 – New Secs 94-530 – 94-542)

Sec. 94-530. DESIGNATED TRUCK ROUTES.

(a) The following streets are designated and shall be posted as routes for trucks and commercial vehicles within, to, or through the city:

1. 1st Ave. from IL. Rt. 38 to Caron Rd.
2. 2nd Ave. from N. Main St east approximately 1350 feet to termination.
3. 4th Ave. from N. 15th St. to N. 14th St.
4. 4th Ave. from N. 8th St. to N. 6th St. -- Class II (State of Illinois Jurisdiction)

5. 4th Ave. from N. Main St. east to termination at approximately 400 feet east of N. 2nd St.
6. 6th Ave. from IL. Rt. 251 to N. 2nd St.
7. 7th Ave. from N. 2nd St. to Caron Rd.
8. 8th Ave. from 20th St. to N. 14th St.
9. Americold Dr. from Wiscold Dr. south approximately 428 feet to termination -- Class II
10. Avenue E from Avenue G to Poplar St.
11. Avenue G from Wood St. to Avenue E.
12. Avenue H from Wood St. east approximately 700 feet to termination.
13. Brush Grove Rd. from Intermodal Drive west approximately 7600 feet to the Rochelle Corporate Limits (approximately 300' north of Kyte River)
14. Caron Rd. from Steward Rd. to Flagg Rd. -- Class II
15. Cherry Ave. from N. Main St. east to N. 2nd St.
16. Creston Rd. from Caron Rd. to Dement Rd. -- Class II
17. Dement Rd. from Creston Rd. to approximately 615 feet north of Petro Rd. -- Class II
18. Flagg Rd. from IL Rt. 251 to approx. 1400' west of the west line of 20th St. - Class III (Ogle Co. Jurisdiction)
19. Flagg Rd. from IL Rt. 251 to Caron Rd. -- Class II
20. IL. Rt. 251 from Gurler Rd. to Twombly Rd. -- Class II (State Jurisdiction)
21. IL. Rt. 38 (Lincoln Ave.) from west Rochelle Corporate Limits to N. 6th St. -- Class II (State Jurisdiction)
22. IL. Rt. 38 from IL. Rt. 251 to east municipal boundary -- Class II (State Jurisdiction)
23. Intermodal Dr. from IL. Rt. 251 to Global III Intermodal entrance -- Class II
24. N. 2nd St. from Cherry Av. to 7th Av.
25. N. 6th St. from Lincoln Ave. (IL. Rt. 38) to 4th Ave. -- Class II (State Jurisdiction)
26. N. 8th St. from Lincoln Ave. (IL. Rt. 38) to 4th Ave. -- Class II (State Jurisdiction)
27. N. 14th St. from Lincoln Ave. (IL. Rt. 38) to 8th Ave.
28. N. 15th St. from Lincoln Ave. (IL. Rt. 38) to 4th Ave.
29. N. 15th St. from 8th Ave. south approximately 717 feet to termination.

30. N. Main St. from 1st Ave. to 4th Ave.
31. Petro Rd. from approximately 285 west of Dement Rd. to approximately 1150 feet east of Dement Rd. -- Class II
32. Poplar St. from Avenue E to 1st Ave.
33. Quarry Rd. from Standard Oil Rd. to Wood St.
34. Ranger Dr. from Dement Rd west approximately 600' to termination.
35. S. Main St. from Steward Rd. to Veterans Parkway.
36. Standard Oil Rd. from S. Main St. to Quarry Rd.
37. Steam Plant Rd. from S. Main St. to Caron Rd.
38. Steward Rd. from IL. Rt. 251 to S. Main St. -- Class III (Ogle Co. Jurisdiction)
39. Steward R. from S. Main St. to Ogle / Lee County line
40. Timber Ln. from Caron Road east approximately 1100' to termination -- Class II
41. Veterans Parkway from IL. Rt. 251 to S. Main St.
42. Washington St. from IL. Rt. 251 to 1st Ave.
43. Wiscold Dr. from Caron Rd. to Americold Dr. -- Class II
44. Wood St. from Quarry Rd. to Avenue G.
45. Jack Dame Road
46. Ritchie Road from Steward Rd to Ritchie Court
47. Ritchie Court from Ritchie Rd north to the terminus
48. Centerpoint Drive

- (b) All truck routes designated in this section shall be properly signed in accordance with the Illinois Manual on Uniform Traffic Control Devices.

Sec. 94-531. WEIGHT LIMITATIONS ON DEMENT ROAD AND RANGER ROAD.

- (a) Dement Road and Ranger Road are classified as class II roads and, therefore, the maximum weight limits of vehicles upon the roadways shall be 20,000 pounds on a single axle, 34,000 pounds on a tandem, and up to 80,000 pounds on a five-axle combination, depending upon axle spacings.

- (b) The weight limitations in subsection (a) of this section shall not apply to those vehicles which have received special permits issued by the state to exceed the normal weight restrictions and which have been allowed to travel on Interstate 39.
- (c) Subsection (b) of this Section shall apply to that part of Dement Road extending 750 feet north of IL Route 38 and to that part of Dement Road extending 490 feet south to the south line of Ranger Road. Subsection (b) of this Section shall also apply to the entire roadway known as Ranger Road.

Sec. 94-532. GROSS WEIGHT LIMITS.

- (a) It shall be unlawful for any person(s) to operate or cause to be operated a motor vehicle having a gross weight (including vehicle and maximum load) in excess of 80,000 pounds, or motorized equipment having a gross weight in excess of 80,000 pounds (collectively "Overweight Vehicle") on any street, road, or highway located within the jurisdiction of the City of Rochelle and designated as a Truck Route under Sec. 94-530, unless one of the exceptions listed in Section 94-533 hereunder is applicable to said vehicle(s), or as otherwise permitted pursuant to the language contained in Sections 94-534 and 94-535.
- (b) It shall be unlawful for any person(s) to operate or cause to be operated an Overweight Vehicle on any streets within the City, other than those streets identified in Sec. 94-530, and to operate or cause to be operated a truck or commercial vehicle in excess of any other weight limitation on any street within the City where appropriate signs stating a different weight limitation have been erected, unless one of the exceptions listed in Section 94-533 hereunder is applicable to said vehicle(s), or as otherwise permitted pursuant to Section 94-534 or Section 94-535.

Sec. 94-533 EXEMPT VEHICLES.

The following vehicles are exempt from the gross weight limit restrictions described and set forth in Section 94-532 herein:

- (a) Vehicles owned and operated by government agencies;
- (b) Public utility vehicles owned or operated by the City, other public bodies, public utility companies, or any contractor or material man thereof, while engaged in the repair, maintenance, or construction of streets or utility facilities within the City, or while traveling to or from such street repair or public utility facility sites, where the only access to such repair or utility facility sites is over streets within the City;
- (c) Buses in operation of picking up or dropping off passengers;
- (d) Private snow removal vehicles engaged in snow removal functions on private property within the City;
- (e) Vehicles registered and used as recreational vehicles;

- (f) Tow trucks;
- (g) Implements of husbandry;
- (h) Emergency vehicles;
- (i) Vehicles involving local destination or origination, if necessary, for the conduct of business or service to an occupant or retailer where access thereto or egress therefrom is only available over streets which have not been designated Truck Routes under Sec. 94-530; provided, however, any such vehicle with a gross vehicle weight in excess of 80,000 pounds which travels over any portion of a residential street or any other street not designated as a Truck Route shall be required to obtain a special permit as described in Sec. 94-534 or otherwise be in violation of this Article; or
- (j) Any Overweight Vehicle to which a special permit has been issued under Sec. 94-534.

Sec. 94-534. SPECIAL PERMITS.

- (a) Special Permits for Overweight Vehicles Hauling International Shipping Containers.
 1. *Truck Route Permits.* The City Manager, or his designee, ("Permitting Authority") upon application by a person ("Permittee") and good cause being shown, may issue a special permit authorizing a vehicle or combination of vehicles not in conformity with the weight regulations of Sec. 94-532 or the wheel and axle load and gross weight provisions of Section 15-11 of the Illinois Vehicle Code, as periodically amended, that is hauling sealed International Shipping Containers, the contents of which are considered by the Illinois Department of Transportation to be indivisible, to be operated or moved upon any street or highway under the jurisdiction of the City which has been designated a Truck Route under Sec. 94-530; provided, however, that no permit shall be issued for any Overweight Vehicle hauling International Shipping Containers that weighs 100,000 pounds or more.
 2. *Sec. 94-533(i) Permits.* The Permitting Authority, upon application by a Permittee and good cause shown, may issue a special permit authorizing a vehicle hauling International Shipping Containers not in conformity with the weight limitations of Sec. 94-532 that is required to obtain a permit under Sec. 94-533(i) to be operated or moved upon any street or highway under the jurisdiction of the City within the limitations of Sec. 94-533(i); provided, however, that no permit shall be issued for any Overweight Vehicle hauling International Shipping Containers that weighs 100,000 pounds or more.
 3. *Fees.* The fees for special permits for overweight trucks hauling International Shipping Containers under this section are as follows:

Permit Type	Weight Class	One-Day Permit	Annual Permit
Truck Route and § 533(i) Permits	80,000 – 99,999 pounds	\$25.00	\$350.00

All special permit forms for Overweight Vehicles hauling International Shipping Containers shall be on file at the Permitting Authority's office.

4. *Application Requirements.* The application for any such permit shall:
- a. specifically describe the vehicle to be operated or moved;
 - b. state if the applicant is an authorized carrier under the Illinois Motor Carrier of Property Law ("Motor Carrier Law"), and, if so, the certificate, registration or permit number issued by the Illinois Commerce Commission to the applicant;
 - c. include any request for routing to the nearest certified scale in accordance with the Illinois Department of Transportation; and
 - d. state if the vehicle or load is being transported for hire.

The requirements in this section are not exclusive, and the City reserves the right to impose additional requirements thereunder.

(b) Special Permits for All Other Overweight Vehicles

1. *Truck Route Permits.* The Permitting Authority upon application by a person ("Permittee") and good cause being shown, may issue a special permit authorizing a vehicle or combination of vehicles, other than vehicles hauling International Shipping Containers, not in conformity with the weight regulations of Sec. 94-532 or the wheel and axle load and gross weight provisions of Section 15-11 of the Illinois Vehicle Code, as periodically amended, to be operated or moved upon any street or highway under the jurisdiction of the City which has been designated a Truck Route under Sec. 94-530; provided, however, that no permit shall be issued under this Sec. 94-534(b) to any vehicle that weighs 150,000 pounds or more without prior approval of the City Council which shall set the fee.
2. *Sec. 94-533(i) Permits.* The Permitting Authority, upon application by a Permittee and good cause shown, may issue a special permit authorizing a vehicle not in conformity with the weight limitations of Sec. 94-532 that is required to obtain a permit under Sec. 94-533(i) to be operated or moved upon any street or highway under the jurisdiction of the City within the limitations of Sec. 94-533(i); provided, however, that no permit shall be issued under this Sec. 94-534(b) to any vehicle that weighs 150,000 pounds or more without prior approval of the City Council which shall set the fee.
3. *Fees.* The fees for special permits for vehicles other than vehicles hauling International Shipping Containers under this section are as follows:

Permit Type	Weight Class	One-Day Permit
Truck Route Permits (on streets and highways designated as Truck Routes)	80,000 – 99,999 pounds	\$25.00
	100,000 – 119,999 pounds	\$40.00
	120,000 – 149,999 pounds	\$80.00
	150,000 pounds or greater	City Manager to set fee
Sec. 94-533(i) Permits (on any roads within the City for vehicles meeting the requirements of Sec. 94-533(i))	80,000 – 99,999 pounds	\$20.00
	100,000 – 119,999 pounds	\$40.00
	120,000 – 149,999 pounds	\$80.00
	150,000 pounds or greater	City Manager to set fee

Fees listed above are per vehicle. All special permit forms shall be on file at the Permitting Authority's office.

4. *Application Requirements.* The application for any such permit shall:

- a. specifically describe the vehicle and load to be operated or moved and the particular streets or highways for which the permit to operate is requested;
- b. state if the applicant is an authorized carrier under the Illinois Motor Carrier of Property Law ("Motor Carrier Law"), and, if so, the certificate, registration or permit number issued by the Illinois Commerce Commission to the applicant;

- c. state the routing requested, including the points of origin and destination, and may identify and include a request for routing to the nearest certified scale in accordance with the Illinois Department of Transportation; and
- d. state if the vehicle or load is being transported for hire.

The requirements in this section are not exclusive, and the City reserves the right to impose additional requirements thereunder.

- (c) *Permits to be Available Online.* Permit applications shall be available online. Applications shall be in a form that may be submitted online, and permits may be issued through electronic communication that the applicant must then print and carry within the vehicle.
- (d) *Fees To Be Deposited in Special Account.* All fee payments under this section, less any costs of administering the permitting process, shall be deposited in an account to be used only for maintenance, repair, and improvement of Truck Routes, as designated in § 94-530, within the jurisdiction of the City. The fees established by this section are deemed by the City Engineer to be sufficient to compensate in part for the cost of the extra wear and tear on the mileage of streets over which the Overweight Vehicle is to be operated.
- (e) *Permits for Vehicles for Hire.* No permits for the movement of a vehicle or load for hire shall be issued to any applicant who is required under the Motor Carrier Law to have a certificate, registration, or permit who does not have such certificate, registration or permit.
- (f) *Special Conditions to Permits.* The Permitting Authority is authorized to withhold any permit at its discretion when consistent with traffic safety or, if such permit is issued, to limit the number of trips, to establish seasonal or other time limitations within which the vehicle described may be operated on the streets or highways indicated, to require appropriate escort vehicles for the vehicle subject to the permit, or otherwise to prescribe conditions of operation of such vehicle, when such action in the judgment of the Permitting Authority is necessary to protect against undue damage to the road foundations, surfaces, or structures.
- (g) *Permits Required to be Carried.* Every permit shall be in written form and carried in the vehicle to which it refers and shall be open to inspection by any police officer or authorized agent of the Permitting Authority and no person shall violate any of the terms or conditions of such permit. Violation of the terms and conditions of a permit shall not be deemed a revocation of the permit; provided, however, any vehicle and load found to be off the route prescribed in the permit shall be held to be operating without a permit. Any off route vehicle or load shall be required to obtain a new permit or permits, as necessary, to authorize the movement back onto the original permit routing. No rule or regulation, nor anything herein, shall be construed to authorize any police officer, court, or authorized agent of the Permitting Authority to remove the permit from the possession of the Permittee unless the Permittee is charged with a fraudulent permit violation. However, when the Permittee plans to raise the issuance of the permit as a defense against any violation of permit offense, operation without a permit when the vehicle is off route offense, or any size or weight offense under this Article, the Permittee, or his agent, must produce the permit at any court hearing concerning the alleged offense.

(h) *Violation of Permits Does Not Void Permit; Off Route Offenses.*

1. Violation of any rule, limitation, condition, or provision of any permit issued in accordance with the provisions of this Section shall not render the entire permit null and void, but the violator shall be deemed guilty of both a violation of permit under Sec. 94-534(i) and a violation of any size, weight, or load limitations in excess of those authorized by the permit under Sec. 94-537.
 2. The prescribed route or routes on the permit are not mere rules, limitations, conditions, or provisions of the permit, but are also the sole extent of the authorization granted by the permit. If a vehicle and load is found to be off the route or routes prescribed by any permit authorizing movement, the vehicle and load is operating without a permit. An off route movement constitutes a violation for lack of required permit under Sec. 94-534(j) and, if applicable, a violation of any size and weight maximums as determined by the type or class of highway upon which the vehicle and load is being operated under Sec. 94-537.
- (i) *Violation of Permits; Fines and Penalties.* Whenever any vehicle is operated or movement made in violation of a permit issued in accordance with this Section, the person to whom such permit was granted, or the driver of such vehicle, is guilty of such violation and either, but not both, persons may be prosecuted for such violations as stated herein. Any person, firm, or corporation convicted of such violation shall be guilty of a petty offense and shall be fined, in addition to any fine imposed under Sec. 94-537, shall be subject to the same penalties as set forth in 625 ILCS 5/15-301(j), as amended.
- (j) *Violation for Lack of Required Permit.* If a vehicle is subject to a permit required by this Section, it shall be unlawful for any person, or any employee or agent of such person, to operate such vehicle without obtaining such permit. Any person charged with a violation of this section may be prosecuted for such violation. Any person convicted of violating this Sec. 94-534(j) shall be fined, in addition to any fine imposed under Sec. 94-537, not less than \$500.00 but not more than \$1,000.00. In no event shall a person be fined contemporaneously both under this Sec. 94-534(j) and Sec. 94-534(i).

Sec. 94-535. APPEAL FOR HARDSHIP EXEMPTION.

The owner of any vehicle which is subject to the gross weight limit restrictions of Sec. 94-532 may submit a written Application for Appeal ("Appeal Application") for a Hardship Exemption to the City Manager, or his designee.

- (a) Within seven (7) days of the filing of an Appeal Application, the City Manager, or his designee, shall schedule a hearing date thereon. The hearing shall commence within thirty (30) days of the date of the Appeal Application. The rules of evidence applicable in a court of law in the State of Illinois shall be relaxed at this hearing. The City Manager, or his designee, shall make a ruling and mail to each participant a written decision within fourteen (14) days from the date of the conclusion of the hearing.
- (b) If the City Manager, or his designee, determines that a valid hardship does exist, an exemption may be issued to the applicant. If, however, the vehicle weight limit restrictions are affirmed upon review, the administrative review action may be reviewed by a court if the petition for review is filed in the Fifteenth Judicial Circuit, Ogle County, or any other court of competent jurisdiction

within thirty five (35) days of the date the ruling was mailed to any party.

- (c) It shall be mandatory for every exemption issued under this Section to be carried in the vehicle to which it refers and it shall be produced for inspection upon request by any police officer or any other municipal officer or employee having police power.
- (d) Hardship exemptions shall be granted only under extraordinary circumstances which are peculiar to the person seeking hardship and which are not generally applicable to others.

Sec. 94-536. ENFORCEMENT.

- (a) The City Engineer shall keep and maintain an accurate map showing the location of all Truck Routes, as defined in Sec. 94-530, which shall be made available to the public.
- (b) No person shall be charged with violating the provisions of Sec. 94-532 hereof upon any streets where the posting of signs is required under this Article, unless such appropriate signs are currently posted thereon.
- (c) Notwithstanding anything to the contrary contained in this Article, the Permitting Authority, City Prosecutor, and Chief of Police, individually or collectively, or any other person as determined by the Permitting Authority, shall have the authority to enforce all the provisions contained in this Article.

Sec. 94-537. PENALTY FOR VIOLATING SEC. 94-532.

Any person charged with a violation of Sec. 94-532 herein may be prosecuted for such violation. Any person who pleads guilty or is found guilty of violating Sec. 94-532 shall be fined according to the most current Overweight Bond Schedule issued by the Illinois State Police.

Sec. 94-538. WEIGHING OF VEHICLES AND REMOVAL OF EXCESS LOADS.

- (a) Any police officer having reason to believe that the gross weight of a vehicle and load is unlawful shall require the driver to stop and submit to a weighing process either by means of a portable or stationary scale that has been tested and approved at a frequency prescribed by the Illinois Department of Agriculture. If such scale is not available at the place where such vehicle is stopped, the police officer shall require that such vehicle be driven to the nearest available scale that has been tested and approved by the Illinois Department of Agriculture. Notwithstanding any provisions of the Weights and Measures Act or the United States Department of Commerce NIST Handbook 44, either multi draft weighing or single draft weighing is an acceptable method of weighing by law enforcement for determining a violation of this Article. City law enforcement vehicles are exempt from the requirements of commercial weighing established in NIST Handbook 44, as amended from time to time.

- (b) Whenever any police officer, upon weighing a vehicle and the load therewith, determines that said weight is unlawful and in violation of this Article, such officer shall require that the driver stop his vehicle in a suitable place and remain standing until such portion of the load is removed as may be necessary to reduce the weight of the vehicle to the limit permitted by this Article. All material so unloaded shall be cared for by the owner or operator of the vehicle at his or her sole risk, and such owner or operator shall indemnify and hold harmless the City, its officers, employees, and affiliates, from any claims or damages incurred therewith.
- (c) Any driver of a vehicle who refuses to stop and submit his vehicle and load to a weighing process after being directed to do so by an officer, or removes or causes the removal of the load or part of it prior to completion of the weighing process, is guilty of a business offense and shall be fined not less than \$500.00 but not more than \$2,000.00. The fines in this Section shall be in addition to any other fees or fines contained in this Article or under statutory law.
- (d) Notwithstanding anything to the contrary contained in this Section, the Permitting Authority may authorize police officers to set up and establish safety or enforcement check points. Any police officer at such check points is authorized to require a vehicle to stop and submit to a weighing without reason to believe the vehicle is overweight and require the driver to present any City permits it is carrying. The Permitting Authority and all police officers shall comply with applicable Federal and Illinois law governing roadside check points.

Sec. 94-539. LIABILITY FOR DAMAGES TO STREET OR ROADWAY IMPROVEMENTS.

- (a) Any person driving any vehicle upon any street within the City's corporate limits and the owner of such vehicle shall be jointly and severally liable for any damage which said street or appurtenant roadway improvements may sustain as a result of the operation, driving, or moving of said vehicle exceeding the maximum weight specified in this Article, regardless of whether or not a special permit is obtained in accordance with Sec. 94-534.
- (b) The measure of liability shall be either: (a) the cost of repairing the damaged street or roadway improvements if the street or roadway improvements are partially damaged, or (b) the depreciated replacement cost of said street or roadway improvement if the street or roadway improvements are damaged beyond repair. The measure of liability shall also include all other expenses incurred by the authorities in control of said street or roadway improvements in providing a temporary detour, including without limitation a temporary structure, to serve the needs of traffic during the period of repair or replacement of the damaged street or roadway improvements.

Sec. 94-540. FEES FOR POLICE ESCORT.

When City of Rochelle Police Department escorts are required for the safety of the motoring public pursuant to Sec. 94-534(f), the following fees shall be paid to the Permitting Authority by the applicant: \$40.00 per hour per escort vehicle based upon pre-estimated time of movement to be agreed upon between the Permitting Authority and applicant; provided, however, that a minimum fee of \$80.00 shall be imposed per escort vehicle.

Sec. 94-541. VEHICLE LENGTH, WIDTH, AND HEIGHT

Every vehicle that travels on any street within the jurisdiction of the City shall be subject to and comply with all the provisions contained in the Illinois Vehicle Code pertaining to length, width, and height.

Sec. 94-542. TRUCKING ADVISORY COMMITTEE

- (a) A Trucking Advisory Committee is hereby established. The Trucking Advisory Committee shall consist of three (3) members appointed by the Mayor with the consent of the City Council. The members of the Committee shall serve a term of three (3) years. In the event of a vacancy on the Committee, the appointment shall be made for the remainder of the term of the member whose position has become vacant.
- (b) The purpose of the Trucking Advisory Committee is to provide information to the City Manager, Mayor, and City Council on all issues related to trucking in and about the City of Rochelle, including, without limitation, the appropriateness of any proposed increases in overweight truck permit fees. The City Manager shall meet with the Trucking Advisory Committee from time to time, as circumstances reasonably require.
- (c) The fees established under this Article shall not be increased unless the Trucking Advisory Committee is first consulted on the issue, unless the Chairman of the Trucking Advisory Committee has been notified of the proposed increase at least 30 days in advance of the City Council meeting at which the proposed increase will be voted on and fails to convene a meeting of the Trucking Advisory Committee prior to the City Council meeting.

(Code 1996, § 10.30.010; Ord. No. 07-3594, § 1(Exh. A), 8-27-2007; Ord. No. 12-4235, 10-22-2012)

Secs. 94-543 – 94-549 - RESERVED.

ARTICLE IX. - SEIZED AND IMPOUNDED VEHICLES

Sec. 94-550. - Vehicles subject to seizure and impoundment.

Sec. 94-551. - Seizure and impoundment procedures.

Sec. 94-552. - Imposition of administrative fee.

Sec. 94-553. - Release from impound.

Sec. 94-554. - Administrative Hearing.

Sec. 94-555. - Notice required.

Sec. 94-556. - Administrative review of seizure and impoundment.

Sec. 94-557. - Stolen vehicles.

Sec. 94-558. - Abandoned or unclaimed vehicles.

Sec. 94-550. VEHICLES SUBJECT TO SEIZURE AND IMPOUNDMENT.

A motor vehicle that is used in connection with any of the following violations ("eligible offenses") may be subject to seizure and impoundment by the City, in accordance with the provisions of this Article:

- (a) operation or use of a motor vehicle in the commission of, or in the attempt to commit, an offense for which a motor vehicle may be seized and forfeited pursuant to Section 36-1 of the Criminal Code of 1961; or
- (b) driving under the influence of alcohol, another drug or drugs, an intoxicating compound or compounds, or any combination thereof, in violation of Section 11-501 of this Code; or
- (c) operation or use of a motor vehicle in the commission of, or in the attempt to commit, a felony or in violation of the Cannabis Control Act; or
- (d) operation or use of a motor vehicle in the commission of, or in the attempt to commit, an offense in violation of the Illinois Controlled Substances Act; or
- (e) operation or use of a motor vehicle in the commission of, or in the attempt to commit, an offense in violation of Section 24-1, 24-1.5, or 24-3.1 of the Criminal Code of 1961; or
- (f) driving while a driver's license, permit, or privilege to operate a motor vehicle is suspended or revoked pursuant to Section 6-303 of this Code; except that vehicles shall not be subjected to seizure or impoundment if the suspension is for an unpaid citation (parking or moving) or due to failure to comply with emission testing; or
- (g) operation or use of a motor vehicle while soliciting, possessing, or attempting to solicit or possess cannabis or a controlled substance, as defined by the Cannabis Control Act or the Illinois Controlled Substances Act; or
- (h) operation or use of a motor vehicle with an expired driver's license, in violation of Section 6-101 of this Code, if the period of expiration is greater than one year; or

- (i) operation or use of a motor vehicle without ever having been issued a driver's license or permit, in violation of Section 6-101 of this Code, or operating a motor vehicle without ever having been issued a driver's license or permit due to a person's age; or
- (j) operation or use of a motor vehicle by a person against whom a warrant has been issued by a circuit clerk in Illinois for failing to answer charges that the driver violated Section 6-101, 6-303, or 11-501 of this Code; or
- (k) operation or use of a motor vehicle in the commission of, or in the attempt to commit, an offense in violation of Article 16 or 16A of the Criminal Code of 1961; or
- (l) operation or use of a motor vehicle in the commission of, or in the attempt to commit, any other misdemeanor or felony offense in violation of the Criminal Code of 1961.

In the event that a vehicle is impounded under this Article and it later becomes the subject of asset forfeiture pursuant to 720 ILCS 570/505, or a similar law, that statute shall control.

Sec. 94-551. SEIZURE AND IMPOUNDMENT PROCEDURES.

Whenever a police officer has reason to believe that the driver of a motor vehicle has committed an eligible offense as enumerated in Sec. 94-550, or that any passenger has committed an eligible offense and the driver had knowledge that the passenger was committing the eligible offense, the officer may provide for the towing of the motor vehicle to the City impound facility or a City-approved private lot.

Sec. 94-552. IMPOSITION OF ADMINISTRATIVE FEE.

An administrative fee of \$500.00 shall be imposed on the registered owner of any motor vehicle that is seized and impounded under this Article, regardless of whether the registered owner was driving the vehicle at the time of the seizure and impoundment. The administrative fee shall be in addition to any towing and storage charges payable to the towing company.

Sec. 94-553. RELEASE FROM IMPOUND.

Motor vehicles seized and impounded under this Article shall remain impounded until all costs associated with the towing and storage of the motor vehicle are collected and paid to the towing agency and the registered owner or registered owner's agent appears at the Rochelle Police Department and posts the \$500.00 administrative fee in cash to be held by the City pending administrative review. Upon proof of payment of all towing and storage fees and posting of the administrative fee, the vehicle shall be released to the registered owner.

Lien holders with a perfected lien upon an impounded vehicle may take possession of the vehicle if the lien holder has obtained a judgment for possession of the vehicle either under the appropriate replevin or foreclosure laws, provides a certified copy of such judgment to the City and pays the administrative fee and all towing and storage costs.

Sec. 94-554. ADMINISTRATIVE HEARING.

The City shall set an administrative hearing to determine the validity of any impoundment made pursuant to this Article. The administrative hearing shall be set no later than forty-five (45) days after the date of mailing or personal service of the notice or notices required by Sec. 94-555.

Sec. 94-555. NOTICE REQUIRED.

The City shall, at the time the vehicle is towed, notify, or make a reasonable attempt to notify, the owner, lessee, or person identifying himself or herself as the owner or lessee of the vehicle, or any person who is found to be in control of the vehicle at the time of the alleged offense, of the fact of the seizure, and of the vehicle owner's or lessee's right to an administrative hearing, and that the motor vehicle will remain impounded pending the completion of an administrative hearing, unless the administrative fee is posted with the municipality and all towing and storage charges are paid.

Within ten (10) days of the date of impoundment, the City shall serve upon the owner, lessee, if any, and any lienholders of the vehicle, either by personal service or by first class mail to the last registered address of said party, a notice containing the date, time, and location of the initial administrative hearing; provided, however, that if notice given at the time the vehicle is towed complies with the foregoing, no further notice need be given.

Sec. 94-556. ADMINISTRATIVE REVIEW OF SEIZURE AND IMPOUNDMENT.

(a) Administrative hearings held under this Article shall be held at the Rochelle Municipal Building. Administrative hearings shall be conducted by a hearing officer who is an attorney licensed to practice law in this state for a minimum of three (3) years, who will determine whether, by a preponderance of the evidence, the City has proven that the vehicle seized and impounded was being used in violation of one of the offenses enumerated in Sec. 94-550 of this Article. Administrative hearings shall be recorded. Formal rules of evidence shall not apply.

(b) The following shall not be considered valid defenses at the administrative hearing:

- (1) that the registered owner was not the driver of the vehicle;
- (2) that the driver of the vehicle has been adjudicated not guilty of a criminal charge related to the incident;
- (3) that a criminal charge against the driver of the vehicle related to the incident has been dismissed or otherwise disposed of; or
- (4) That the registered owner had no knowledge of the vehicle being used in connection with the listed offenses, except where the vehicle was proved stolen.

(c) At the conclusion of the hearing, the hearing officer shall make his or her ruling and

issue a written finding, decision and order reflecting said ruling, which shall have the following effect:

- (1) If the hearing officer sustains the validity of the impoundment, the registered owner shall be required pay the City the administrative fee of \$500.00, or, if the registered owner has posted \$500.00 with the City, the \$500.00 shall be distributed to the City.
- (2) If the hearing officer overrules the validity of the impoundment, the registered owner shall not be required to pay the \$500.00 administrative fee, and if the administrative fee has previously been posted with the City, the City shall return the \$500.00 to the registered owner within 14 business days following the written decision of the hearing officer.
- (d) The hearing officer does not have the authority to order the refund of the costs of the towing and storage, which must be paid by the registered owner regardless of the outcome of the administrative hearing. In addition, the ruling of the hearing officer shall have no effect on any pending criminal charges related to the incident for which the vehicle was seized and impounded.
- (e) The order of the hearing officer shall be subject to the provisions of the Illinois Administrative Review Law, 735 ILCS 5/3-101 et seq. If the impoundment is sustained, the administrative fee shall become a judgment in favor of the City after the period for judicial review has expired, and shall be enforced in the same manner as a judgment entered by a court of competent jurisdiction.

Sec. 94-557. Stolen Vehicles.

The administrative fee imposed by the City under this Article shall not be charged to the vehicle owner if there is verifiable proof that the vehicle was stolen at the time the vehicle was impounded.

Sec. 94-558. Abandoned or Unclaimed Vehicles.

Vehicles not retrieved from the towing facility or storage facility within 35 days after the date of the written decision of the hearing officer shall be deemed abandoned and disposed of as such in the manner provided by law for the disposition of abandoned vehicles provided in 625 ILCS 5/4-200 et seq."

2. That any and all other ordinances or resolutions, or parts thereof, that are in conflict with this ordinance are hereby repealed.

3. That this ordinance shall become effective immediately after its adoption, approval and publication as provided by law and shall modify any inconsistent provisions in the municipal code prior to this date. This ordinance shall apply to all seizures of vehicles impounded after the date of passage of this ordinance.

(Ord. No. 11-4032, § 1, 3-28-2011; Ord. No. 12-4136, 1-9-2012); Ord. No. 12-4171, 4-23-2012; 12-4228, 09/10/2012)

Chapters 95—97 - RESERVED

Chapter 98 - UTILITIES

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ARTICLE I. - IN GENERAL

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Sec. 98-22. - Suspension of contract when premises unfit for conduct of business.
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Sec. 98-1. - DEFINITIONS.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Consumer and *customer* mean the person who is responsible for the payment of utility bills.

Director of utilities means the director of utilities of the city.

Owner means the actual owner of the premises to be supplied with utility service.

Rochelle Municipal Utilities and *RMU* mean the utilities department of the city.

(Code 1996, § 11.02.010)

Sec. 98-2. - APPLICATION FOR SERVICE.

(a) *Procedure.* Any consumer desiring utility service shall make application at the RMU business office using forms furnished by RMU. For all properties having more than one tenant and only one meter, the meter shall be in the owner's name. The owner shall be responsible for payment of the utility bills and any damages to said meter. A transfer of service from one premise to another within the area served by RMU is not viewed as a discontinuance of service by RMU, the character of service remains the same, and the application should be for transfer of service.

(b) *Fees.*

(1) *Electric service.* A fee of \$25.00 shall be paid each time electric service is applied for and a meter is installed and connected.

(2) *Water service.* A fee of \$40.00 shall be paid each time the water is turned on from the city's supply to any premises.

(c) *Delinquency in payment for service.* If, after a review of its own past service records, RMU finds that an applicant for utility service has failed to pay for past due utility service for the same class of service furnished to the applicant at the same or at another address or if the applicant for service is unable to establish satisfactory credit references, RMU may refuse to provide service unless the applicant, at the sole option of RMU, either pays any past due bill and/or provides a deposit, pursuant to section 98-3, or enters into a deferred payment agreement pursuant to sections 98-7 and 98-8

(Code 1996, § 11.02.020)

Sec. 98-3. - SECURITY DEPOSITS.

(a) RMU may request a security deposit from a new applicant for service if the applicant is unable to establish satisfactory credit references. Also, RMU may request a security deposit from a present residential or present nonresidential customer that receives utility service from RMU if:

(1) The customer, during any 12-month period, pays late two times; or

(2) The customer's wires, pipes, meters or other service equipment have been tampered with and the customer enjoyed the benefit of the tampering.

(b) RMU may request a deposit from applicants for service if the applicant for service has failed to pay for past due utility service for the same class of service furnished to him at the same or at another address.

(c) A security deposit shall not be in excess of one-third of the amount of the estimated annual charges for that class of service and shall be paid to RMU prior to receiving service.

(d) Security deposits plus interest shall be automatically refunded after being held for 12 months if:

(1) The service has not been interrupted for nonpayment or so long as the customer has not paid late four times; or

(2) So long as the customer's wires, pipes, meters or other service equipment have not been tampered with during the time the deposit was held which resulted in the customer enjoying the benefit of the tampering.

(e) Deposits plus interest need not be refunded until the customer pays any past due bills for utility service.

(f) Interest shall be paid on all deposits held by RMU. The rate of interest to be paid shall be determined in December of each year and will be the same as the rate existing for one-year United States treasury bills at that point in time. The interest rate will be rounded to the nearest one-half of one percent and shall be paid on all deposits held during all or part of the subsequent year.

(g) At the end of every year of service, if the deposit plus interest is not refunded to the customer, RMU shall automatically refund the accrued interest on the deposit to the customer by crediting the customer's account and so stating this credit clearly on the customer's next regular bill.

(h) Deposits plus interest shall be refunded within 30 days upon the discontinuance of service less any unpaid bills.

(1) A transfer of service from one premises to another within the area served by RMU is not viewed as a discontinuance of service by RMU, the character of service remains the same.

(2) When a deposit plus interest is applied to the liquidation of unpaid bills, RMU shall provide the customer with a statement showing the amount of the unpaid bills liquidated by the deposit plus interest and the balance remaining due either to the customer or to RMU.

(Code 1996, § 11.02.030)

Sec. 98-4. - ESTABLISHMENT OF CHARGES AND RATES.

Charges and rates for utility service including electric, water, sewer, wastewater treatment, and advanced communications, and other selective services performed and/or provided by the utility department shall be established and modified from time to time by city council resolution, unless otherwise provided in this chapter. Except as otherwise provided in this chapter, utility bills shall be based on actual usage and current rates for the billing period.

RMU may offer customers a budget payment plan for the purpose of increasing predictability of utility bills over an entire year, with a periodic adjustment based on actual usage and current rates. When the customer elects to use the budget payment plan, monthly bills based on the plan shall be due when indicated on the bill, and shall be subject to late charges, interest and any other penalties for nonpayment as set forth in this chapter.

RMU may also offer to qualified customers a residential appliance incentive program, and a commercial/industrial lighting incentive program, providing monetary benefits to qualified customers. The incentive amounts shall be calculated based on the annual baseload savings and the expected life of the product. The remaining terms of the incentive programs, including customer qualification requirements and approved appliances and/or lighting fixtures, shall be determined by RMU.

(Code 1996, § 11.02.040; Ord. No. 10-3911, Exh. A, 4-12-2010; Ord. No. 10-3916, Exh. A, 4-26-2010)

Sec. 98-5. - PERSON RESPONSIBLE FOR PAYMENT OF CHARGES.

The owner and the consumer of the utility service shall be jointly and severally liable to pay for the service to such premises, and the service is furnished to the premises by the city only upon the condition that the owner and the consumer of the service are jointly and severally liable therefor to the city.

(Code 1996, § 11.02.050)

Sec. 98-6. - PAYMENT OF BILLS.

- (a) All bills for utility service shall be paid or mailed to the RMU business office.
- (b) All customer's bills are due within 21 calendar days after the billing date and the late payment charge is applicable thereafter.
- (c) Bills issued by RMU for utility service are payable without the addition of late payment charges if payment is received by RMU on or before the due dates shown on the bills. If any amount due is not received by RMU by the due date, a late payment charge will be added to the amount due in accordance with the following provisions:
 - (1) The late payment charge payable in any month shall be an amount equal to 1.5 percent times:
 - a. The current bill, or any part thereof, that remains unpaid after the due date, and
 - b. Any unpaid amounts due from prior billing periods, including previously assessed late payment charges.
 - (2) When the due date falls on Saturday, Sunday or a legal holiday, such due date will be automatically extended to include the first full business day following.
 - (3) RMU will, for residential customers, waive the assessment of a late payment charge for one billing period in each fiscal year. RMU will, however, reassess the late payment charge if the amount on which such charge was waived remains unpaid 30 calendar days following the due date of such amount. No waiver of late payment charges shall be granted to non-residential customers.
 - (4) If payment of a bill is made by mail, the post office cancellation date shown by the sending post office will determine the date of payment of the bill. If the cancellation date is beyond the due date as noted above, the late payment charge, where applicable, will be added to the customer's next bill. An objection to assessment of a late payment charge must be filed by the customer prior to the due date of the bill which reflects the late payment charge.
 - (5) Where objection to any bill is filed by the customer prior to its due date, and an investigation by RMU is required, RMU will defer the late payment charge pending the results of such investigation.
 - (6) RMU will not continue to assess a late payment charge on any final bill.
 - (7) If the bill, together with any applicable delayed payment charge, is not paid within such period, service may be discontinued and terminated. Any customer whose electric service has been terminated for nonpayment may have the service restored by paying all arrears, paying a security deposit, and paying a reconnection fee of \$25.00 during those times the business office is open or \$50.00 if the business office is closed. The reconnection fee may be increased to cover actual costs incurred when three-phase electricity is involved for general service and large general service customers and when disconnection must be made at the transformer. Any customer whose water service has been terminated for nonpayment may have the service restored by paying all arrears and a reconnection fee of \$40.00 during those times the business office is open or \$60.00 if the business office is closed.
- (d) If a customer pays for any service rendered by RMU with a check which is subsequently returned to

RMU by the customer's bank of deposit because sufficient funds are not on deposit in the account upon which the check was drawn, or because the check was drawn on a nonexistent or closed account, a charge of \$20.00 shall be made to such customer for each such check. RMU may require cash payment (U.S. currency, postal money order or certified check) following issuance of a final notice prior to disconnection for a past due bill if the customer previously rendered payment for any portion of the service included in the past due bill with an invalid check.

(e) When utility bills are not paid within six calendar days after the due date, RMU shall issue a disconnect notice by mail, by making a reasonable effort to personally contact a responsible adult on the premises, or by certified mail, return receipt requested, to the person in whose name utility service is registered. The notice to disconnect service shall contain:

- (1) The name, address, and account number of the customer;
- (2) The date of the notice;
- (3) The total amount required in order to bring the account current;
- (4) The date of the disconnect. Service shall not be discontinued until at least five calendar days after issue of the disconnect notice.

(f) RMU customer relations employees are authorized to act on behalf of RMU in resolving complaints. They shall consider the complainant's allegations and explain customer accounts and RMU's contentions in connection with disputes.

(Code 1996, § 11.02.060)

Sec. 98-7. - BILLS NOT TRANSFERABLE.

A bill for nonresidential service shall not be transferred to a bill for residential service, and vice versa, nor shall the bill for one form of utility service (i.e., gas) be transferred to a bill for another form of utility service (e.g., electric).

(Code 1996, § 11.02.070)

Sec. 98-8. - DEFERRED PAYMENT AGREEMENTS.

(a) Customers who are indebted to RMU for past due utility service shall have the opportunity to make arrangements to retire the debt by periodic payments, referred to hereinafter as a deferred payment agreement, unless the customer has failed to make payment under such a plan during the past 12 months.

(b) The terms and conditions of a reasonable deferred payment agreement and RMU's decision whether or not to offer an applicant for service a deferred payment agreement shall be determined by RMU after consideration of the following factors, based upon information available from current RMU records or provided by the customer or applicant:

- (1) Size of the past due account.
- (2) Customer's or applicant's ability to pay.
- (3) Customer's or applicant's payment history.

(4) Reason for the outstanding indebtedness.

(5) Any other relevant factors relating to the customer's circumstances or applicant's service.

(c) An applicant shall pay a minimum of one-quarter of the amount past due and owing at the time of entering into the deferred payment agreement. RMU shall allow an additional three months for payment to be made under a deferred payment agreement. Late payments charges may be assessed against the amount owing which is the subject of a deferred payment agreement. Exceptions to the above may be made on a case-by-case basis as determined by RMU.

(d) A deferred payment agreement shall be in writing, with a copy provided to the applicant or customer, and shall conform to the following requirements:

(1) Applicant shall be required to pay all future bills for utility service by the due date.

(2) Applicant shall retire his debt according to terms of the deferred payment agreement.

(e) Customers requesting the deferred payment program must come to the RMU business office and make application.

(f) If an applicant defaults upon any payment due under the deferred payment agreement, RMU shall have the right to discontinue service without further notice.

(g) If the customer defaults on a deferred payment agreement but has not been notified of service disconnect by RMU, RMU shall permit such customer to be reinstated on the deferred payment agreement if the customer pays in full the amount which should have been paid up to that date pursuant to the original payment agreement (including any amounts for current usage which have become past due). If customer has been notified of default, all arrears and security deposit must be paid or the service is subject to disconnect.

(h) If the customer's economic or financial circumstances change during the effective period of a deferred payment agreement, and the customer defaults on a deferred payment agreement but has not yet had service discontinued by RMU, RMU shall renegotiate the terms and conditions of the deferred payment agreement, taking into consideration the changed economic and financial circumstances substantiated by the customer. RMU shall not be obliged to renegotiate any deferred payment agreement more than one time or to extend the payment period beyond the maximum of three months available at the time RMU and the customer entered into the original deferred payment agreement.

(Code 1996, § 11.02.080)

Sec. 98-9. - CHARGES TO CONSTITUTE LIEN.

(a) Charges for service shall be a lien upon the premises as provided by statute. Whenever a bill for such service remains unpaid for 30 days, RMU may file with the county recorder a statement of lien claims. This statement shall contain the legal description of the premises served, the amount of the unpaid bill, and a notice that the city claims a lien for this amount as well as for all charges for subsequent service to the period covered by the bill.

(b) If the customer whose bill is unpaid is not the owner of the premises, and RMU has notice of this, then a notice shall be mailed to the owner of the premises if the address is known to RMU, whenever such bills remain unpaid for a period of 30 days.

(c) The failure of RMU 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 bills as mentioned in subsection (d) of this section.

(d) Property subject to lien for unpaid charges may be sold for nonpayment of same, and the proceeds of such sale be applied to pay the charges, after deducting costs. Such foreclosure shall be by bill in equity in the name of RMU, in any court having jurisdiction.

(e) In all cases where the charges or rates established by the city and/or RMU become delinquent, and it becomes necessary to file a statement thereof in the office of the recorder of deeds, there shall be added as part of such delinquent charge the recorder's fee for the filing of said statement and the costs verifying the legal description of the property on which such lien is attached. RMU is hereby directed and authorized to include said additions in the RMU sworn statements showing such delinquency.

(Code 1996, § 11.02.090)

Sec. 98-10. - BILLING ADJUSTMENTS.

Billing adjustments to a customer's account due to meter error or other circumstances are as follows:

- (1) If an adjustment for an underbilling is required on a customer's account, the maximum length of time to go back for the underbilling adjustment will be 12 months.
- (2) If an adjustment for an overbilling is required on a customer's account, the maximum length of time to go back for the overbilling adjustment will be 36 months.
- (3) RMU will either adjust based on actual usage, if available, or on estimated usage for the period involved, up to the maximum adjustment period.
- (4) The customer may dispute the adjustment under section 98-11
- (5) The customer may not dispute for amounts attributable to periods in excess of the maximum 36 months above.

(Code 1996, § 11.02.100)

Sec. 98-11. - CUSTOMER DISPUTES.

(a) At any time before the date of termination of utility service either for nonpayment of the amount shown on the utility bill, or for a violation of RMU's rules, standards, terms and conditions, or for a notice of rejection, a customer may dispute the basis of the rejection or termination. The customer shall not be entitled to dispute the basis of termination or rejection if the basis was the subject of a previous dispute under this subsection.

(b) The procedure for customer disputes shall be as follows:

- (1) Before the date of termination, the customer shall notify the RMU business office, orally or in writing, that the customer disputes all or part of the amounts shown on the utility bill, the notice of rejection or notice of termination, or any other reason for termination, stating as completely as possible the basis for the dispute.
- (2) If the director of utilities determines that the present dispute is untimely or that the customer previously disputed the basis, the director of utilities shall mail to the customer a notice stating that

the present dispute is untimely or invalid. A dispute is untimely if filed after utility service has been terminated. RMU shall then proceed as if the customer had not notified the RMU business office of the present dispute.

(3) If the director of utilities determines that the present dispute is not untimely or invalid under the provisions of these terms and conditions, the director of utilities, within three days after receipt of the customer's notice, shall arrange an informal meeting between the customer and the director of utilities.

(4) Based on RMU's records, the customer's allegations and all other relevant materials available to the director of utilities, the director of utilities shall attempt to resolve the dispute in a manner satisfactory to both RMU and the customer.

(5) Within five days of completion of the meeting, the director of utilities shall mail to the customer a copy of his decision resolving the dispute.

(6) If the decision is unsatisfactory to the customer, the customer, within five days of his receipt of the director of utilities' decision, may file, in writing with the director of utilities, a request for a formal hearing before the city manager.

(7) The formal hearing before the city manager shall be held within ten days of the director of utilities' receipt of the customer's written request.

(8) At the hearing, the director of utilities and the customer shall be entitled to present all evidence that is, in the city manager's view, relevant and material to the dispute, and to examine and cross examine witnesses. A tape recorded (or at the option of RMU, a stenographic) record of the hearing shall be maintained. Based on the record established at the hearing, the city manager, within five days of the completion of the hearing, shall issue his written decision formally resolving the dispute. This decision shall be final and binding on RMU and on the customer.

(c) Utilization of this dispute procedure shall not relieve a customer of his obligation to timely and completely pay all other undisputed utility charges, and the undisputed portions of the amounts which are subject to the present dispute; and to otherwise comply with these rules and standards. Notwithstanding subsection (d) of this section, failure to timely and completely pay all such undisputed amounts or to comply with these rules and standards shall subject the customer to termination of utility service in accordance with the provisions of this section.

(d) Until the date of the city manager's decision, RMU shall not terminate the disputed utility service of the customer and shall not issue a notice of termination to the customer solely based upon the matters in dispute. If it is determined that the customer must pay some or all of the disputed amounts, or must take some action to comply with these rules, standards, terms and conditions, the director of utilities shall promptly mail to or personally serve upon the customer a notice of termination, which shall contain the following:

- (1) Amount to be paid or the violation to be corrected;
- (2) Date of the notice of termination;
- (3) Date of termination, which shall be at least five calendar days after date of notice of termination; and
- (4) Notice either that unless RMU receives complete payment in the amount shown prior to the

date of termination, or that the violation has been corrected, the applicable utility service shall be terminated under this section.

(Code 1996, § 11.02.110)

Sec. 98-12. - Limitations on termination of service.

(a) RMU shall not discontinue service at the meter subsequent to 2:00 p.m. unless prepared to reconnect the same day at the standard reconnection charge, if any. No disconnection of service will be made on a holiday or weekend day unless prepared to reconnect on the holiday or weekend day.

(b) Termination of utility service to all residential users, including all tenants of apartment buildings, for nonpayment of bills shall not be done:

(1) On any day when the National Weather Service forecast for the following 24 hours covering the area of RMU in which the residence is located includes a forecast that temperatures will be 32 degrees Fahrenheit or below;

(2) On any day preceding a holiday or a weekend when such a forecast indicated that the temperature will be 32 degrees Fahrenheit or below during the holiday or weekend.

(c) RMU shall not discontinue electric service if such action will aggravate an existing serious illness of any person who is a permanent resident of the premise where service is rendered if the customer complies with the following requirements regarding such illness:

(1) The illness must be certified to RMU by a registered physician. The certification shall be in writing and shall include the name of the ill person, a statement that he is a resident of the premises in question, the name, business address and telephone number of the certifying party, the nature of the illness and the period of time during which termination will aggravate the illness.

(2) Initial certification by the certifying party may be by telephone if written certification is forwarded to the RMU within five days.

(3) Initial certification shall prohibit discontinuance of service for 30 days. Certification may be renewed by the customer for an additional 30 days by providing another certificate to RMU. Failure to renew the certificate shall entitle RMU to initiate discontinuance procedures.

(4) The customer must enter into an agreement for the retirement of the unpaid balance of the account within the first 30 days and keep the current account paid during the period that the unpaid balance is to be retired. Notice of discontinuance of service must be sent to residential customers.

(5) In the event service is terminated within 14 days prior to certification of illness, by or for a qualifying resident, service shall be restored to that residence if a proper certification is thereafter made in accordance with the foregoing provisions.

(6) Nothing in this section shall be construed to prevent discontinuance of service for reasons of safety, health, or cooperation with civil authorities.

(Code 1996, § 11.02.120)

Sec. 98-13. - NOTICE OF TERMINATION OF SERVICE.

If RMU by the payment due date shown on a utility bill has not received complete payment of the amounts shown on the bill, or the violation of these rules and standards has not been corrected, then RMU shall mail to, or personally serve upon the customer, a notice of termination at least six calendar days after the payment due date or the date of the violation was to be corrected.

(Code 1996, § 11.02.130)

Sec. 98-14. - PROCEDURE FOR TERMINATION OF SERVICE.

(a) When violation of the rules and procedures occurs, RMU in its sole discretion may implement termination procedures for the utility involved. The notice of termination shall contain the following:

- (1) The amount to be paid or the violation to be corrected;
- (2) The date of the notice of termination;
- (3) The date of termination, which shall be at least five calendar days from date of notice of termination;
- (4) Notice that unless RMU receives complete payment of the amount shown or that the violation has been corrected prior to the date of termination, the utility service shall be terminated; and
- (5) Notice that in lieu of paying the entire amount shown, a customer, prior to the date of termination, may notify RMU that customer disputes the correctness of all or part of the amount shown if all or part of the amount shown was not the subject of a previous dispute under section 98-11, or that customer disputes that customer is in violation of these rules, standards, terms and conditions. The basis of the dispute shall not have been the subject of a previous dispute under these rules and standards.

(b) If, prior to the date of termination:

- (1) RMU has not received complete payment of the amount shown on the notice of termination;
- (2) The customer has not notified RMU that the customer disputes the correctness of all or part of the amount shown on the notice of termination;
- (3) The customer has not notified RMU that the customer disputes violation of these rules, standards, terms and conditions; or
- (4) The customer has not corrected the violation shown on the notice of violation;

then RMU shall terminate the applicable utility service provided to the customer on the date of termination.

(c) If RMU receives payment of the entire amount shown on the notice of termination or the violation has been corrected prior to the date of termination, such payment or correction shall be considered timely.

(d) RMU shall not terminate utility service for nonpayment of amounts less than \$50.00.

(Code 1996, § 11.02.140)

Sec. 98-15. - REINSTATEMENT OF SERVICE.

In the event of termination of utility service in accordance with the provisions of this section, RMU shall reinstate utility service to the customer within one full working day of RMU's receipt of either complete payment of the amount whose nonpayment prompted the termination or notice that the violation has been corrected.

(Code 1996, § 11.02.150)

Sec. 98-16. - SERVICE PIPE CONNECTION TO WATER MAIN.

When RMU makes the service pipe connection to the water main, the charges shall be in accordance with the rate schedules for excess charges.

(Code 1996, § 11.02.160)

Sec. 98-17. - READING OF METERS; BILLING.

(a) RMU shall read meters and issue bills for service on a monthly basis; monthly shall mean a period of approximately 30 days. If a customer requests a reading between scheduled meter reading dates, a charge of \$10.00 will be made to the customer.

(b) When the meter fails to register, the charge for the utility used during the period of nonregistration will be determined from an average corresponding period. When such an estimate is obviously unfair to either the customer or RMU, an estimate will be agreed to by both parties. If both parties cannot agree, all the facts will be submitted to the director of utilities for a decision, which will be final.

(c) In the event that an interior water meter and its outside reading device (remote reader) do not have the same readings, then the inside meter reading shall be the official reading for purposes of determining water usage and appropriate costs for said water usage.

(Code 1996, § 11.02.170)

Sec. 98-18. - ESTIMATION OF USAGE.

(a) RMU may render an estimated bill for any billing period in which:

- (1) RMU has taken appropriate and reasonable measures to read the meter, including but not limited to, making an appointment with the customer, scheduling readings for times other than normal business hours, and/or providing postal cards on which the customer may record the reading and mail it to RMU;
- (2) The customer has knowingly and willfully denied reasonable access to an RMU representative for the purpose of taking an actual reading of the meter;
- (3) The customer has otherwise made an actual reading of the meter unnecessarily difficult; or
- (4) Circumstances beyond the control of RMU make an actual reading of the meter extremely difficult.

(b) RMU shall be given entry upon request at such time as deemed necessary for the inspection or repair of the meter or outside reading devices. The owner of the property or the parties which made application for the meter and reading device shall at all times be responsible for any damage done by

freezing, hot water, fire or other breakage and shall be charged with cost of repairs thereof, plus the cost of installation. In the event the seal is missing or disturbed in any way, the party or parties shall be subject to the penalty of this section. If found guilty, the party shall pay all fines and costs plus a \$10.00 service charge.

(Code 1996, § 11.02.180)

Sec. 98-19. - TESTING OF METERS.

In the event the customer desires to test the accuracy of the water or electric meter, RMU will test the meter for a fee of \$85.00 for a residential dwelling payable in advance of testing. Charges for testing commercial and industrial meters shall be based on actual cost for labor and materials expended by RMU. Should the customer desire the test be made, the RMU employee will, in the customer's presence, seal the meter before the employee leaves the customer's presence, and the seal will not be broken or the test made except in the presence of the customer. If the meter test indicates that the meter is not accurate, the meter will be repaired or replaced, and in the case of a residential dwelling, the \$85.00 fee will be returned to the customer.

(Code 1996, § 11.02.190; Ord. No. 10-3960, § 1, 10-12-2010)

Sec. 98-20. - RMU NOT RESPONSIBLE FOR INTERRUPTIONS OF SUPPLY.

RMU shall not be responsible in damages for any failure to supply electricity or water, or for interruption or for reversal of the supply, if such failure or interruption or reversal is without willful default or negligence on its part, nor for interruptions, by underfrequency relays or otherwise, to preserve the integrity of RMU's system or interconnected system.

(Code 1996, § 11.02.200)

Sec. 98-21. - SERVICE CONTRACTS BINDING ON SUCCESSORS; ASSIGNMENT OF CONTRACT.

(a) The benefits and obligations of the contract for service shall inure to and be binding upon the successors and assigns of the original parties thereto, respectively, for the full term thereof; provided that no assignment shall be made by the customer without first obtaining RMU's written consent and provided further that the successor shall execute and deliver to RMU an agreement assuming and agreeing to be bound by the original contract.

(b) No agent has the authority to amend, modify, or alter the contract for service, or waive any of its conditions, or to bind RMU by making any promises or representations not contained therein.

(Code 1996, § 11.02.210)

Sec. 98-22. - SUSPENSION OF CONTRACT WHEN PREMISES UNFIT FOR CONDUCT OF BUSINESS.

In case a fire or other casualty shall occur on the premises, rendering them unfit for the purposes of the customer's business, the customer's contract shall thereupon be suspended until such time as the premises shall have been reconstructed and reoccupied by the customer for the purposes of his business.

(Code 1996, § 11.02.220)

Secs. 98-23—98-50. - RESERVED.

ARTICLE II. - ADMINISTRATION AND ENFORCEMENT

DIVISION 1. - GENERALLY

DIVISION 2. - DIRECTOR OF UTILITIES

DIVISION 1. - GENERALLY

[Secs. 98-51—98-70. - Reserved.](#)

Secs. 98-51—98-70. - RESERVED.

DIVISION 2. - DIRECTOR OF UTILITIES

[Sec. 98-71. - Position created; duties.](#)

[Secs. 98-72—98-100. - Reserved.](#)

Sec. 98-71. - POSITION CREATED; DUTIES.

There is created the position of director of utilities. The director of utilities shall be appointed by the city manager and shall be subject to the direction of the city manager. The director of utilities shall have charge of the operation, repair, and maintenance of the electric generating facilities, transmission, and distribution system; the water production and distribution system; and the wastewater collection system and treatment plant. The director of utilities shall perform any other duties in the department assigned by the city manager.

(Code 1996, § 2.65.010)

Secs. 98-72—98-100. - RESERVED.

ARTICLE III. - WATER

[Sec. 98-101. - General service regulations.](#)

[Sec. 98-102. - Service pipes.](#)

[Sec. 98-103. - Water mains.](#)

[Sec. 98-104. - Meters.](#)

[Sec. 98-105. - Cross connections.](#)

Sec. 98-106. - Use of water from fire hydrants.

Sec. 98-107. - Maximum setback zone for public water supply wells.

Secs. 98-108—98-150. - Reserved.

Sec. 98-101. - GENERAL SERVICE REGULATIONS.

(a) *Consumer information.* Information desired from RMU concerning subject matters covered in this article may be obtained by telephone, by mail, or in person.

(b) *Definitions.* The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Consumer and *customer* mean the person who is responsible for the payment of water bills.

Director of utilities means the director of the Rochelle Municipal Utilities.

Financial manager means the director of utilities.

Owner means the actual owner of the premises to be supplied with water service.

Rochelle Municipal Utilities and *RMU* mean the utilities department of the city.

Superintendent means the superintendent of the water/wastewater division of the Rochelle Municipal Utilities.

Water department means the water/wastewater division of the Rochelle Municipal Utilities.

(c) *Types of service furnished.* It is the customer's responsibility to secure information from RMU pertaining to availability and type of service at a particular location. This information should be obtained prior to completion of design plans for the customer's premises.

(d) *Application for service.* Any consumer desiring water service shall make application at the RMU business office using forms furnished by RMU. For all properties having more than one tenant and only one meter, the meter shall be in the owner's name. The owner shall be responsible for payment of the water bills and any damages to said meter.

(e) *Turning on or turning off water.* Application to have water turned on or turned off shall be made at the RMU business office. No water from the city water supply shall be turned on or turned off for service into any premises by any person other than an RMU representative. A fee of \$40.00 shall be paid each time the water is turned on from the city's supply to any premises.

(f) *Extension of mains.* Where an extension of RMU's existing water main system is necessary in order to furnish service, an advance deposit or full payment to cover the cost of the extension may be required in accordance with the provisions in RMU's schedules of water rates. The customer is advised to make the necessary arrangements with RMU for such an extension of water mains before proceeding with the design of the water service installation on the premises. RMU may, in its sole discretion, contribute to the cost of extending the waterworks line if RMU requires the user or owner to install waterworks lines of larger than standard size as defined by the customer or owner's requirements. Unless otherwise specified in these rules and standards, the Standard Specifications for Water and Sewer Main Construction in Illinois shall apply in all instances.

(g) *Temporary and seasonal service.*

(1) When water service of a temporary nature is required, RMU's estimated cost of furnishing, installing, and removing facilities provided for such service shall be paid by the customer in accordance with the provisions in RMU's schedules of rates.

(2) When the customer requires use of water service to be seasonal and requests RMU to disconnect or remove and reconnect or reinstall RMU facilities, the customer shall pay to RMU the estimated cost, including taxes if required, of any such work in accordance with RMU's rates. RMU may elect to use flat charges for work performed hereunder provided they do not exceed RMU's unit costs for such work.

(h) *Alteration or change in size of customer's installation.* When alterations to or changes in the size of a customer's installation are contemplated, RMU should be notified as far in advance as possible so that arrangements can be made to facilitate any necessary changes in RMU's service and metering facilities.

(i) *Service crossing adjacent property.* If, in order to supply water service to the customer, it is necessary to cross adjacent property for the convenience of the customer, then the customer shall be responsible for securing and maintaining the consent of the owner of the adjacent property.

(j) *Permits, inspections and approvals.* The customer is responsible for obtaining all permits and approvals that are required by governmental authorities. Inspection of the customer's water system for compliance with plumbing codes is in the province of governmental authorities. Where governmental approval is required prior to providing service to the customer's installation, service will not be provided by RMU until such approval is obtained by the customer. Any costs or fees incurred in obtaining permits, inspections, or approvals shall be at the customer's expense. If a governmental authority requires RMU to disconnect water service to a customer because of violation of such authority's plumbing code, RMU will restore service only upon approval by the governmental authority to do so and upon payment by such customer of RMU's charges for such disconnection and restoration of service.

(k) *Compliance with applicable codes.* All plumbing and other water equipment furnished by the customer, on the customer's premises, or connecting the premises with RMU's service, should be suitable for such purposes, and shall be installed and maintained by the customer at all times in conformity with the requirements of the state and local plumbing codes and the properly constituted authorities and shall also be installed and maintained in conformance with their specifications and requirements. Examination of the customer's equipment by RMU, however, shall not be assumed as evidence of compliance with all applicable codes.

(l) *Access to customer's premises.* Authorized agents of RMU shall at all reasonable hours have access to the premises for the purpose of inspecting the customer's installation and of reading, repairing, testing, or removing the water meter or other RMU property.

(m) *Protection of RMU property; access to RMU property.* All meters, piping, gauges, appliances, equipment and other devices installed by RMU which may be in or about the customer's premises shall be and remain the property of RMU. The customer shall protect and be responsible for such property in the case of loss or damages. Only authorized agents of RMU will be permitted to remove, install or replace such property. The owner or customer shall maintain free access to all RMU property. The owner or customer shall not store or construct any obstacles which will interfere with the reading, repairing or removal of the water meter and/or the remote meter reading device. The owner shall keep the curb box and curb stop free from obstruction so that the water can be turned on or off whenever necessary without delay.

(n) *Tampering with equipment or facilities.* It is unlawful for any person not authorized by the city to

tamper with, alter or injure any part of the city waterworks or supply system or any meter. RMU shall have the right to discontinue its water service to the customer and furthermore to also remove its property from the customer's premises upon prior written notice any time RMU discovers evidence of tampering with any meter, or the wiring and any remote reading device, with the effect of reducing the registration of the customer's use. The customer will be required to pay the amount of any RMU revenue loss attributable to such tampering in addition to other possible expenses including award of damages accorded by the courts, and/or deposits as outlined in RMU's "Terms and Conditions" under the section entitled "Right of Cut-off."

(o) *Obstructing or polluting watercourse or water supply.* It is unlawful and a nuisance for any person to obstruct or pollute any watercourse or source of water supply in the city.

(p) *Resale or distribution of water.* No water shall be resold or distributed by the customer thereof from the city supply to any premises other than that for which application has been made and the water service installed, except in case of emergency.

(q) *Temporary interruption of service.* When it is necessary for RMU to interrupt water service for the purpose of repairing or extending the main, it will endeavor to give notice of interruption and to shut off the water at a time when it will cause the least inconvenience to the customer. In case of a break in the main or pumping equipment requiring an immediate shutdown or interruption of service, RMU shall not bear the responsibility of prior notice to its customers. All boilers or tanks on the customer's premises that are connected directly with the service pipe shall be provided by the owner with check valves that adequately prevent their collapse in case water is suddenly shut off. Only persons authorized by RMU shall turn on or off water valves or curb stops.

(r) *Filling swimming pools.* Any property owner intending to fill a swimming pool located on the owner's property shall be charged the normal water rate in accordance with the rate schedules. Filling of swimming pools from a fire hydrant is prohibited.

(s) *Private water service.* No resident, person, corporation, organization or business, other than the city itself, shall be allowed to install within the city a private water service. A private water service shall include shared wells, a private well, or the delivery of water by pipeline from one private residence or business directly to another.

(Code 1996, § 11.03.010)

Sec. 98-102. - SERVICE PIPES.

(a) *Installation; replacement.*

(1) All service pipes from the main to the meter shall be installed by, and at the expense of, the owner of the property to be served or the applicant for the service. Such installation shall be approved by RMU.

(2) The owner shall install on every service pipe a curb stop and curb box located between the curb line and the sidewalk where this is practicable. Such boxes shall be so located that they are easily accessible, and shall be protected from frost.

(3) The owner shall install a valve on both sides of the meter.

(4) Replacement of service pipes is required if low pressure occurs at the meter and the city is requested to replace the service pipe from the main to the curb stop, the property owner may be

required to also replace the service pipe from the curb stop to the meter if the pipe is not a minimum three-quarter-inch diameter, type K copper.

(b) *Specifications.*

(1) All new water service pipes from the main to the meter shall not be less than one inch, type K copper, unless otherwise provided in this section. Replacement of existing water service pipes from the main to the curb stop shall be one-inch type K copper. All fittings and connections shall be uniform and comply with specifications established by RMU. All service pipes shall be buried a minimum of 5½ feet deep in the ground. No installation shall be covered until inspected and approved by RMU.

(2) All new water service pipes smaller than two inches shall be type K copper pipe, including all water service pipes located under concrete streets and state or county highways, and shall be installed to their specifications. All service pipes two inches and larger shall be ductile iron, thickness Class No. 52, cement lined, per ANSI A 21.4 (AWWA C104), with mechanical or rubber ring (slip seal or push on joints), or polyvinyl chloride (PVC) pipe. For service pipe two inches or larger but smaller than four inches, the PVC pipe shall be AWWA C-901. For four inches and greater, the PVC pipe shall be AWWA C-900 or C-909. All PVC pipe shall use Class 150 DR18 with bell and spigot push-on joints elastomeric gaskets ASTM F-477 and installed in accordance with the standard specifications for water and sewer main construction in the state. If PVC is installed, the service must be installed with a tracer wire for future locating purposes. The tracer wire must be grounded and terminated in a tracer wire termination box, Valco or equal.

(3) On all water services, the type and manufacture of fire hydrants, valves, valve boxes and water meters must be in accordance with standard specifications approved by RMU.

(4) Water services for residential units shall not be installed under paved driveways.

(c) *Connection with water main.*

(1) *Persons authorized to make connection; connection charge.* A service pipe connection to the water main shall be made only by RMU, its agent, or an RMU approved licensed plumber or contractor. A connection fee, in accordance with the rate schedules shall be charged for each water service pipe connected to the RMU water system.

(2) *Permit; installation of connection; bond.* No service pipe connection to a water main shall be made without a permit being issued by RMU, and a minimum notice of 24 hours to same. All such connections by an approved licensed plumber or contractor shall be made under the observation of an RMU agent. The licensed plumber or contractor shall pay to RMU, upon receipt of a permit, a connection fee in accordance with the rate schedules for each connection. No connection shall be made by any person or firm other than a licensed plumber or contractor, bonded by the city, and approved by RMU. All connections shall be made with a corporation stop, curb stop and curb box of a type approved for use by RMU. The bond shall be in the amount of \$1,000.00 and issued by a reputable bonding company. The bond shall be payable to RMU and deposited with the RMU business office.

(3) *Charge when RMU makes connection.* When RMU makes the new service pipe connection to the water main, in addition to the connection fee, the charges for making the connection shall be in accordance with the rate schedules.

(4) *Materials and services when RMU makes connection.* New connections of a service pipe to the water main made by RMU shall include opening and closing of the ditch corporation stop, curb stop and curb box; tapping sleeve, tapping valve, and valve box; 40 feet of either type K copper, or appropriately sized water main. RMU will install type K copper to curb box and/or water main to the property line, or 40 feet whichever occurs first. Where RMU has to push underground in crossing roadways, alleyways, sidewalks, etc., there will be added to the already established charges, a cost to provide or furnish said service.

(5) *Connections outside city limits.* All persons making connections to any main outside of the city limits shall pay the same connection fee and meter cost as required within the city. Also, the owner shall sign a written agreement that the water user will annex his property to the city when and if said property shall become contiguous to city.

(d) *Responsibility for replacing or repairing water service.*

(1) All repairs on service pipes from the curb stop, and on plumbing systems of buildings, shall be made by and at the expense of the owners of the premises served. When a leak or break occurs in a water service between the curb stop and the water meter, the owner is responsible for repair or replacement. If the owner has not taken action within 24 hours after the owner has been notified, RMU shall turn off the service. The owner shall be responsible for and shall pay all costs incurred by RMU in turning off and turning on said service.

(2) If a leak or break occurs in a water service pipe having a one-inch or smaller diameter between the curb box and the meter, and said water service pipe supplies more than one premises, then, at the time repairs are undertaken, each owner shall cause an individual service line to be installed from the curb box to the meter on the premises. If a new service pipe is required from the main, the owner shall be responsible for the paying the total cost to provide the service pipe.

(3) RMU may, in case of emergency, repair any service pipe; and, if this is done, the cost of such repair work from the curb box to the meter shall be repaid to RMU by the owner of the premises served.

(4) RMU has the right to shut off any service leak or break at any time that said leak or break, as in the opinion of RMU, is causing or could cause serious damage to the street or property.

(e) *Costs for increasing pipe size.* The cost for any increase in size of the service pipe required by the owner or customer shall be the responsibility of the owner or customer.

(f) *Permanent disconnection of service.* Disconnection at the main shall be required on all existing services where the property is being razed where no buildings are going to be replaced, i.e., parking lots, parks, vacant lots, etc. Disconnections shall be made only by RMU, its agent, or an RMU-approved licensed plumber or contractor. After a permanent disconnection, any subsequent service shall be considered a new service and the cost shall be the responsibility of the owner or customer.

(g) *Use of water during construction.* During the construction of any building, and before any meter is installed, as is provided in section 98-106, the contractor so constructing such building may be permitted to use the city water supply by making application therefor, and paying the fee prescribed by the rate schedules.

(h) *Protection of mains and service pipes during excavation.* All plumbers and contractors shall contact JULIE (Joint Utility Locating Information for Excavators) for utility locations prior to performing any excavating. RMU will mark the appropriate location of any underground water main or service. The

plumber or contractor shall take every precaution to prevent damage to the water main or service pipe. If any damages do occur, the plumber or person that caused the damage shall pay the cost of repairing same to RMU. The person causing the damage to the water main or service shall also be responsible for any other liability resulting from the broken service pipe or water main. No person shall tap, repair, change or otherwise disturb the mains or service pipes without the permission of RMU.

(Code 1996, § 11.03.020; Ord. No. 05-3315, § 1(11.03.020(b)), 4-25-2005)

Sec. 98-103. - WATER MAINS.

(a) *Connection by customers outside city.* Customers located outside the corporate limits of the city shall be allowed connection to the RMU waterworks system only under the following conditions:

- (1) Owner of the property to be connected to the RMU waterworks system is unable to annex to the city because the property is not adjacent or contiguous to the city.
- (2) Owner of the property agrees in writing to petition the city for annexation to the city when the property becomes contiguous to the city.
- (3) Annexation to the city can be anticipated in the foreseeable future.
- (4) The city derives and will continue to derive a significant benefit from the user or there is a potential economic benefit from the user that the city will derive.
- (5) The economic benefit derived by the city shall exceed the cost, if any, incurred by the city for the extension of such waterworks service.
- (6) Owner or user shall pay the cost of extending waterworks service from existing water lines to the extremities of the property for easy access by future upstream extensions, and all engineering and maintenance costs. RMU may, in its sole discretion, contribute to the cost of extending the waterworks line if RMU requires the customer or owner to install waterworks lines of larger than standard size as defined by the customer's or owner's requirements.

(b) *Extensions.*

- (1) *General standards.* Unless otherwise specified in these rules and standards, the Standard Specifications for Water and Sewer Main Construction in Illinois shall apply in all instances.
- (2) *Submission of plans.* A complete set of plans for all water main extensions shall be provided to RMU for approval before any work is begun. Water distribution facilities including all pipe, fittings, hydrants, valves, vaults, etc., shall be installed to serve all properties within the subdivision. All subdividers shall submit plans for water main extensions to RMU for approval. The plans shall indicate the size and the location of all water mains, valves, and fire hydrants. The plans shall also indicate the size and location of all lots and streets. After the plans have been approved by RMU, the plans must then be submitted to the state EPA, division of public water supplies, for approval. No work shall be started on any extension until approval has been received by RMU and a construction permit is received. A new installation shall not be put in service until after an operating permit has been received by RMU.
- (3) *Extension to property line.* The water main shall be extended by the property owner to the property or annexation line, whichever is further, of the premises to be served so that future water main extensions will not require excavation in the subdivision.

(4) *Pipe size and specifications.* All water mains installed shall be not less than six inches diameter. Pipe material shall be either:

- a. Ductile iron pipe (AWWA C-151), Class 52 (AWWA C-150), cement lined (AWWA C-104) with mechanical or push-on type joints and elastomeric seals (gaskets) used for push-on joint (ASTM F477);
- b. Polyvinyl chloride pipe (PVC) (AWWA C-900), Class 150, DR18 with bell and spigot push-on joints elastomeric gaskets ASTM F-477;
- c. Ductile iron pipe Pressure Class 350 for sizes four through 12 inches, and pressure class 250 for sizes 14 and 20 inch, unless otherwise indicated, with push-type "Tyton" joints; or
- d. Alternate materials approved by the city, installed in accordance with Standard Specifications for Water and Sewer Main Construction in Illinois.

All exterior bolts, nuts and other fasteners below the ground line shall be stainless steel 300 Series 18-8. If PVC is installed, the owner or user will provide a written certification by a registered engineer that the pipe has been properly installed in accordance with Standard Specifications for Water and Sewer Main Construction in Illinois and a written guarantee for workmanship to all repairs and replacements for five years from the date of acceptance of the project by Rochelle Municipal Utilities.

(5) *Dead-end mains.* The water main shall be connected into the existing water system at every possible location. Dead-end water mains shall be avoided wherever possible. Additionally, all water mains shall be looped, to prevent problems of water quality associated with dead-end lines. The entire water system extension shall be installed by and paid for by the subdivider.

(6) *Upsizing mains.* If RMU requires the customer or owner to install waterworks lines of larger than standard size as defined by the customer or owner's requirements the upsizing will be paid for by the city in accordance with section 86-50

(7) *Inspection.* The installation of the water main shall be inspected by RMU before it is covered and the entire installation shall be approved by RMU prior to final acceptance of the subdivision by RMU. The developer shall notify the city 48 hours prior to the start of construction so the city can make arrangements for inspection and for the connection to the water main.

(8) *Placement and depth.* Water mains shall be placed in the parkway approximately two feet from the curb where possible. Minimum horizontal clearance of ten feet should be provided between any water main or service and an existing or proposed sewer lines. If minimum horizontal clearance cannot be provided, the bottom of the water main or service must be a minimum of 18 inches above the top of the sewer line. If neither horizontal nor vertical clearance can be maintained, the sewer line shall be constructed with, or replaced with water main grade pipe and pressure tested to assure water tightness. All water main, services, hydrant stubs, etc. shall have a minimum depth of cover of 5½ feet from the crown of the pipe to the finished grade. To ensure proper coverage, rough grading of the area shall be performed prior to water main installation.

(9) *Pressure testing.* All water mains shall be pressure tested, disinfected and tested for contamination prior to putting the system into service; this shall be performed in accordance with city and state Environmental Protection Agency requirements.

(10) *Fire hydrants.* Fire hydrants shall be located at the corner of each block and on the end of all

dead end mains. Intermediate hydrants will be required on long blocks, or a maximum distance of 400 feet, as required by RMU. Fire hydrants shall be designed with the direction of opening to the right (clockwise). All other specifications as required by RMU must be met. All hydrants must be set so that the center of the nozzle shall be not less than 18 inches from finished ground level. A 24-inch spool of water main shall be placed between the fire hydrant and the auxiliary valve to allow for ease of operation. The hydrant shall be placed between the curb and the sidewalk at the street intersection or on a property line extension. Mechanical joint hydrant tees shall be used in conjunction with the hydrants to ensure a tight connection. All exterior bolts, nuts and other fasteners below the ground line shall be stainless steel 300 Series 18-8.

(11) *Gate valves.* Gate valves will be installed on the lead to all fire hydrants. Gate valves shall be located on each pipe adjacent to crosses and/or tees at each street intersection unless otherwise approved by RMU. In no event shall gate valves be located more than 800 feet apart so as to minimize the residences affected by shutting down of a section of water main for repair or service. All gate valves shall be resilient seat gate valves conforming to the standards of the latest AWWA C500. Additionally, each valve body, bonnet and gate shall be of ductile iron conforming to ASTM A-536. All exterior bolts, nuts and other fasteners below the ground line shall be stainless steel 300 Series 18-8. All other specifications as required by RMU must be met.

(12) *As-built drawings.* As-built drawings of the completed water main project shall be prepared and furnished by the project engineer. The developer shall submit drawings in electronic format to the building division.

(c) *Protection of mains during construction.* All plumbers and contractors shall contact JULIE (Joint Utility Locating Information for Excavators) for utility locations prior to performing any excavating. RMU will mark the appropriate location of any underground water main or service. The plumber or contractor shall take every precaution to prevent damage to the water main or service pipe. If any damages do occur, the plumber or person that caused the damage shall pay the cost of repairing same to RMU. The person causing the damage to the water main or service shall also be responsible for any other liability resulting from the broken service pipe or water main. No person shall tap, repair, change or otherwise disturb the mains or service pipes without the permission of RMU.

(Code 1996, § 11.03.030)

Sec. 98-104. - METERS.

(a) *Required; installation.*

(1) All premises using water from the RMU water supply must be equipped with an adequate water meter furnished by the property owner; provided that such water service may be supplied by RMU at a flat rate of charge until such meter can be installed. All water meters shall be purchased from the water department. Before any premises are occupied, either a water meter shall be installed therein, as herein required, or an application shall be made for water service at the flat rate of charge until the meter can be installed, or no water shall be furnished to such premises.

(2) For all new installations, the costs of said meter and installation are to be paid in full, together with connection fees and any other fee due RMU, at the RMU business office before installation shall be made. All new installations or remodeling of properties shall have remote readers. The water meter shall be installed at a location protected from freezing or heat and other hazards, and the outside reading device (remote reader) shall be installed at a point that is visible from the front or side street. It shall be the customer's responsibility to keep the meter from being damaged or frozen.

(3) All new meter installations are the responsibility of the owner and must be inspected and approved by RMU after installation. All necessary piping and fitting to facilitate the meter installation, including a 125-pound brass valve on each side of the meter shall be furnished by the customer prior to installation. RMU shall seal the meter and valves after installation.

(4) Customers served with a two-inch service or larger shall include in the meter installation a proper bypass, approved by RMU, which allows continued use of water when a meter is removed for maintenance or testing. Lock valves provided by the owner shall also be included on such bypasses.

(b) *Outside meter reading devices.* All water meters installed in any new construction and/or in buildings which are moved or remodeled so as to change the location of the meter shall be provided with an outside dial or gauge of a type approved and supplied by RMU which is connected with the meter proper and which will give an accurate reading of the amount of water passing through said meter. The location of the outside meter reading box shall be approved by RMU prior to the installation by RMU. This shall be in such a location as to make it readily available for a meter reader to determine the amount of water used during any designated period of time. The cost of said gauge or dial is to be borne by the property owner and is included in the charge for the meter.

(c) *Repair and replacement.*

(1) RMU personnel shall be given access at reasonable times to customer premises for purpose of servicing, changing and repairing meters.

(2) When, at RMU's discretion a meter is changed, it shall be replaced with a new meter and remote reading device. There shall be no charge to the customer.

(3) The resident of property upon which meters are installed will be held responsible for any willful or malicious damage to such meters, and such residents will also be held responsible for any damage sustained by freezing or caused by hot water backing through the same, and must bear all cost of repairing meter, when the same become damaged through any of the causes designated herein.

(d) *Violations; penalty.*

(1) Illegal use of water or of the meter devices of RMU shall result in criminal prosecution.

(2) Any person violating any provision of this section shall be subject to punishment as provided in section 1-15 for each offense and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

(Code 1996, § 11.03.040)

Sec. 98-105. - CROSS CONNECTIONS.

(a) *Purpose.* The purpose of this section is:

(1) To protect the city (hereafter called RMU or public) water supply system from contamination or pollution by isolating within the customer's water system those contaminants or pollutants which could backflow through the service connection into the RMU water supply system.

(2) To promote the elimination or control of existing cross connections, actual or potential,

between the public or consumer's potable water system and nonpotable water systems, plumbing fixtures and sources of systems containing substances of unknown or questionable safety.

(3) To provide for the maintenance of a continuing program of cross connection control which will prevent the contamination or pollution of the public and consumer's potable water systems.

(b) *Responsibilities of consumer.* The owner or official custodian shall be responsible for protection of the public water supply system from contamination due to backflow or backsiphonage of contaminants through the customer's water service connection. If, in the judgment of RMU, an approved backflow prevention device is necessary for the safety of the public water supply system, RMU 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 the consumer's 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 subsection (i)(4)d of this section for a period of at least five years.

(c) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Agency means the state 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, or American National Standards Institute or certified by the National Sanitation Foundation.

Auxiliary water system means any water source 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 contaminated or objectionable or constitute a water source or system over which the water purveyor does not have control.

Backflow means the reversal of flow from that normally intended; the flow of water or other liquids, mixtures, or substances into the distributing pipe of a potable supply of water from any source or sources other than its intended source.

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 the state must meet the standards of the state plumbing code, 77 Ill. Admin. Code 890, and the state Environmental Protection Agency.

Consumer and *customer* mean the owner, official custodian or person in control of any premises supplied by or in any manner connected to the RMU 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.

Double checkvalve assembly means an assembly composed of single, independently acting checkvalves approved under ASSE Standard 1015. A double checkvalve assembly must include tight shutoff valves located at each end of the assembly and suitable connections for testing the watertightness of each checkvalve.

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.

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 term "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 appurtenance, appliances and installations of a plumbing system for compliance with requirements of the Illinois Plumbing Code, 77 Ill. Admin. Code 890.

Nonpotable water means water not safe for drinking, personal, or culinary use as determined by the requirements of 35 Illinois Administrative 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 plumbing 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 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 Illinois Administrative 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 means any fluid or solution which may be chemically, biologically or otherwise contaminated or polluted in a form or concentration such as would constitute a health, pollution, or system hazard if introduced into the public or a consumer's potable water system. This includes but is not limited to:

- (1) Polluted or contaminated waters;

- (2) Process waters;
- (3) Used waters originating from the public water supply system which may have deteriorated in sanitary quality;
- (4) Cooling waters;
- (5) Questionable or contaminated natural waters taken from wells, lakes, streams, or irrigation systems;
- (6) Chemicals in solution or suspension;
- (7) 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 the use for the purpose of furnishing water for drinking or general domestic use.

Reduced pressure principle backflow prevention device means a device containing a minimum of two independently acting checkvalves together with an automatically operated pressure differential relief valve located between the two checkvalves 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 checkvalve, the differential relief valve, by discharging to the atmosphere, shall operate to maintain the pressure between the checkvalves at less than the supply pressure. The unit must include tightly closing shutoff valves located at each end of the device, and each device shall be fitted with properly located test cocks.

Secondary water supply means the water supply system maintained in addition to the public water supply system, including but not limited to water systems from ground or surface resources, or water from a public water supply which in any way has been treated, processed or exposed to any possible contaminant or stored in other than an approved storage facility.

Service connection means the opening, including all fittings and appurtenances, at the water main through which water is supplied to the user.

Submerged inlet means a water pipe or extension thereto from a public water supply terminating in a tank, vessel, fixture or appliance which may contain water of questionable quality, waste or other contaminant and which is unprotected against backflow.

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 RMU to a consumer's water system after it has passed through the service connection and is no longer under the control of RMU.

Water purveyor means the city, operating through RMU.

Water system means the RMU water supply system and the consumer's water system.

- (1) The RMU water supply system consists of the source facilities and the distribution system, and includes all those facilities of the potable water system under control of RMU up to the point where the consumer's water system begins.
- (2) The source facilities include all components of the facilities utilized in the production, treatment, storage, and delivery of water in the RMU water supply distribution system.
- (3) The RMU water supply distribution system includes the network of conduits used to deliver water from the source to the consumer's water system.
- (4) The consumer's water system includes all parts of the facilities beyond the service connection used to convey water from the RMU water supply distribution system to points of use.

(d) *Cross connection prohibited.*

- (1) 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 ensure proper operation on a continuing basis.
- (2) No physical connection is to be permitted between the potable portion of RMU's water supply and any other water supply not of equal or better bacteriological and chemical quality as determined by inspection and analysis by the agency.
- (3) There may be absolutely no arrangement or connection by which an unsafe substance may enter RMU's water supply.
- (4) Cross connection of RMU's water supply system and any other water supply system or source, including, but not limited to, the following is prohibited:
 - a. Between RMU's system and a secondary water supply.
 - b. Between RMU's system and a submerged inlet.
 - c. Between a lawn sprinkling system and RMU's system.
 - d. Between RMU's system and piping immersed in a tank or vessel which may contain a containment.

(e) *Where protection is required.*

- (1) An approved backflow device shall be installed on all connections to the public water supply as described in the Plumbing Code, 77 Ill. Admin. Code 890, and the agency's regulations, 35 Ill. Admin. 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 RMU, actual or potential hazards in the public water supply system exist.
- (2) An approved backflow prevention device shall be installed on each service line to a consumer's water system serving premises where the following conditions exists:

- a. Premises having an auxiliary water supply, unless such auxiliary supply is accepted as an additional source by RMU and the source is approved by the agency.
- b. Premises on which any substance is handled which can create an actual or potential hazard to the public water supply system. This shall include premises having sources or systems containing process fluids or waters originating from the public water supply system which are no longer under the sanitary control of RMU.
- c. Premises having internal cross connections that, in the judgment of RMU, are either not correctable or intricate plumbing arrangements make it impractical to determine whether or not cross connections exist.
- d. Premises where, because of security requirements or other prohibitions or restrictions, it is impossible or impractical to make a complete cross connection survey.
- e. Premises having a repeated history of cross connections being established or reestablished.

(3) An approved backflow device shall be installed on all connections to the public water supply as described in the Plumbing Code, 77 Ill. Admin. Code 890, and the agency's regulations, 35 Ill. Admin. Code 653. In addition, an approved backflow prevention device shall be installed on each service line to a consumer's water system which serves, but is not necessarily limited to, the following types of facilities unless RMU determines that no actual or potential hazard to the public water supply system exists:

- a. Hospitals, mortuaries, clinics, nursing homes.
- b. Laboratories.
- c. Piers, docks, waterfront facilities.
- d. Sewage treatment plants, sewage pumping stations or storm water pumping stations.
- e. Food or beverage processing plants.
- f. Chemical plants.
- g. Metal plating industries.
- h. Petroleum processing or storage plants.
- i. Radioactive material processing plants or nuclear reactors.
- j. Car washes.
- k. Pesticide, or herbicide or extermination plants and trucks.
- l. Farm service and fertilizer plants and trucks.

(f) *Type of protection required.*

(1) The type of protection required under subsections (e)(1), (2), and (3) of this section depends on the degree of hazard which exists as follows:

- a. 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.
- b. An approved fixed proper air gap separation or an approved reduced pressure principle back flow prevention device shall be installed where the public water supply system may be contaminated with a substance that could cause a system or health hazard.
- c. An approved fixed proper air gap separation or an approved reduced pressure principle backflow prevention device shall be installed where the public water supply system may be polluted with substances that could cause a pollution hazard not dangerous to health.

(2) 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:

- a. The fire safety system contains antifreeze, fire retardant or other chemicals;
- b. Water is pumped into the system from another source;
- c. Water flows by gravity from a nonpotable source; or water can be pumped into the fire safety system from any other source; or
- d. There is a connection whereby another source can be connected to the fire safety system.

(g) *Backflow prevention devices.*

(1) Any user of the RMU water supply system shall obtain written approval from RMU of any proposed corrective action or protective device intended to eliminate or prevent a cross connection before its use or installation. The time allowed for completion of the necessary corrective action required to eliminate cross connections shall be dependent upon the degree of hazard involved and the time required to obtain and install the equipment. If the cross-connection has not been removed within the time as hereinafter specified, RMU shall physically separate the RMU water supply system from the on-site piping system in such a manner that the two systems cannot be connected by persons other than employees of RMU.

(2) All backflow prevention devices or methods required by this section 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.

(3) Installation of approved devices shall be made in accordance with 35 Ill. Admin. Code 653.802, and only as specified by the Research Foundation for Cross-Connection Control of the University of Southern California of applicable industry specifications. Maintenance as recommended by the manufacturer of the device shall be performed. A manufacturer's maintenance manual shall be available on-site.

(h) *Local cross-connection control program.* RMU will maintain a comprehensive control program for the elimination and prevention of all cross-connections and removal of all existing cross-connections and prevention of all future cross connections.

(i) *Survey and investigations.*

(1) The consumer's premises shall be open at all reasonable times to the approved cross-connection control 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.

(2) On request by RMU, 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 RMU for the verification of information submitted by the consumer to RMU regarding cross connection inspection results.

(3) It shall be the responsibility of the water consumer to arrange periodic surveys of water use practices on the consumer's premises to determine whether there are or potential cross connections to the consumer's water system through which contaminants or pollutants could backflow into the consumer's or the RMU water system. All cross connection control or other plumbing inspections must be conducted in accordance with 225 ILCS 320/3.

(4) It is the responsibility of the water consumer to prevent backflow into the public water system by ensuring that:

- a. All cross-connections are either removed, or approved cross connection control devices are installed for control of backflow and backsiphonage.
- b. Cross connection control devices shall be installed in accordance with the manufacture's instructions.
- c. 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 (CCDI). The inspection of mechanical devices shall include physical testing in accordance with the manufacturer's instruction.
- d. Testing and records.
 1. Each device shall be tested at the time of installation and at least annually or more frequently if recommended by the manufacturer.
 2. Records submitted to RMU shall be available for inspection by agency personnel in accordance with 225 ILCS 320/5.
 3. Each device shall have a tag attached listing the date of most recent test, name of CCDI, and type and date of repairs.
 4. A maintenance log shall be maintained and include:
 - i. Date of each test;
 - ii. Name and approval number of person performing the test;
 - iii. Test results;
 - iv. Repairs or servicing required;

- v. Repairs and date completed; and
- vi. Service performed and dates completed.

(j) *Inspection and maintenance.*

(1) It shall be the duty of the consumer at any premises on which backflow prevention devices required by this section 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:

- a. 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.
- b. Double check valve assemblies shall be inspected and tested at time of installation and at least annually thereafter, and required service performed within 15 days.
- c. Reduced pressure principle backflow prevention devices 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 days.

(2) Testing shall be performed by a person who has been approved by RMU and the agency as competent to service the device. Proof of approval shall be in writing.

(3) 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.

(4) A maintenance log shall be maintained and include:

- a. Date of each test or visual inspection;
- b. Name and approval number of person performing the test or visual inspection;
- c. Test results;
- d. Repairs or servicing required;
- e. Repairs and date completed; and
- f. Servicing performed and date completed.

(5) Whenever backflow prevention devices required by this section are found to be defective, they shall be repaired or replaced at the expense of the consumer without delay.

(6) Backflow prevention devices shall not be bypassed, made inoperative, removed or otherwise made ineffective without specific authorization by RMU.

(k) *Piping identification.* When a secondary water source is used in addition to the RMU water supply system, the RMU water supply and the secondary water piping shall be identified by distinguishing colors or tags so maintained that each pipe may be readily traced in its entirety to its origin in order to protect the RMU water supply at the service connection in a manner acceptable to RMU.

(l) *Private water storage tanks.* A private water storage tank supplied from the RMU water supply

system shall be deemed a secondary water supply unless it is designed and approved for potable water usage.

(m) *Booster pumps.*

(1) 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 cutoff 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.

(2) It shall be the duty of the water consumer to maintain the low pressure cutoff device in proper working order and to certify to RMU, at least once a year, that the device is operable.

(n) *Elimination of existing cross connections.* Within one year from the effective date of the ordinance from which this section is derived, all existing cross connections to the water supply system shall be eliminated. The expenses of such elimination shall be that of the property owner on which such cross connection exists.

(o) *Correction of violations; right to terminate service.*

(1) The RMU may, in its sole discretion, discontinue, after reasonable notice to the occupant thereof, the water service to any property wherein any connection in violation of the provisions of this section is known or deemed to exist, and to take such other precautionary measures as it may determine necessary to eliminate any danger of contamination of the public water supply distribution mains. Water services to such property shall not be restored until such conditions have been eliminated or corrected in compliance with the provisions of this section, and until a reconnection fee of \$100.00 is paid to RMU. Immediate disconnection with verbal notice can be effected when RMU is assured that imminent danger of harmful contamination of the RMU water 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 RMU water supply; provided, that, in the reasonable opinion of RMU or the state Environmental Protection Agency, such action is required to prevent actual or potential contamination or pollution of the RMU water supply. Neither the RMU water supply, RMU, or its agents or assigns shall be liable to any customer 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 section, whether or not the termination was with or without notice. Water service to such property shall not be restored until such cross connection has been eliminated.

(2) The person, business or other legal entity 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, must bear the cost of cleanup of the potable water supply system.

(p) *Penalty.* Any person, firm, or corporation convicted of violating any provisions of this section shall be punished in accordance with section 1-15 for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

(Code 1996, § 11.03.050)

Sec. 98-106. - USE OF WATER FROM FIRE HYDRANTS.

Fire hydrants are for the use of the fire department for the purpose of extinguishing fires. Persons other

than members of the fire department and persons authorized by RMU shall not open or attempt to draw water from any fire hydrant.

(Code 1996, § 11.03.060)

Sec. 98-107. - MAXIMUM SETBACK ZONE FOR PUBLIC WATER SUPPLY WELLS.

(a) *General authority; applicability.* Pursuant to the authority conferred by 65 ILCS 5/11-125-4 and in the interest of securing the public health, safety, and welfare; to preserve the quality and quantity of groundwater resources; 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 section shall apply to all properties within the city limits located within the minimum setback zone of Rochelle Municipal Well #4 (IEPA #11810), #8 (IEPA #11814), #9 (IEPA #11943), #10 (IEPA #11944) and #11 (IEPA 01537) under section 14.2 of the Environmental Protection Act ("Act") (415 ILCS 5/14.2) and this section, and the maximum setback zone established under section 14.3 of the Act (415 ILCS 5/14.3) and this section.

(b) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning. Except as stated in this section, and unless a different meaning of a word or term is clear from the context, the definitions of words or terms in this section shall be the same as those used in the Act (415 ILCS 5/1 et seq.) and the Illinois Groundwater Protection Act (415 ILCS 55/1).

Act means the Environmental Protection Act (415 ILCS 5/1).

Agency means the Illinois Environmental Protection Agency.

Board means the Illinois Pollution Control Board.

Maximum setback zone means the area around a community water supply well established under section 14.3 of the Act (415 ILCS 5/14.3) and this section, and to the extent of 1,000 feet from each of the city's wells #4, #8, #9, #10 and #11.

Minimum setback zone means the area around a community water supply well established under section 14.2 of the Act (415 ILCS 5/14.2) and this section, and to the extent of 200 feet from each of the city's wells #4, #8, #9, #10 and #11.

Potential primary source is defined in 415 ILCS 5/3.345.

Potential route is defined in 415 ILCS 5/3.350.

Potential secondary source is defined in 415 ILCS 5/3.355.

Setback zone is defined in 415 ILCS 5/3.450.

(c) *Prohibitions.*

(1) Except as provided in subsection (d) or (e) of this section, no person shall place a new potential primary source, new potential secondary source, or new potential route within the minimum setback zone.

(2) Except as provided otherwise in subsection (d) of this section, no person shall place a new potential primary source within the maximum setback zone.

(d) *Waivers, exceptions and certifications of minimal hazard.*

(1) If, pursuant to section 14.2(b) of the Act (415 ILCS 5/14.2(b)), the owner of a new potential primary source, new potential secondary source, or new potential route is granted a waiver by the agency, such owner shall be deemed to have a waiver to the same extent from subsection (c)(2) of this section.

(2) If, pursuant to section 14.2(c) of the Act (415 ILCS 5/14.2(c)), the owner of a new potential primary source (other than land filling or land treatment), 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 (c)(1) of this section.

(3) If, pursuant to section 14.2(c) of the Act (415 ILCS 5/14.2(c)), the owner of a new potential primary source (other than land filling or land treatment), is granted an exception by the board, such owner shall be deemed to have an exception to the same extent from section (c)(2) of this section.

(4) If, pursuant to section 14.5 of the Act (415 ILCS 5/14.5), the owner of a new potential primary source, new potential secondary source, or new potential route is issued a certificate of minimal hazard by the agency, such owner shall not be subject to section (c)(1) of this section to the same extent that such owner is not subject to section 14.2(d) of the Act (415 ILCS 5/14.2(d)).

(e) *Exclusions.* Subsection (c)(1) of this section shall not apply to new common sources of sanitary pollution as specified pursuant to section 17 of the Act (415 ILCS 5/17) and the regulations adopted thereunder by the agency; however, no such common source may be located within the applicable minimum distance from a community water supply well specified by such regulations.

(Ord. No. 04-3230, 4-26-2004)

Secs. 98-108—98-150. - RESERVED.

ARTICLE IV. - SEWERS AND SEWAGE DISPOSAL

[Sec. 98-151. - General provisions.](#)

[Sec. 98-152. - General POTW use requirements.](#)

[Sec. 98-153. - Installation of sewers.](#)

[Sec. 98-154. - Specifications for sanitary sewer construction.](#)

[Sec. 98-155. - Materials for sanitary sewer manholes.](#)

[Sec. 98-156. - Installation of sanitary sewer manholes.](#)

[Sec. 98-157. - Quality assurance for sanitary sewer manholes.](#)

[Sec. 98-158. - Pretreatment of waste water.](#)

[Sec. 98-159. - Wastewater discharge permit application.](#)

[Sec. 98-160. - Wastewater discharge permit issuance process.](#)

[Sec. 98-161. - Reporting requirements.](#)

[Sec. 98-162. - Compliance monitoring.](#)

[Sec. 98-163. - Confidential information.](#)

[Sec. 98-164. - Publication of names of users in significant noncompliance.](#)

[Sec. 98-165. - Administrative enforcement remedies.](#)

[Sec. 98-166. - Judicial enforcement remedies.](#)

[Sec. 98-167. - Supplemental enforcement actions.](#)

Sec. 98-168. - Affirmative defenses to discharge violations.
 Sec. 98-169. - Wastewater treatment and surcharge rates.
 Sec. 98-170. - Pretreatment program fees.
 Secs. 98-171—98-220. - Reserved.

Sec. 98-151. - GENERAL PROVISIONS.

(a) *Purpose and policy.* This article sets forth uniform requirements for users of the Rochelle Municipal Utilities publicly owned treatment works owned by the city and it enables the city to comply with all applicable state and federal laws, including the Clean Water Act (33 USC 1251 et seq.) and the general pretreatment regulations (40 CFR 403). The objectives of this article are:

- (1) To prevent the introduction of pollutants into the publicly owned treatment works that will interfere with its operation;
- (2) To prevent the introduction of pollutants into the publicly owned treatment works that will pass through the publicly owned treatment works, inadequately treated, into receiving waters, or otherwise be incompatible with the publicly owned treatment works;
- (3) To protect publicly owned treatment works personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
- (4) To promote reuse and recycling of wastewater and sludge from the publicly owned treatment works;
- (5) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the publicly owned treatment works; and
- (6) To enable the publicly owned treatment works to comply with its national pollutant discharge elimination system permit conditions, sludge use and disposal requirements, and any other federal or state laws to which the publicly owned treatment works is subject.

This article shall apply to all users of the publicly owned treatment works. The article authorizes the issuance of wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

(b) *Administration.* Except as otherwise provided herein, the director of utilities shall administer, implement, and enforce the provisions of this article. Any powers granted to or duties imposed upon the director of utilities may be delegated by the director of utilities to other Rochelle Municipal Utilities personnel.

(c) *Abbreviations.* The following abbreviations, when used in this article, shall have the designated meanings:

BOD	Biochemical oxygen demand
CBOD	Carbonaceous biochemical oxygen demand
CFR	Code of Federal Regulations
COD	Chemical oxygen demand
EPA	U.S. Environmental Protection Agency

gpd	Gallons per day
mg/L	Milligrams per liter
NPDES	National Pollutant Discharge Elimination System
POTW	Publicly owned treatment works
RCRA	Resource Conservation and Recovery Act
RMU	Rochelle Municipal Utilities
SIC	Standard Industrial Classification
TSS	Total suspended solids
USC	United States Code

(d) *Definitions.* Unless a provision explicitly states otherwise, the following terms and phrases, as used in this article, shall have the meanings hereinafter designated:

Act and *the Act* mean the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC 1251 et seq.

Approval authority means the director of Rochelle Municipal Utilities.

Authorized representative of the user means:

- (1) If the user is a corporation:
 - a. The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
 - b. The manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25,000,000.00 (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- (2) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.
- (3) If the user is a federal, state, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

The individuals described in subsections (1)a. and b. above may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the director of utilities.

Biochemical oxygen demand and *BOD*⁵ mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at 20 degrees Celsius, usually expressed as a concentration (e.g., mg/L).

Carbonaceous biochemical oxygen demand and *CBOD*⁵ mean the quantity of oxygen used in the

oxidation of nitrogenous compounds, mediated by microorganisms. When the nitrogenous oxygen demand of the sample is inhibited by chemicals during the five-day incubation period at 20 degrees Celsius, usually expressed as a concentration (e.g., mg/L), the results are reported as CBOD⁵.

Categorical pretreatment standard and *categorical standard* mean any regulation containing pollutant discharge limits promulgated by EPA in accordance with section 307(b) and (c) of the Act (33 USC 1317(b) and (c)) which apply to a specific category of users and which appear in 40 CFR 405—471.

Director of utilities means the director of Rochelle Municipal Utilities, who is charged with certain duties and responsibilities by this article, or a duly authorized representative.

Environmental Protection Agency and *EPA* mean the U.S. Environmental Protection Agency or, where appropriate, the regional water management division director, or other duly authorized official of said agency.

Existing source means any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with section 307 of the Act (33 USC 1317).

Grab sample means a sample which is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed 15 minutes.

Indirect discharger and *discharger* mean any source of pollutants into the POTW from any nondomestic source regulated under section 307(b), (c), or (d) of the Act (33 USC 1317(b), (c) or (d)).

Instantaneous maximum allowable discharge limit means the maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

Interference means a discharge, which alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal, and therefore is a cause of a violation of the POTW's NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent state or local regulations: section 405 of the Act (33 USC 1345); the Solid Waste Disposal Act, including title II commonly referred to as the Resource Conservation and Recovery Act (RCRA) (42 USC 6901 et seq.); any state regulations contained in any state sludge management plan prepared pursuant to subtitle D of the Solid Waste Disposal Act (42 USC 6941—6949a); the Clean Air Act (42 USC 7401 et seq.); the Toxic Substances Control Act (15 USC 2601); and the Marine Protection, Research, and Sanctuaries Act (16 USC 1431 et seq.).

Medical waste means isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

New source means:

- (1) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the Act (33 USC 1317(c)) which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

- a. The building, structure, facility, or installation is constructed at a site at which no other source is located;
 - b. The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - c. The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
- (2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of subsection (1)b. or c. of this definition but otherwise alters, replaces, or adds to existing process or production equipment.
- (3) Construction of a new source has commenced if the owner or operator has:
- a. Begun, or caused to begin, as part of a continuous on-site construction program:
 1. Any placement, assembly, or installation of facilities or equipment; or
 2. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
 - b. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this subsection.

Noncontact cooling water means water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

Pass through means a discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit, including an increase in the magnitude or duration of a violation.

Person means any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all federal, state, and local governmental entities.

pH means a measure of the acidity or alkalinity of a solution, expressed in Standard Units.

Pollutant means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD⁵, CBOD⁵, COD, toxicity, or odor).

Pretreatment means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

Pretreatment requirements means any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

Pretreatment standards and standards. mean prohibited discharge standards, categorical pretreatment standards, and local limits.

Prohibited discharge standards and prohibited discharges mean absolute prohibitions against the discharge of certain substances; these prohibitions appear in section 98-152(f)(2).

Publicly owned treatment works and POTW mean the city-owned water reclamation plant and sewage collection system, or "treatment works" as defined by section 212 of the Act (33 USC 1292) which is managed and operated by RMU and is owned by the city. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to the city water reclamation plant.

Rochelle Municipal Utilities and RMU mean the utilities department of the city, which includes the water reclamation department and the POTW.

Septic tank waste means any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

Sewage means human excrement and gray water (household showers, dishwashing operations, etc.).

Significant industrial user means:

- (1) A user subject to categorical pretreatment standards; or
- (2) A user that:
 - a. Discharges an average of 25,000 gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater);
 - b. Contributes a process wastestream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW reclamation plant; or
 - c. Is designated as such by RMU on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard requirement.

Upon a finding that a user meeting the criteria in subsection (2)a. or b. of this definition has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, RMU may at any time, on its own initiative or in response to a petition received from a user, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such user should not be considered a significant industrial user.

Slug load and slug mean any discharge at a flow rate or concentration which has an adverse effect upon the treatment plant process, up to and including interference and/or pass through, and could cause a

violation of the prohibited discharge standards in section 98-152(f).

Standard Industrial Classification (SIC) Code means a classification pursuant to the Standard Industrial Classification Manual issued by the U.S. Office of Management and Budget.

Stormwater means any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

Superintendent means the person designated by the city, under the management and supervision of the director of utilities, to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this article, or a duly authorized representative.

Total suspended solids and *TSS* mean the total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering.

User and *industrial user* mean a source of indirect discharge.

Wastewater means liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

Water reclamation plant means that portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.

(Code 1996, § 11.04.010)

Sec. 98-152. - GENERAL POTW USE REQUIREMENTS.

(a) *Required use of POTW.*

- (1) It is 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.
- (2) 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 this article.
- (3) 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 sewer of the city, is required at owner's expense to install suitable toilet facilities therein, and to connect such facilities directly with the POTW in accordance with subsection (d) of this section and other governing building and construction codes, within 90 days after date of official notice to do so.
- (4) A separate and independent connection to the POTW 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. In the event of multiple living units, e.g., townhouses, duplexes, etc., each unit shall have a separate and independent connection to the POTW.

(5) Old building sewers may be used in connection with new construction only when they are found, on examination and testing by the director of utilities, to meet all requirements of this article.

(6) Except as hereinafter provided, it is unlawful to construct or maintain any privy, vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

(b) *Private sewage disposal.*

(1) Where the POTW is not available as provided for in subsection (a) of this section, the building sewer shall be connected to a private sewage disposal system complying with the county health code.

(2) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to RMU or the city.

(3) At such time as the POTW becomes available to a property served by a private sewage disposal system as provided in subsection (a) of this section, a direct connection shall be made to the POTW in compliance with subsection (d) of this section, and any septic tanks and similar disposal systems shall be cleaned of sludge and filled with granular material.

(c) *POTW connection and construction permits.*

(1) No unauthorized person shall uncover, make any connections with, or opening into, use, alter, or disturb any portion of the POTW without first obtaining a written construction permit both from RMU and the city.

(2) Only licensed plumbers/contractors bonded and approved by the city are allowed to make a connection. The bond must be for \$1,000.00, payable to Rochelle Municipal Utilities, and deposited with the RMU business office.

(3) The permit shall be supplemented by any plans and specifications or any other information that may be required by the city building inspector and/or the director of utilities.

(4) The permit fee for connection to the POTW shall be based upon population equivalents.

(5) A connection permit will only be issued and connection to the POTW shall only be allowed if it can be demonstrated that the downstream sewerage facilities, including sewers, pump stations and water reclamation facilities, have sufficient reserve capacity to adequately and efficiently handle the additional anticipated waste load.

(d) *Construction, connections, and maintenance.*

(1) All connections to the POTW shall be inspected by the superintendent. The applicant for the sewerage connection permit shall notify the superintendent at least 24 hours before the sewerage connection is to be made. The connection shall be made under the supervision of the superintendent.

(2) At the discretion of the director of utilities, a performance bond may be required in any amount not less than \$1,000.00. Such bond shall have as surety a corporation licensed to do business in the state as a surety company and shall have an AAA rating.

(3) All costs and expenses incident to the installation and connection to the POTW shall be borne by the owner. The owner shall indemnify the city, RMU, director of utilities, superintendent, and city

building inspector from any loss or damage that may directly or indirectly be occasioned by the installation of a building sewer.

(4) The size, slope, alignment, materials of construction of sewer laterals, 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 rules and regulations of RMU and the city.

(5) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which the building sewer is too low to permit gravity flow to the POTW, sanitary sewage shall be lifted by an approved means in accordance with the Illinois State Plumbing Code (77 Ill. Admin. Code 890) and discharged to the sewage lateral.

(6) The connection of the building sewer lateral into the POTW shall conform to the requirements and applicable rules and regulations of RMU and shall be made gas and watertight.

(7) All excavations for building sewer installations 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 superintendent of streets.

(8) All sewerage mains accepted into the POTW shall have a cleanout manhole at the sewerage main dead end, for cleaning and maintenance.

(9) Maintenance of all building sewers, from the center point of the public collector sewer, located on the public right-of-way, to and including the owner's property, shall be the responsibility of the building/property owner.

(10) No person shall enter any confined space without following the U.S. OSHA requirements (29 CFR 1900 et seq.) for entering that facility.

(e) *Protection of POTW from damage.* No unauthorized person shall maliciously or willfully break, damage, or destroy or tamper with any structure, appurtenance, or equipment which is part of the POTW. Any person violating this provision shall be subject to prosecution for criminal damage to property.

(f) *Prohibited discharge standards.*

(1) *General prohibitions.* No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements.

(2) *Specific prohibitions.* No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:

a. Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Celsius) using the test methods specified in 40 CFR 261.21;

b. Wastewater having a pH less than 5.0 or more than 9.0, or otherwise causing corrosive structural damage to the POTW or equipment;

c. Solid or viscous substances in amounts which will cause obstruction of the flow in the

POTW resulting in interference;

- d. Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW;
- e. Wastewater having a temperature greater than 104 degrees Fahrenheit (40 degrees Celsius), or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104 degrees Fahrenheit (40 degrees Celsius);
- f. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;
- g. Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;
- h. Trucked or hauled pollutants, except at discharge points designated by the superintendent in accordance with section 98-158(d);
- i. Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;
- j. Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant effluent, thereby violating the POTW's NPDES permit;
- k. Wastewater containing any radioactive wastes or isotopes except in compliance with applicable state or federal regulations;
- l. Stormwater, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, condensate, deionized water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized by the director of utilities. The owner of all buildings connected to the POTW is required at owner's expense to disconnect all existing roof drains from the POTW within 90 days after the date of official notice to do so. Disconnected roof drains shall be connected into an available storm sewer or shall be disconnected above ground in the manner approved by the city building inspector;
- m. Sludges, screenings, or other residues from the pretreatment of industrial wastes;
- n. Medical wastes, except as specifically authorized by the superintendent in a wastewater discharge permit;
- o. Wastewater causing, alone or in conjunction with other sources, the water reclamation plant's effluent to fail a toxicity test;
- p. Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW;
- q. Fats, oils, or greases of animal or vegetable origin in concentrations greater than 125 mg/L or polar oils greater than 20 mg/L;

- r. Wastewater causing two readings on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, of more than 20 percent or any single reading over 100 percent of the lower explosive limit of the meter.

Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW.

(g) *National categorical pretreatment standards.* The categorical pretreatment standards found at 40 CFR 405—471 are hereby incorporated.

(1) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the superintendent may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).

(2) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the superintendent shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e).

(3) A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.

(4) A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

(h) *State pretreatment standards.* State pretreatment standards are located at 35 Ill. Admin. Code 310.201—310.233 of the Illinois Pollution Control Board regulations.

(i) *Local limits.* The following pollutant limits are guidelines that are established to protect against pass through and interference. If an indirect discharger requires a site-specific alternative limit for any of the pollutants, the discharger must petition the city for a variance of the guideline limit. No alternative limit will be granted for pollutants which will interfere with or negatively impact the operation of the POTW. Unless a variance is granted, no person shall discharge wastewater containing in excess of the following instantaneous maximum allowable discharge limits:

Ammonia-nitrogen	35.0 mg/L
Arsenic	0.25 mg/L
Barium	2.0 mg/L
BOD ⁵	250.0 mg/L
COD	600.0 mg/L
Cadmium	0.5 mg/L
Chromium (total)	1.0 mg/L
Copper	1.0 mg/L
Cyanide	0.025 mg/L
Fluoride	2.5 mg/L
Iron	4.0 mg/L
Lead	0.30 mg/L
Manganese	1.0 mg/L

Mercury	0.0005 mg/L
Nickel (total)	1.0 mg/L
Phenols (total)	0.5 mg/L
Nonpolar fats	125.0 mg/L
Polar oils	20.0 mg/L
Phosphorous	10.0 mg/L
Selenium	1.0 mg/L
Silver	0.1 mg/L
Total suspended solids	300.0 mg/L
Zinc	2.0 mg/L

The above limits apply at the point where the wastewater is discharged to the POTW. All concentrations for metallic substances are for total metal unless indicated otherwise. The superintendent may impose mass limitations in addition to, or in place of, the concentration-based limitations above. No statement contained in this section shall be construed as preventing any special agreement or arrangement between RMU and any industrial user whereby an industrial waste of unusual strength or character may be accepted by the POTW for treatment, subject to payment by the industrial user. In no case will a special agreement waive compliance with a pretreatment standard or requirement.

(j) *City's right of revision.* The city reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW.

(k) *Dilution.* No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The director of utilities may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

(Code 1996, § 11.04.020)

Sec. 98-153. - INSTALLATION OF SEWERS.

(a) All sewer plans and installations shall conform to the standards and specifications of the city and the state Environmental Protection Agency and the Standard Specifications for Water and Sewer Main Construction in Illinois.

(b) Sanitary sewer lines shall be installed to serve all properties in a subdivision except subdivisions where individual sewage disposal systems are permitted.

(c) Where sanitary sewer mains of larger capacity than necessary to serve the subdivision as delineated in the preliminary plan are required to serve the future growth in the vicinity of the subdivision, as determined by the city, the upsizing will be paid for by the city in accordance with section 86-50

(d) Sewer main extensions shall be extended by the property owner to the property or annexation line, whichever is further, of the premises to be served so that future sewer main extensions will not require excavation in the subdivision.

(Code 1996, § 11.04.030)

Sec. 98-154. - SPECIFICATIONS FOR SANITARY SEWER CONSTRUCTION.

- (a) All sanitary sewers shall be constructed of polyvinyl chloride (PVC) SDR-26 or heavier sewer pipe which shall conform to ASTM D-3034 with a D-3212 joint; it shall be bedded per standards.
- (b) Sewers shall be of adequate size to serve the entire development proposed. The minimum size of street sewers shall be eight-inch internal diameter.
- (c) Before commencing the sewer layout, the designer shall confer with the city to determine the required size and grades for any trunk sewers traversing the subdivision to fit the city's overall plan. These shall be installed by the subdivider.
- (d) House service laterals of four-inch internal diameter shall be provided for each lot, parcel, or tract. House services shall be extended five feet beyond the property line and marked with a four-inch by four-inch post painted green. It is required that the lateral shall be eight to ten feet below the proposed street grade where possible. Proper bedding is required per Environmental Protection Agency regulations.
- (e) The developer shall notify the city engineer and the water reclamation division at least 24 hours prior to start of construction in order to arrange for appropriate construction inspection. Work performed or materials and equipment installed without inspection may be considered unacceptable, and if found unacceptable, shall be replaced by the developer.
- (f) "Band seal" or similar couplings of appropriate type and size shall be used when joining conduits of dissimilar materials.
- (g) All sanitary sewers shall be air tested (low pressure) in accordance with the sanitary sewer departments and EPA requirements: flexible sewers will be tested for deflection, and deflection shall not exceed five percent of pipe diameter, as determined by running a mandrel through all sewer sections. The developer shall furnish the test results to the city.
- (h) Prior to acceptance by the city, all sanitary sewers shall be cleaned and then televised to reveal possible defects in materials and or workmanship. All televising shall be made in the presence of a representative of the engineer of record and a representative of RMU, and the final videos shall be delivered to the water reclamation division for review and approval. This work shall be done by either RMU or an RMU approved contractor. The cost of the cleaning and televising shall be the responsibility of the developer or contractor.
- (i) All sanitary sewer mains shall be a minimum of eight inches in diameter. Should the city require a larger main to be installed for future development by other property owners, the upsizing will be paid for by the city in accordance with section 86-50
- (j) The developer's engineer shall prepare and submit to the building division a CAD diskette compatible with the city's geographic information system, of the as-built drawing of the exact location of all lateral, the rim and invert elevations of all manholes and elevations of lateral ends.
- (k) All lateral stub ends and mainline ends must be plugged with proper PVC sewer caps.

(Code 1996, § 11.04.040; Ord. No. 11-4006, Exh. A, 2-14-2011)

Sec. 98-155. - MATERIALS FOR SANITARY SEWER MANHOLES.

Materials for sanitary sewer manholes shall be as follows:

(1) *Precast concrete type.*

- a. Concrete base: Precast, first MH section and base integrally cast or poured in place as indicated on drawings.
- b. Manholes: ASTM C478, eccentric cone precast top or precast flat slab top because of shallow manhole depth.
- c. Joints: Kent seal.

(2) *Metal accessories.*

- a. Frames and covers: ASTM A48, Class 30B, gray cast-iron; self-sealing type with concealed pick holes; continuous gasket in lid. Furnish covers with cast-in legend SANITARY on roadway face.
- b. Manhole steps: Polypropylene coated steel reinforcing rods, with load and pullout ratings meeting OSHA standards (29 CFR 1900 et seq.).

(3) *Seals.*

- a. Chimney seals required:
 1. Manufacturers: Cretex Specialty Products, or as approved by RMU.
 2. Compression band: ASTM A240, Type 304 stainless steel band; 1¼ inches wide; adjustable slot; stainless steel bolt anchors.
 3. Rubber sleeve: ASTM C923, rubber; 45 5 hardness, 3/16 inch thick; capable of two inches vertical movement without stretching material; spacers for mortared recess to receive sleeve; double corrugations between compression bands.
 4. Bottom compression band: ASTM A240, Type 304 stainless steel band; same as top band; flat one inch wide.
 5. Extension: Same material as chimney seal; provide with lower stainless steel compression band.

(4) *Wall pipe seal.*

- a. Supplied with modular wall and casing seal; used for entrances to manholes that are not supplied with cat-in-place rubber boot.
- b. Manufacturers:
 1. Link Seal.
 2. Approved equal.

(5) *Exterior coating.* Cover entire manhole exterior with bitumastic coating.

(Code 1996, § 11.04.050; Ord. No. 11-4006, Exh. A, 2-14-2011)

Sec. 98-156. - INSTALLATION OF SANITARY SEWER MANHOLES.

The following shall apply to installation of sanitary sewer manholes:

- (1) *Excavation.* To minimum 12 inches greater diameter than structure diameter.
- (2) *Granular fill base.* Class II, IDOT Standard Specifications for Road and Bridge Construction, article 704.01, Gradation CA-7; minimum four inches thick, extending to limits of excavation; firmly tapped smooth and level.
- (3) *Precast concrete manholes.*
 - a. Construct precast manholes on precast base section.
 - b. Fill all lift holes on precast elements with approved non-shrink grout and exterior coated with bitumastic coating.
 - c. Make joints between precast elements with Kent seal.
 - d. Set first precast section on precast base; and adjust to true grade and alignment with all inlet pipes set to form an integral watertight unit.
 - e. First unit uniformly supported on concrete base with no stress on pipes.
 - f. Place all precast sections to provide vertical alignment of ladder rungs; and rigid watertight finished unit true to dimensions.
- (4) *Castings.*
 - a. Set castings on bitumastic beds.
 - b. Set castings to finished designated elevation.
 - c. Streets at grade: Provide maximum 12 inches between top of cone and underside of manhole casting ring for adjustment to street grade.
 - d. Streets or alleys at no established grade: Provide minimum four inches, maximum 16 inches between top of cone or slab and underside of casting ring for adjustment to grade; with casting top at existing surface grade.
 - e. Cultivated areas:
 1. Set manhole frames and lids 18 inches below grade.
 2. Mark manhole by placing 15-foot long, four-inch by four-inch wolmanized pine fence post painted bright red in ground near manhole with 12 feet of post exposed.
 - f. Noncultivated areas: Casting top at established existing surface grade or match elevation of existing casting.
 - g. Channels: Bottom must conform accurately to sewer grade. Channels shall be

constructed with well-rounded junctions to facilitate flows and fillets/benches high enough to minimize buildup of solids. Channel design shall be approved by the water reclamation division prior to construction.

- h. Pipe connections:
 - 1. Install wall pipe sleeve for all pipes entering manholes.
 - 2. Ensure watertightness of pipe openings into structure.
- i. Drop manhole connections as indicated.

(5) *Chimney seals.*

- a. Install seals in accordance with manufacturer's recommendations.
- b. Ensure surface to receive sleeve is circular, clean, reasonably smooth, and free of loose material and voids.
- c. When surface is rough or irregular, correct with approved low-shrink mortar.
- d. Fill all minor irregularities with butyl rubber sealant.
- e. Place rubber sleeve in position around manhole and tighten stainless steel bands to provide watertight seal.
- f. Extension chimney seal:
 - 1. Provide chimney seal extension when single chimney seal cannot reach corbel section.
 - 2. Provide chimney seal extension down to corbel casting and seal on corbel casting with lower bottom band; overlap with upper seal to provide continuous seal from rim to corbel.
 - 3. Provide butyl rubber sealant under location of lower steel band.

(Code 1996, § 11.04.060)

Sec. 98-157. - QUALITY ASSURANCE FOR SANITARY SEWER MANHOLES.

All new sanitary sewer manholes are to be tested with a vacuum tester as follows:

- (1) Plug all incoming and outgoing sewer and service lines and restraining plugs.
- (2) Remove lid and place vacuum tester head on frame.
- (3) Draw vacuum of ten inches mercury.
- (4) Time for vacuum to drop to nine inches mercury shall not be less than 40, 50, or 60 seconds for manhole diameters of 48, 60, and 72 inches respectively. For manholes deeper than 20 feet, test times shall be increased by two seconds per foot of additional manhole depth.
- (5) Manholes that fail shall be sealed and retested by the contractor at no additional compensation

until the manhole is able to pass the test.

(Code 1996, § 11.04.070)

Sec. 98-158. - PRETREATMENT OF WASTE WATER.

(a) *Pretreatment facilities.* Users shall provide wastewater treatment as necessary to comply with this article and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in section 98-152(f) within the time limitations specified by EPA, the state, or the director of utilities, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the director of utilities for review, and shall be acceptable to the director of utilities before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the city under the provisions of this article.

(b) *Additional pretreatment measures.*

(1) Whenever deemed necessary, the director of utilities may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this article. POTW users discharging a large volume of strong waste over a short period of time may be ordered to discharge such waste uniformly over a longer period of time if the director of utilities deems it necessary for the satisfactory operation of the water reclamation plant.

(2) The director of utilities may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.

(3) Grease, oil, and sand interceptors shall be provided when, in the opinion of the director of utilities, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the director of utilities and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at such user's expense.

(4) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

(c) *Accidental discharge/slug control plans.* At least once every two years, the director of utilities shall evaluate whether each significant industrial user needs an accidental discharge/slug control plan. The director of utilities may require any user to develop, submit for approval, and implement such a plan. Alternatively, the director of utilities may develop such a plan for any user. An accidental discharge/slug control plan shall address, at a minimum, the following:

- (1) Description of discharge practices, including nonroutine batch discharges;
- (2) Description of stored chemicals;
- (3) Procedures for immediately notifying the superintendent of any accidental or slug discharge,

as required by section 98-161(f); and

(4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

(d) *Hauled wastewater.*

(1) Septic tank waste may be introduced into the POTW only at locations designated by the superintendent, and at such times as are established by the superintendent. Such waste shall not violate section 98-152 or any other requirements established by the city. The superintendent may require septic tank waste haulers to obtain wastewater discharge permits.

(2) The superintendent shall require haulers of industrial waste to obtain wastewater discharge permits. The superintendent may require generators of hauled industrial waste to obtain wastewater discharge permits. The superintendent also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this article.

(3) Industrial waste haulers may discharge loads only at locations designated by the superintendent. No load may be discharged without prior consent of the superintendent. The superintendent may collect samples of each hauled load to ensure compliance with applicable standards. The superintendent may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.

(4) Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

(Code 1996, § 11.04.080)

Sec. 98-159. - WASTEWATER DISCHARGE PERMIT APPLICATION.

(a) *Wastewater analysis.* When requested by the director of utilities, a user must submit information on the nature and characteristics of its wastewater within 30 days of the request. The director of utilities is authorized to prepare a form for this purpose and may periodically require users to update this information.

(b) *Wastewater discharge permit requirement.*

(1) No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the director of utilities, except that a significant industrial user that has filed a timely application pursuant to subsection (c) of this section may continue to discharge for the time period specified therein.

(2) The director of utilities may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this article; this includes recreational vehicles and haulers of wastewater, at applicable discharge fees.

(3) Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this article and subjects the wastewater discharge permittee to the sanctions set out in sections 98-165 through 98-167. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state, and local law.

(c) *Wastewater discharge permit for existing connections.* Any user required to obtain a wastewater discharge permit who was discharging wastewater into the POTW prior to the effective date of the ordinance from which this article is derived and who wishes to continue such discharges in the future, shall, within 45 days after said date, apply to the director of utilities for a wastewater discharge permit in accordance with subsection (e) of this section, and shall not cause or allow discharges to the POTW to continue after 90 days of such effective date except in accordance with a wastewater discharge permit issued by the director of utilities.

(d) *Wastewater discharge permit required for new connections.* Any user required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit, in accordance with subsection (e) of this section, must be filed at least 60 days prior to the date upon which any discharge will begin or recommence.

(e) *Wastewater discharge permit application contents.* All users required to obtain a wastewater discharge permit must submit a permit application. The director of utilities may require all users to submit as part of an application the following information:

- (1) All information required by section 98-161(a)(2);
- (2) Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;
- (3) Number and type of employees, hours of operation, and proposed or actual hours of operation;
- (4) Each product produced by type, amount, process or processes, and rate of production;
- (5) Type and amount of raw materials processed (average and maximum per day);
- (6) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;
- (7) Time and duration of discharges; and
- (8) Any other information as may be deemed necessary by the superintendent to evaluate the wastewater discharge permit application.

Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

(f) *Application signatories and certification.* All wastewater discharge permit applications and user reports must be signed by an authorized representative of the user and contain the following certification statement:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to ensure that qualified personnel

properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

(g) *Wastewater discharge permit decisions.* The director of utilities will evaluate the data furnished by the user and may require additional information. Within 60 days of receipt of a complete wastewater discharge permit application, the director of utilities will determine whether or not to issue a wastewater discharge permit. The director of utilities may deny any application for a wastewater discharge permit which does not meet the requirements of this article or for other valid cause.

(Code 1996, § 11.04.090)

Sec. 98-160. - WASTEWATER DISCHARGE PERMIT ISSUANCE PROCESS.

(a) *Permit duration.* A wastewater discharge permit shall be issued for a specified time period, not to exceed five years from the effective date of the permit. A wastewater discharge permit may be issued for a period less than five years, at the discretion of the director of utilities. Each wastewater discharge permit will indicate a specific date upon which it will expire.

(b) *Permit contents.* A wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the director of utilities to prevent pass through or interference, protect the quality of the water body receiving the water reclamation plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

(1) Wastewater discharge permits must contain:

- a. A statement that indicates wastewater discharge permit duration, which in no event shall exceed five years;
- b. A statement that the wastewater discharge permit is nontransferable without prior notification to RMU in accordance with subsection (e) of this section, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
- c. Effluent limits based on applicable pretreatment standards;
- d. Self monitoring, sampling, reporting, notification, and recordkeeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law; and
- e. A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, state, or local law.

(2) Wastewater discharge permits may contain, but need not be limited to, the following conditions:

- a. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;

- b. Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
- c. Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges;
- d. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;
- e. The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;
- f. Requirements for installation and maintenance of inspection and sampling facilities and equipment;
- g. A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the wastewater discharge permit; and
- h. Other conditions as deemed appropriate by the director of utilities to ensure compliance with this article and state and federal laws, rules, and regulations.

(c) *Appeals.* The director of utilities shall provide public notice of the issuance of a wastewater discharge permit. Any person, including the user, may petition the director of utilities to reconsider the terms of a wastewater discharge permit within 15 working days of notice of its issuance.

- (1) Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.
- (2) In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.
- (3) The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.
- (4) If the director of utilities fails to act within 30 days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit shall be considered final administrative actions for purposes of judicial review.
- (5) Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint with the circuit court for the county within 30 days after receipt of final decision from administrative review.

(d) *Permit modification.* The director of utilities may modify a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

- (1) To incorporate any new or revised federal, state, or local pretreatment standards or requirements;

- (2) To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;
- (3) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- (4) Information indicating that the permitted discharge poses a threat to the POTW, RMU personnel, or the receiving waters;
- (5) Violation of any terms or conditions of the wastewater discharge permit;
- (6) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
- (7) Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;
- (8) To correct typographical or other errors in the wastewater discharge permit; or
- (9) To reflect a transfer of the facility ownership or operation to a new owner or operator.

(e) *Permit transfer.* Wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least 90 days' advance notice to the director of utilities and the director of utilities approves the wastewater discharge permit transfer. The notice to the director of utilities must include a written certification by the new owner or operator which:

- (1) States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;
- (2) Identifies the specific date on which the transfer is to occur; and
- (3) Acknowledges full responsibility for complying with the existing wastewater discharge permit.

Failure to provide advance notice of a transfer renders the wastewater discharge permit void as of the date of facility transfer.

(f) *Permit revocation.* The director of utilities may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

- (1) Failure to notify the director of utilities of significant changes to the wastewater prior to the changed discharge;
- (2) Failure to provide prior notification to the director of utilities of changed conditions pursuant to section 98-161(e);
- (3) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
- (4) Falsifying self-monitoring reports;
- (5) Tampering with monitoring equipment;
- (6) Refusing to allow the director of utilities timely access to the facility premises and records;

- (7) Failure to meet effluent limitations;
- (8) Failure to pay fines;
- (9) Failure to pay sewer charges;
- (10) Failure to meet compliance schedules;
- (11) Failure to complete a wastewater survey or the wastewater discharge permit application;
- (12) Failure to provide advance notice of the transfer of business ownership of a permitted facility;
or
- (13) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this article.

Wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All wastewater discharge permits issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user.

(g) *Permit reissuance.* A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application, in accordance with subsection (e) of this section, a minimum of 90 days prior to the expiration of the user's existing wastewater discharge permit.

(h) *Regulation of waste received from other jurisdictions.*

(1) If another municipality, or user located within another municipality, contributes wastewater to the POTW, the director of utilities shall enter into an intermunicipal agreement with the contributing municipality.

(2) Prior to entering into an agreement required by subsection (h)(1) of this section, the director of utilities shall request the following information from the contributing municipality:

- a. A description of the quality and volume of wastewater discharged to the POTW by the contributing municipality;
- b. An inventory of all users located within the contributing municipality that are discharging to the POTW; and
- c. Such other information as the director of utilities may deem necessary.

(3) An intermunicipal agreement, as required by subsection (h)(1) of this section, shall contain the following conditions:

- a. A requirement for the contributing municipality to adopt a sewer use ordinance which is at least as stringent as this article and local limits which are at least as stringent as those set out in section 98-152(i). The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the city's ordinance or local limits;
- b. A requirement for the contributing municipality to submit a revised user inventory on at least an annual basis;

- c. A provision specifying which pretreatment implementation activities, including wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by the director of utilities; and which of these activities will be conducted jointly by the contributing municipality and the director of utilities;
- d. A requirement for the contributing municipality to provide the director of utilities with access to all information that the contributing municipality obtains as part of its pretreatment activities;
- e. Limits on the nature, quality, and volume of the contributing municipality's wastewater at the point where it discharges to the POTW;
- f. Requirements for monitoring the contributing municipality's discharge;
- g. A provision ensuring the director of utilities access to the facilities of users located within the contributing municipality's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the director of utilities; and
- h. A provision specifying remedies available for breach of the terms of the intermunicipal agreement.
- i. When the director of utilities deems that the contributing municipality has primary responsibility for permitting, compliance monitoring, or enforcement, the intermunicipal agreement will specify that the city has the right to take legal action to enforce the terms of the contributing municipality's ordinance or to impose and enforce pretreatment standard and requirements directly against noncompliant dischargers in the event the contributing jurisdiction is unable or unwilling to take such action.

(Code 1996, § 11.04.100)

Sec. 98-161. - REPORTING REQUIREMENTS.

(a) *Baseline monitoring reports.*

(1) Within either 180 days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the superintendent a report which contains the information listed in subsection (a)(2) of this section. At least 90 days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the superintendent a report which contains the information listed in subsection (a)(2) of this section. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

(2) Users described above shall submit the information set forth below:

- a. *Identifying information.* The name and address of the facility, including the name of the operator and owner.
- b. *Environmental permits.* A list of any environmental control permits held by or for the

facility.

c. *Description of operations.* A brief description of the nature, average rate of production, and standard industrial classifications of the operations carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.

d. *Flow measurement.* Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).

e. *Measurement of pollutants.*

1. The categorical pretreatment standards applicable to each regulated process.

2. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the superintendent, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and longterm average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in section subsection (j) of this section.

3. Sampling must be performed in accordance with procedures set out in section subsection (k) of this section.

f. *Certification.* A statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

g. *Compliance schedule.* If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in subsection (b) of this section.

h. *Signature and certification.* All baseline monitoring reports must be signed and certified in accordance with section 98-159(f).

(b) *Compliance schedule progress reports.* The following conditions shall apply to the compliance schedule required by subsection (a)(2)g of this section:

- (1) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);

- (2) No increment referred to above shall exceed nine months;

(3) The user shall submit a progress report to the superintendent no later than 14 days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and

(4) In no event shall more than nine months elapse between such progress reports to the superintendent.

(c) *Reports on compliance with categorical pretreatment standard deadline.* Within 90 days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the superintendent a report containing the information described in subsection (a)(2)e of this section. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's longterm production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with section 98-159(f).

(d) *Periodic compliance reports.*

(1) All significant industrial users shall, at a frequency determined by the superintendent but in no case less than twice per year (in June and December), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with section 98-159(f).

(2) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(3) If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the superintendent, using the procedures prescribed in subsection (k) of this section, the results of this monitoring shall be included in the report.

(4) RMU reserves the right to conduct sampling and analysis of discharges from all users and persons.

(e) *Reports of changed conditions.* Each user must notify the director of utilities of any planned significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least 45 days before the change.

(1) The director of utilities may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under section 98-159(e).

(2) The director of utilities may issue a wastewater discharge permit under section 98-159(g) or modify an existing wastewater discharge permit under section 98-160(d) in response to changed conditions or anticipated changed conditions.

(3) For purposes of this requirement, significant changes include, but are not limited to, flow increases or decreases of 20 percent or greater, and the discharge of any previously unreported pollutants.

(f) *Reports of potential problems.*

(1) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, or a slug load, that may cause potential problems for the POTW, the user shall immediately telephone and notify the superintendent of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

(2) Within five working days following such discharge, the user shall, unless waived by the superintendent, submit a detailed written report describing the causes of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this article.

(3) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in subsection (f)(1) of this section. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.

(g) *Reports from unpermitted users.* All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the superintendent as the superintendent may require.

(h) *Notice of violation/repeat sampling and reporting.* If sampling performed by a user indicates a violation, the user must notify the superintendent within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the superintendent within 30 days after becoming aware of the violation. The user is not required to resample if the superintendent monitors at the user's facility at least once a month, or if the superintendent samples between the user's initial sampling and when the user receives the results of this sampling.

(i) *Notification of the discharge of hazardous waste.*

(1) Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA regional waste management division director, and state hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than 100 kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following 12 months. All notifications must take place no later than 180 days after the discharge commences. Any notification under this subsection need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under subsection (e) of

this section. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of subsections (a), (b), (c) and (d) of this section.

(2) Dischargers are exempt from the requirements of subsection (i)(1) of this section during a calendar month in which they discharge no more than 15 kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than 15 kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.

(3) In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the superintendent, the EPA regional waste management waste division director, and state hazardous waste authorities of the discharge of such substance within 90 days of the effective date of such regulations.

(4) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(5) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this article, a permit issued thereunder, or any applicable federal or state law.

(j) *Analytical requirements.* All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA.

(k) *Sample collection.*

(1) Except as indicated in subsection (k)(2) of this section, the user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the superintendent may authorize the use of time proportional sampling or a minimum of four grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

(2) Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

(l) *Timing.* Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

(m) *Record keeping.* Users subject to the reporting requirements of this article shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this article and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling, and the name of the person taking the samples; the dates

analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three years. This period shall be automatically extended for the duration of any litigation concerning the user or the city, or where the user has been specifically notified of a longer retention period by the superintendent.

(Code 1996, § 11.04.110)

Sec. 98-162. - COMPLIANCE MONITORING.

(a) *Right of entry for inspection and sampling.* The director of utilities shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this article and any wastewater discharge permit or order issued hereunder. Users shall allow the director of utilities ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

(1) Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the director of utilities will be permitted to enter without delay for the purposes of performing specific responsibilities.

(2) The director of utilities shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.

(3) The director of utilities may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated at six-month intervals to ensure their accuracy.

(4) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the director of utilities and shall not be replaced. The costs of clearing such access shall be born by the user.

(5) Unreasonable delays in allowing the director of utilities access to the user's premises shall be a violation of this article.

(b) *Search warrants.* If the director of utilities has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this article, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the city designed to verify compliance with this article or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the director of utilities may seek issuance of a search warrant from the circuit court of the county.

(Code 1996, § 11.04.120)

Sec. 98-163. - CONFIDENTIAL INFORMATION.

Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from the director of utilities' inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the director of utilities, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade

secrets under applicable state law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

(Code 1996, § 11.04.130)

Sec. 98-164. - PUBLICATION OF NAMES OF USERS IN SIGNIFICANT NONCOMPLIANCE.

The director of utilities shall publish annually, in the largest daily newspaper published in the municipality where the POTW is located, a list of the users which, during the previous 12 months, were in significant noncompliance with applicable pretreatment standards and requirements. The term "significant noncompliance" shall mean:

- (1) Chronic violations of wastewater discharge limits, defined here as those in which 66 percent or more of wastewater measurements taken during a six-month period exceed the daily maximum limit or average limit for the same pollutant parameter by any amount;
- (2) Technical review criteria (TRC) violations, defined here as those in which 33 percent or more of wastewater measurements taken for each pollutant parameter during a six-month period equals or exceeds the product of the daily maximum limit or the average limit multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);
- (3) Any other discharge violation that the director of utilities believes has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;
- (4) Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the director of utilities' exercise of its emergency authority to halt or prevent such a discharge;
- (5) Failure to meet, within 90 days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- (6) Failure to provide, within 30 days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- (7) Failure to accurately report noncompliance; or
- (8) Any other violations which the director of utilities determines will adversely affect the operation or implementation of the local pretreatment program.

(Code 1996, § 11.04.140)

Sec. 98-165. - ADMINISTRATIVE ENFORCEMENT REMEDIES.

(a) *Notification of violation.* When the director of utilities finds that a user has violated, or continues to violate, any provision of this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the director of utilities may serve upon that user a written notice of violation. Within ten working days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the director of utilities. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the director of utilities to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

(b) *Consent orders.* The director of utilities may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to subsections (d) and (e) of this section and shall be judicially enforceable.

(c) *Show cause hearing.* The director of utilities may order a user which has violated, or continues to violate, any provision of this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the director of utilities and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least 15 days prior to the hearing. Such notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

(d) *Compliance orders.* When the director of utilities finds that a user has violated, or continues to violate, any provision of this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the director of utilities may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

(e) *Cease and desist orders.* When the director of utilities finds that a user has violated, or continues to violate, any provision of this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the director of utilities may issue an order to the user directing it to cease and desist all such violations and directing the user to:

- (1) Immediately comply with all requirements; and

(2) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

(f) *Administrative fines.*

(1) When the director of utilities finds that a user has violated, or continues to violate, any provision of this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the director of utilities may fine such user in an amount not to exceed the maximum penalties and fines authorized under applicable state and municipal state and federal laws. Such fines shall be assessed on a per violation, per day basis. In the case of monthly or other longterm average discharge limits, fines shall be assessed for each day during the period of violation.

(2) Unpaid charges, fines, and penalties shall, after 30 calendar days, be assessed an additional penalty of ten percent of the unpaid balance, and interest shall accrue thereafter at a rate of 1.5 percent per month. The director of utilities reserves the right to place a lien against the property in violation for unpaid charges, fines, and penalties.

(3) Users desiring to dispute such fines must file a written request for the director of utilities to reconsider the fine along with full payment of the fine amount within 30 days of being notified of the fine. Where a request has merit, the director of utilities may convene a hearing on the matter. In the event the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user. The director of utilities may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

(4) Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user.

(g) *Emergency suspensions.* The director of utilities may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The director of utilities may also immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.

(1) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the director of utilities may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The director of utilities may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the director of utilities that the period of endangerment has passed, unless the termination proceedings in subsection (h) of this section are initiated against the user.

(2) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the director of utilities prior to the date of any show cause or termination hearing under subsections (c) and (h) of this section.

Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

(h) *Termination of discharge.* In addition to the provisions in section 98-160(f), any user who violates the following conditions is subject to discharge termination:

- (1) Violation of wastewater discharge permit conditions;
- (2) Failure to accurately report the wastewater constituents and characteristics of its discharge;
- (3) Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
- (4) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling; or
- (5) Violation of the pretreatment standards in section 98-152

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under subsection (c) of this section why the proposed action should not be taken. Exercise of this option by the director of utilities shall not be a bar to, or a prerequisite for, taking any other action against the user.

(Code 1996, § 11.04.150)

Sec. 98-166. - JUDICIAL ENFORCEMENT REMEDIES.

(a) *Injunctive relief.* When the director of utilities finds that a user has violated, or continues to violate, any provision of this article, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the director of utilities may petition the county circuit court through the city attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this article on activities of the user. The director of utilities may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

(b) *Civil penalties.*

- (1) A user who has violated, or continues to violate, any provision of this article, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the city for a maximum civil penalty of \$1,000.00 per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.
- (2) The director of utilities may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by RMU.
- (3) In determining the amount of civil liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation,

corrective actions by the user, the compliance history of the user, and any other factor as justice requires.

(4) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

(c) *Criminal prosecution.*

(1) A user who willfully or negligently violates any provision of this article, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine, up to the maximum allowed under state law, per violation, per day, or imprisonment for not more than six months, or both.

(2) A user who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of at least the maximum fine allowable under state law, or be subject to imprisonment for not more than six months, or both. This penalty shall be in addition to any other cause of action for personal injury or property damage available under state law.

(3) A user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this article, wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this article shall, upon conviction, be punished by a fine, up to the maximum fine allowable under state law, per violation, per day, or imprisonment for not more than six months, or both.

(4) In the event of a second conviction, a user shall be punished by a fine, up to the maximum fine allowable under state law per violation, per day, or imprisonment for not more than six months, or both.

(d) *Remedies nonexclusive.* The remedies provided for in this article are not exclusive. The director of utilities may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with RMU's enforcement response plan. However, the director of utilities may take other action against any user when the circumstances warrant. Further, the director of utilities is empowered to take more than one enforcement action against any noncompliant user.

(Code 1996, § 11.04.160)

Sec. 98-167. - SUPPLEMENTAL ENFORCEMENT ACTIONS.

(a) *Performance bonds.* The director of utilities may decline to issue or reissue a wastewater discharge permit to any user who has failed to comply with any provision of this article, a previous wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, unless such user first files a satisfactory bond, payable to the city, in a sum not to exceed a value determined by the director of utilities to be necessary to achieve consistent compliance.

(b) *Liability insurance.* The director of utilities may decline to issue or reissue a wastewater discharge permit to any user who has failed to comply with any provision of this article, a previous wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, unless the user first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge.

(c) *Water supply severance.* Whenever a user has violated or continues to violate any provision of this article, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, water service to the user may be severed. Service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply.

(d) *Public nuisances.* A violation of any provision of this article, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, is hereby declared a public nuisance and shall be corrected or abated as directed by the director of utilities. Any persons creating a public nuisance shall be subject to the provisions of this Code governing such nuisances, including reimbursing RMU for any costs incurred in removing, abating, or remedying said nuisance.

(e) *Informant rewards.* The director of utilities may pay up to \$500.00 for information leading to the discovery of noncompliance by a user.

(f) *Ineligibility for city contracts.* Users which have not achieved compliance with applicable pretreatment standards and requirements are not eligible to receive a contractual award for the sale of goods or services to the city. Existing contracts for the sale of goods or services to the city held by a user found to be in significant noncompliance with pretreatment standards or requirements may be terminated by the city at the recommendation of the director of utilities.

(Code 1996, § 11.04.170)

Sec. 98-168. - AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS.

(a) *Upset.*

(1) For the purposes of this section, the term "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(2) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of subsection (a)(3) of this section are met.

(3) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

- a. An upset occurred and the user can identify the causes of the upset;
- b. The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures; and
- c. The user has submitted the following information to the superintendent within 24 hours of becoming aware of the upset if this information is provided orally, a written submission must be provided within five days:
 1. A description of the indirect discharge and cause of noncompliance.
 2. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue.

3. Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
4. In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.
5. Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.
6. Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

(b) *Prohibited discharge standards.* A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in section 98-152(f)(1) or the specific prohibitions in section 98-152(f)(2)c—h. and j—r if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

- (1) A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or
- (2) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the POTW was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

(c) *Bypass.*

- (1) For the purposes of this section:

Bypass means the intentional diversion of wastestreams from any portion of a user's treatment facility.

Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

- (2) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of subsections (c)(3) and (4) of this section.
- (3). If a user knows in advance of the need for a bypass, it shall submit prior notice to the superintendent, at least ten days before the date of the bypass, if possible.

b. A user shall submit oral notice to the superintendent of an unanticipated bypass that

exceeds applicable pretreatment standards within 24 hours from the time it becomes aware of the bypass. A written submission shall also be provided within five days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The superintendent may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

(4). Bypass is prohibited, and the superintendent may take an enforcement action against a user for a bypass, unless:

1. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
2. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
3. The user submitted notices as required under subsection (c)(3) of this section.

b. The superintendent may approve an anticipated bypass, after considering its adverse effects, if the superintendent determines that it will meet the three conditions listed in subsection (4)a of this subsection.

(Code 1996, § 11.04.180)

Sec. 98-169. - WASTEWATER TREATMENT AND SURCHARGE RATES.

Wastewater treatment and surcharge rates shall be as recommended by the director of utilities and set by the city.

(Code 1996, § 11.04.190)

Sec. 98-170. - Pretreatment program fees.

RMU may adopt reasonable fees for reimbursement of costs of setting up and operating RMU's pretreatment program which may include:

- (1) Fees for wastewater discharge permit applications including the cost of processing such applications;
- (2) Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a user's discharge, and reviewing monitoring reports submitted by users;
- (3) Fees for reviewing and responding to accidental discharge procedures and construction;
- (4) Fees for filing appeals; and

(5) Other fees as RMU may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this article and are separate from all other fees, fines, and penalties chargeable by RMU.

(Code 1996, § 11.04.200(A))

Secs. 98-171—98-220. - RESERVED.

ARTICLE V. - ELECTRIC SERVICE

- Sec. 98-221. - General service regulations.
- Sec. 98-222. - Transformer installations on customer's property.
- Sec. 98-223. - Overhead primary service connections.
- Sec. 98-224. - Overhead secondary service connections.
- Sec. 98-225. - Installation of secondary service connections.
- Sec. 98-226. - Underground service connections.
- Sec. 98-227. - Underground primary service connection defined.
- Sec. 98-228. - Installation of underground primary service connections.
- Sec. 98-229. - Underground primary service connections to primary distribution systems.
- Sec. 98-230. - Underground primary service connections to overhead distribution centers.
- Sec. 98-231. - Underground secondary service connection defined.
- Sec. 98-232. - Underground secondary service connection to underground distribution system.
- Sec. 98-233. - Underground secondary service connections to overhead distribution systems.
- Sec. 98-234. - Installation of underground secondary service connections.
- Sec. 98-235. - Service entrance equipment.
- Sec. 98-236. - Grounding.
- Sec. 98-237. - Metering.
- Sec. 98-238. - Types of metering.
- Sec. 98-239. - Metering sequence.
- Sec. 98-240. - Location of metering equipment.
- Sec. 98-241. - Installation of meters.
- Sec. 98-242. - Equipment causing interference or requiring additional facilities.
- Sec. 98-243. - Single-phase service.
- Sec. 98-244. - Three-phase service.
- Sec. 98-245. - Starting currents.
- Sec. 98-246. - Interfering loads.
- Sec. 98-247. - Power factor.
- Sec. 98-248. - Miscellaneous equipment.
- Sec. 98-249. - Optional or nonstandard facilities.
- Sec. 98-250. - Furnishing of underground service facilities.
- Sec. 98-251. - Multiple occupancy developments.
- Sec. 98-252. - Single-family developments.
- Sec. 98-253. - Standard charges for residential underground service; charges for underground distribution systems.
- Sec. 98-254. - Charges for underground service connections.
- Sec. 98-255. - Street lighting construction.
- Sec. 98-256. - Pole attachments.
- Sec. 98-257. - Aggregation of retail customer demand response.
- Sec. 98-258. - Ancillary services provided by demand response resources.

Sec. 98-221. - GENERAL SERVICE REGULATIONS.

(a) *Consumer information.* Information desired from RMU concerning subject matters covered in this article may be obtained by telephone, by mail, or in person.

(b) *Application for service.* Any consumer desiring electric service shall make application at the RMU business office, using forms furnished by RMU. A transfer of service from one premise to another within the area served by RMU is not viewed as a discontinuance of service by RMU, the character of service remains the same, and the application should be for transfer of service.

(c) *Types of service furnished.*

(1) It is the customer's responsibility to secure information from RMU pertaining to the types of service available at a particular location. This information should be obtained prior to completion of design plans for the customer's electrical system.

(2) RMU furnishes 60 hertz (cycle) alternating current service. All types of service are not available in every locality. The type of service which will be provided at a particular location is ordinarily determined by one or more of the following conditions:

- a. Type of service available at that location.
- b. Type of load to be served.
- c. Size of load to be served.

See sections 98-242 through 98-248 for service limitations due to the customer's utilization equipment.

(3) The standard types of service and nominal secondary utilization voltages for customers are as follows:

- a. Single-phase:
 1. 120/240 volt, three-wire.
 2. 120/208 volt, three-wire (from a three-phase, four-wire wye secondary system).
- b. Three-phase:
 1. 120/208 volt, four-wire wye.
 2. 120/240 volt, four-wire delta.
 3. 277/480 volt, four-wire wye. (Ordinarily not available for loads having maximum demands below 50 kilowatts.)
 4. 240/480 volt, four-wire delta. (Ordinarily not available for loads having maximum demands below 50 kilowatts.)

Service at these voltages will be provided from a grounded source except that service at 480 volts may be provided from an ungrounded source under certain conditions. Ungrounded 480-volt service will not be provided to any customer system not equipped with ground

detectors. If present, a neutral conductor will be grounded by RMU. If, however, a customer requests that the neutral conductor not be so grounded in order that the customer can install impedance grounding facilities, RMU will provide an isolated neutral if RMU deems such neutral to be practical and if the customer provides, at customer expense, an acceptable ground fault detection and switching equipment installation.

(4) Voltages specified in this section are nominal and variations in voltages from nominal values are acceptable within limits. Voltage variations measured at the customer's service terminals shall normally not exceed for a period longer than one minute:

- a. Five and eight-tenths percent above or below nominal voltage for service rendered for a lighting purpose. On RMU's 120V standard, the range of acceptable voltage is 127 volts maximum and 113 volts minimum.
- b. Ten percent above or below nominal voltage for service rendered for a power purpose.

(5) For customers having maximum demands in excess of 300 kilowatts but not greater than 4,500 kilowatts, the standard secondary utilization voltage shall normally be three-phase, 480 volts or higher. For customers having maximum demands in excess of 4,500 kilowatts the standard utilization voltage shall normally be primary three-phase, 7,960/13,800 volts or higher.

(6) Customers having installations requiring service voltages other than those normally available as described in subsections (c)(3)a and b.1—6 of this section are requested to consult RMU for more complete information. Service may also be made available at primary three-phase voltages of 2,400/4,160 or 7,960/13,800 volts or higher where required by the customer's needs (i.e., for large loads, higher voltage utilization equipment, etc.).

(d) *Primary voltages.*

(1) The voltages of lines entering the customer's premises shall be determined by RMU on the basis of the size and characteristics of the customer's load and its relation to the facilities located in or projected for the area in which the customer is served. RMU may require the customer to accept a change in the voltage of some or all of the lines entering the premises when such a change is necessary either to prevent undue interference with service to other customers by reason of a change in the characteristics of the customer's load or to permit RMU to serve the customer more economically. In the event that a change is required for the latter reason, the following rules shall apply:

- a. The estimated costs of the facilities required on the customer's property to enable the customer to receive service at the new voltage including, for example, the cost of foundations for a new electric service station and the cost of connecting a new electric service station to existing points of delivery, shall be apportioned between RMU and the customer as follows:

- 1. RMU shall bear the cost of facilities required solely to provide for existing load which is served from the lines to be replaced. For the purposes of this subsection, the term "existing load" means either:
 - i. The demand RMU has contracted to serve from the lines to be replaced; or
 - ii. If higher, or if no contract demand is applicable, the highest demand established by the customer on such lines within the three-year period prior to RMU's request that a change in voltage be accepted.

2. RMU shall bear a percentage of the cost of facilities to be used jointly for service to existing and proposed loads equal to the percentage of such loads represented by existing load; the customer shall bear the balance.

3. The customer shall bear the cost of facilities required solely to serve proposed additional load or with merely incidental usefulness for existing load.

4. If the customer has once become entitled to reimbursement by reason of an RMU-initiated change to a higher voltage, then the customer shall pay all facilities charges for a subsequent change to the higher voltage at a second or additional point of delivery.

b. The foregoing provisions with respect to the apportionment of costs shall not affect responsibility for the installation, ownership or maintenance of facilities. In the case of facilities to be installed, owned and maintained by the customer under RMU's established service policy, the portion of the estimated costs to be borne by RMU shall be paid by RMU to the customer. In the case of facilities to be installed, owned and maintained by RMU under its established service policy, the estimated costs to be apportioned shall be limited to those which the customer would ordinarily pay as optional facilities charges (see subsection (c) of this section) and the customer shall pay RMU the portion of such estimated costs which the customer is to bear under the rules set forth above.

c. All cost estimates shall be based upon the most economical service plan consistent with good engineering practice as determined by RMU. The customer may choose delivery points different from those selected by RMU or arrangements of his facilities different from those indicated by such service plan, but any additional costs resulting from the customer's choice shall be borne by the customer.

d. All cost computations shall include an appropriate allowance for any salvage available from facilities on the customer's property to be replaced. In lieu of reimbursing the customer for the cost of facilities which the customer requires to reestablish service at existing points of delivery, RMU may transfer to the customer, in serviceable condition, facilities on the customer's property previously used by RMU to provide such service. No payment will be made by RMU for land required for the location of an electric service station.

(2) If it is necessary to convert a customer's facilities to higher voltages to avoid interfering with service to other customers, the cost of such conversions shall be borne by RMU and the customer in accordance with the other provisions of this schedule and of the applicable rate schedule without regard to the provisions set forth in this subsection (d).

(e) *Extensions.* Where an extension of RMU's existing distribution system is necessary in order to furnish service, an advance deposit or optional facilities (see subsection (k) of this section) payment to cover the cost of the extension may be required in accordance with the provisions in RMU's schedules of rates. The customer is advised to make the necessary arrangements with RMU for such an extension before proceeding with the design of the installation on the premises.

(f) *Temporary and seasonal service.*

(1) When service of a temporary nature is required, RMU's estimated cost of furnishing, installing and removing facilities provided for such service shall be paid by the customer in accordance with the provisions in RMU's schedules of rates.

(2) When the customer requires use of electric service to be seasonal and requests RMU to disconnect or remove and reconnect or reinstall RMU facilities, the customer shall pay to RMU the estimated cost, including taxes, of any such work in accordance with RMU's rates. RMU may elect to use flat charges for work performed hereunder provided they do not exceed RMU's unit costs for such work.

(3) Temporary or seasonal service is not available for service to installations requiring standby service.

(g) *Crossing adjacent property.* If, in order to supply service to the customer, it is necessary to cross adjacent property with service conductors, then the customer shall be responsible for securing and maintaining the consent of the owner of the adjacent property.

(h) *Permits, inspections, and approvals.* The customer is responsible for obtaining all permits and approvals that are required by governmental authorities. Inspection of the customer's electric facilities for compliance with electrical codes is in the province of governmental authorities. In localities where governmental approval is required prior to providing service to the customer's installation, service will not be provided by RMU until such approval is obtained by the customer. Any costs or fees incurred in obtaining permits, inspections, or approvals shall be at the customer's expense. If a governmental authority requires RMU to disconnect electric service to a customer because of violation of such authority's electrical code, RMU will restore service only upon approval by the governmental authority to do so and upon payment by such customer of RMU's charges for such disconnection and restoration of service.

(i) *Service requirements and examination.* All wiring and other electrical equipment furnished by the customer, on the customer's premises, or connecting the premises with the company's service, should be suitable for such purposes, and shall be installed and maintained by the customer at all times in conformity with the requirements of the National Fire Protection Association and the properly constituted authorities and shall also be installed and maintained in conformance with the specifications and requirements contained in their book. Examination of the customer's equipment by RMU, however, shall not be assumed as evidence of compliance with all applicable codes.

(j) *Tampering.* RMU shall have the right to discontinue its electric service to the customer and furthermore to also remove its property from the customer's premises upon prior written notice any time RMU discovers evidence of tampering with any meter or the wiring leading from RMU's service connection to any meter, with the effect of reducing the registration of the customer's demand or energy use. The customer will be required to pay the amount of any RMU revenue loss attributable to such tampering in addition to other possible expenses and/or deposits as outlined in RMU's "Terms and Conditions" under the section entitled "Right of Cut-off."

(k) *Standard and optional facilities defined.*

(1) The term "standard facilities" refers to an installation for a premises, in which RMU shall furnish facilities adequate to supply and meter at a single point of delivery electricity for a normal load equal to the maximum kilowatt demand (as defined in the applicable rate) of the customer at a power factor of not less than 95 percent lagging.

(2) The term "optional facilities," as used herein, applies to those facilities other than or in addition to those that have been determined by RMU to be a standard installation. Such facilities will be furnished at the customer's expense in accordance with the provisions in section 98-249

(l) *Alteration or change in size of installation.* When alterations to or changes in the size of a customer's installation are contemplated, RMU should be notified as far in advance as possible so that arrangements can be made to facilitate any necessary changes in RMU's service and metering facilities. RMU will upgrade overhead facilities at no charge providing that additional load requirements warrant the upgraded facilities. Otherwise, additional charges may be required from the customer.

(m) *Auxiliary or reserve service.* When a customer has privately owned equipment for power production purposes on the customer's premises and also requires electric service from RMU, such electric service will be supplied by RMU in accordance with its schedule of rates. The customer shall consult RMU in advance regarding the conditions applicable for such service.

(n) *Customer-owned facilities.* When the customer furnishes, installs, owns, or maintains facilities used in conjunction with, or in lieu of, those provided by RMU for the connection and supply of electric service, such facilities shall be subject to RMU approval with regard to compatibility and protection of RMU facilities.

(o) *Resale or redistribution of electricity.* RMU's rate schedule prohibits the furnishing of electricity by a customer to a third person or persons, except under certain special conditions covered in detail in such schedule. It is therefore necessary that each individual occupant in a new or substantially remodeled and/or rewired premises be provided with a separate meter unless RMU determines that a special condition applies.

(p) *Community transformer installation.* A community transformer installation is generally a transformer installation (overhead or underground) not falling within the rule book designation of an electric service station, customer transformer station or a residential service station. Community transformer installations are available for service to more than one customer and include all installations on public property or on rights-of-way or easements acquired by RMU to serve the general public.

(Code 1996, § 11.05.010)

Sec. 98-222. - TRANSFORMER INSTALLATIONS ON CUSTOMER'S PROPERTY.

(a) *Generally.*

(1) Where line voltage (2,400 volts or higher) is reduced on the customer's property to the service voltage required by the customer, the facilities necessary to accommodate the transformer or transformers will be either:

- a. An electric service station, if furnished, installed, owned and maintained by RMU; or
- b. A customer transformer station if furnished, installed, owned and maintained by the customer. Such facilities may be of the pole-mounted or ground type.

(2) If the customer is served at a secondary voltage from RMU facilities installed in public ways, easements or other RMU rights-of-way, such facilities are considered to be community facilities.

If a customer, qualifying for a secondary voltage different from that available from the community facilities, requires such voltage or if the size or type of the customer's load precludes the use of such community facilities, RMU will serve the customer as standard from a transformer located on the customer's property. If the customer does not provide space on the property for an electric service station, RMU will serve the customer from community facilities by installing the transformer and related equipment in the distribution system, revising the system to accommodate the transformer installation,

installing any secondary wires or cables in the system to supply the customer and providing the secondary service connection; however, the customer shall pay the amount by which the cost of such distribution facilities, revisions and services exceeds the cost of an electric service station on the customer's property.

(b) *Electric service station.*

(1) An electric service station is an installation on private property consisting of a transformation from a supply voltage to the customer's utilization voltage. The equipment is owned and maintained by RMU. An electric service station may include, in addition to the facilities to accommodate the transformer or transformers, facilities to accommodate primary metering equipment at the same location or within one span thereof furnished by RMU in accordance with sections 98-238 through 98-241. Where the customer's utilization requires electricity to be distributed on the premises at line voltage (2,400 volts or higher), the primary metering equipment facilities may then of themselves constitute the electric service station.

(2) RMU will install at its expense, where consistent with good engineering practice, a standard pole-mounted or ground-type electric service station for nonresidential customers. The installation of a standard electric service station may include modification of the transformer secondary terminals necessary to connect the customer's cables (except as noted in subsection (b)(3) of this section), secondary bus where RMU deems it necessary, secondary cable connectors, and attaching the connectors to the customer's cables and to the transformer or secondary bus. When electric service station facilities other than those considered standard are required, RMU will furnish, install, own and maintain such facilities in accordance with the provisions for furnishing optional facilities.

(3) If the number or size of secondary service connection cables and/or conduit required by the customer exceeds the connection capability of the compartmental transformer, the customer shall furnish, install, own and maintain a lockable junction cabinet approved by RMU and complying with all applicable codes at the electric service station. RMU shall furnish, install, own and maintain (subject to optional facilities) the necessary cables between the transformer and the junction cabinet.

(4) The customer shall provide an electric service station location acceptable to RMU and shall further provide, as required, installation of concrete foundations, fences, fireproof enclosures, ventilating, lighting, barriers, drainage facilities, and the like, all in accordance with applicable local codes and RMU's specifications.

(c) *Customer transformer station.*

(1) A customer transformer station comprises customer-owned facilities to accommodate transformers used to reduce the line voltage to the customer's service voltage.

(2) Nonresidential customers shall provide a customer transformer station if:

a. The customer elects to own the transformers necessary to reduce the line voltage; or

b. The transformers are connected to primary lines which extend beyond an electric service station at which there is primary metering. If the size of the load within a single building is such that primary metering is more practical than secondary metering, RMU may provide primary lines and electric service stations on the load side of the primary metering installation in accordance with the provisions for furnishing optional facilities.

Standard transformers and protective devices installed in conjunction with a customer transformer station provided by a nonresidential customer may be furnished and owned by RMU, in accordance with the provisions for furnishing optional facilities, but shall be installed or removed by the customer.

(d) *Transportation of transformers.* Where an electric service station, customer transformer station or residential service station is accessible to the company's truck, transformers will be transported to the station location. Where such a station is not easily accessible, any additional moving which may be necessary to place transformers in position for installation will be the customer's responsibility. The transformers will be installed by RMU in an electric service station or residential service station and by the customer in a customer transformer station.

(e) *Facilities furnished by customer.* All electric service facilities located on the customer's premises on the load side of an electric service station, except secondary metering equipment and standard transformers, shall generally be furnished, installed, owned and maintained by the customer. In those cases where the supply from an electric service station is 480 volts or less, the customer may, in preference to a cable and conduit installation, choose to install bus bars. If the customer so chooses, an insulated bus configuration furnished by the customer must terminate in a RMU approved manner. In such cases, RMU, in accordance with the provisions for furnishing optional facilities set forth in section 98-249, will furnish, install, own and maintain the facilities, including the copper bus bar, necessary to connect the customer's bus bars to RMU's transformers.

(Code 1996, § 11.05.020)

Sec. 98-223. - OVERHEAD PRIMARY SERVICE CONNECTIONS.

(a) *Definition.* An overhead primary service connection is that portion of the overhead supply conductors, with supports if required, between RMU's primary distribution system (2,400 volts and above) and an electric service station or a residential service station.

(b) *Nonresidential customers.* RMU will furnish an overhead primary service connection extending from RMU's overhead distribution system to the customer's electric service station. If required, up to two poles and three spans will be provided as standard facilities. If the primary service connection is longer than three spans, RMU will furnish, install, own and maintain the portion over two poles and three spans in accordance with the provisions for furnishing optional facilities pursuant to section 98-249. The length of spans shall not be in excess of that permitted by good engineering practice and RMU standards applicable to the voltage level of such connection.

(c) *Residential customers.*

(1) RMU will furnish an overhead primary service connection extending from RMU's overhead distribution system to the first point of attachment on private property, which point is normally on the customer's premises. The length of such connection shall not be in excess of that permitted by good engineering practice and RMU standards applicable to the voltage of such connection.

(2) If RMU's distribution system is across the street or highway from the customer's premises and an additional pole on the customer's side of the street or highway is required to assure proper clearance over the highway, CATV and telephone circuits, such pole will be provided by RMU as part of its system. If a pole which has been installed by the customer to provide proper clearance requires replacement, such pole will be replaced, owned and maintained by RMU at its expense, generally by installation on a street or highway right-of-way (subject to approval by the proper

governmental authorities).

(3) In case a residential service station is located more than one span from RMU's overhead distribution system, the customer shall furnish, install, own and maintain the remainder of the overhead primary service connection including the first support on private property.

(d) *Customer-owned primary service connection.* When the customer installs the remainder of an overhead primary service connection, the customer should consult RMU for detailed information regarding its installation. Customer-owned facilities shall be installed in accordance with applicable local codes and RMU specifications and shall be suitable for connection to the portion of the service connection supplied by RMU. When practical, RMU will install, at its expense, suitable line protection equipment at the point at which the service connection is tapped to RMU's distribution system.

(e) *Clearances.* For service connections carrying a voltage of 2,400 volts or higher, RMU should be consulted for clearance requirements.

(Code 1996, § 11.05.030)

Sec. 98-224. - OVERHEAD SECONDARY SERVICE CONNECTIONS.

(a) *Definition.* An overhead secondary service connection is that portion of the overhead supply conductors, with supports if required (see section 98-225(d)(2)), between RMU's secondary distribution system (480 volts and below), an electric service station, a customer transformer station, or a residential service station and the customer's service entrance equipment.

(b) *All classes of customers.*

(1) Where required, RMU will furnish a service drop to a customer's premises. A service drop is that portion of an overhead secondary service connection between a pole designated by RMU in the distribution system and a point of attachment on the customer's property. The length of a service drop will be determined by RMU on the basis of the conductor size required but in no case shall the length exceed 135 feet.

(2) If RMU's distribution system is across the street or highway from the customer's premises and an additional pole on the customer's side of the street or highway is required to assure proper clearances over the highway or CATV and telephone circuits, such pole will be provided by RMU as part of its system. If a pole which has been installed by the customer to provide for such proper clearances requires replacement, such pole will be replaced, owned, and maintained by RMU at its expense, generally by installation on a street or highway right-of-way.

(3) Where a service connection is not longer than the allowable length of a service drop and only one intermediate support is required for clearance or other reasons, such service connection shall be considered a service drop and the customer shall furnish, install, own and maintain the intermediate support.

(4) Where a service connection is either longer than the 135-foot standard allowable length of a service drop or requires more than one intermediate support, the service drop is the portion of the connection between RMU's distribution system and the first point of attachment on the customer's property. The remainder of the service connection, including the first support on private property, shall be furnished, installed, owned and maintained by the customer.

(5) If the service head is located within four feet of a RMU pole, no service attachment is required

and RMU will attach the service drop wires directly to the service run wires.

(6) Where the supply to a premises is single-phase only, one single-phase service drop will be furnished as standard.

(7) A multiple-occupancy building normally shall be treated as a single premises with respect to the number of service drops which will be furnished, installed, owned and maintained by RMU; however, in certain instances RMU may elect to provide additional service drops to a building. Where two or more multiple-occupancy buildings are located on the same parcel of real estate, each building shall be considered as a single premises for the purposes of this subsection.

(c) *Customer-owned secondary service connection.* Where intermediate support is required for the service drop, or where the service connection must be extended beyond the service drop, the customer should consult with RMU for detailed information regarding the installation of such support or extension. A support to which a service drop is attached shall be located and installed by the customer as required by RMU and shall be of an approved size and type.

(Code 1996, § 11.05.032)

Sec. 98-225. - INSTALLATION OF SECONDARY SERVICE CONNECTIONS.

(a) *Service attachment defined.* A service attachment is a device used to secure an overhead secondary service connection to a building or other structural support on the customer's premises. A service attachment may consist of house knobs, fork bolts, or other device depending on RMU's requirements.

(b) *Location.*

(1) The service attachment shall be located at a point designated by RMU and shall be sufficiently high above the ground to maintain the clearance requirements shown in subsection (d)(2) of this section, but in no case shall the service attachment on a building be less than ten feet or more than 30 feet above the ground at graded level.

(2) Under no circumstances shall a service attachment be located on a parapet or a chimney.

(c) *Installation standards.*

(1) Where service entrance equipment capacity does not exceed 400 amperes single-phase or 200 amperes three-phase, RMU will furnish without charge its standard service attachment and such attachment shall be installed by the customer. Where the customer desires or requires a service attachment other than that furnished by RMU, the attachment shall be of a type approved by RMU and shall be furnished and installed by the customer in accordance with RMU's instructions.

(2) Where the service entrance equipment capacity is larger than 400 amperes single-phase or 200 amperes three-phase, the customer shall furnish and install, in accordance with RMU specifications, either a steel anchorage plate and bolts or, if the building is of insufficient height, other acceptable anchorage. RMU will furnish and install on such an installation, devices necessary to secure the service connection to the anchorage.

(3) Where finishing is contemplated on the inside of the wall on which the service attachment is mounted, the washers or plates and the nuts or bolt heads which secure the attachment should be countersunk into the wall or studding and any protruding bolt ends cut off flush with the nuts. If

countersinking is impractical, the metal parts on the inside of the wall should be insulated.

(d) *Clearances.*

(1) In order that the work to be done by RMU and by the customer may be properly coordinated and that proper clearances will be maintained, the customer shall obtain information from RMU as to the designated pole and the height on such pole where the service drop will be attached. Attachments and supports for service connections of 480 volts or less shall be installed to maintain, after provisions for normal sag, applicable clearance requirements set forth in the National Electrical Safety Code, as amended, and in governmental and local codes.

(2) The following is a tabulation of representative clearance requirements for service connections of 480 volts or less that are frequently encountered. This tabulation is intended as a guide. To obtain a complete tabulation of clearances it is suggested that reference be made to the National Electrical Safety Code as well as consulting with governmental and local authorities and RMU regarding clearance requirements. Each installation shall be reviewed in detail by the customer to ensure that it is in accordance with the applicable code. In the event that the customer installs or modifies any equipment or structure such that the electrical clearances for RMU facilities are reduced to the point of noncompliance with applicable codes, it will be the customer's responsibility to notify RMU prior to such action and arrange for appropriate modifications or relocation of RMU facilities at the customer's expense:

Location	
Clearance Requirements	
(Conductor at Maximum Rated Temperature and No Wind)	
Over railroad tracks:	
For open supply conductors of 480 volts or less	24'6"
For service drop cables of 480 volts or less	24'0"
Over spaces and ways subject to pedestrians only (See Note 1):	
For open supply conductors of 480 volts or less	12'6"
For service drop cables of 480 volts or less	12'0"
Over roads, streets, alleys, public driveways or over commercial, industrial, farm and residential private property driveways (See Notes 2 and 3):	
For open supply conductors of 480 volts or less	16'6"
For service drop cables of 480 volts or less	16'0"
Above or below balconies and roofs accessible to pedestrians (See Note 4):	
For open supply conductors of 480 volts or less	11'6"
For service drop cables of 480 volts or less	11'0"
Above or below roofs not accessible to pedestrians (See Note 4):	
For open supply conductors of 480 volts or less	10'6"
For service drop cables or 480 volts or less	3'6"
Horizontal clearance from windows, porches, balconies, fire escapes, signs or any part of a building normally accessible to pedestrians (See Note 4) including access for maintenance:	
For open supply conductors of 480 volts or less	5'6"

For service drop cables of 480 volts or less	5'0"
Horizontal clearance from communication or signal wires at the building	12 inches
Conductors over a swimming pool or tank containing flammable materials	Not allowed

Notes:

1. Where the attachment to a building or other installation does not permit service drips meeting these values, the clearances may be reduced to the following:
 - A. For insulated cabled or open wire (only using insulated conductors) service limited to 300 volts or less (phase to ground): Service drop and drip loop, 10'6"
 - B. For insulated cabled service only limited to 150 volts or less (phase to ground): Service drop and drip loop, 10'0"
2. For clearances over state rights-of-way see requirements outlined by the state department of transportation in its Illinois Accommodation of Utilities Plan.
3. Where the attachment to a building or other installation does not permit service drops meeting these values over residential driveways, the clearances may be reduced for the following:
 - A. For insulated cabled or open wire (only using insulated conductors) service limited to 300 volts or less (phase to ground):

Service drop: 12'6"

Drip loop: 10'6"
 - B. For insulated cabled service only limited to 150 volts or less (phase to ground):

Service drop: 12'0"

Drip loop: 10'0"
4. A roof, balcony, or area is considered accessible to pedestrians if the means of access is through a doorway, ramp, stairway or permanently mounted ladder.

(3) In order that work done by RMU and the customer is properly coordinated and that proper clearances are maintained, the customer shall consult RMU about the location of the RMU pole to which the service drop will be fastened and the height at which the service attachment must be placed on the building to ensure the clearances shown in subsection (d)(2) of this section.

(4) For service connections carrying a voltage in excess of 480 volts, RMU should be consulted for clearance requirements.

(5) In case a building is too low to provide the minimum clearances, a riser or roof bracket shall be installed by the customer in accordance with RMU's specifications.

(6) If RMU's pole from which service is to be taken is so close to a building that it is impractical to install a service drop in the usual manner, the customer shall install the service head adjacent to the pole at a point designated by RMU and RMU will make the connection. In this case no service attachment will be required.

(7) When a one-story building is located on an alley property line, and when the service drop from the pole to the building, if carried to the alley side of the building, would not provide sufficient clearance, the customer should consult RMU regarding the proper location for the service attachment.

(8) The service head and attachment shall be located so that:

- a. The unenclosed wires will adequately clear downspouts, gutters and other building appurtenances;
- b. The wires will be out of reach from windows, porches, or any other part of a building ordinarily accessible to the occupants or the public (see subsection (d)(2) of this section); and
- c. The possibility of ice formation on the unenclosed wires is minimized.

(e) *Connection of service.* RMU will in all cases make the final connection of the customer's wiring facilities to RMU's overhead service drop; except that, if the customer provides a recessed head, RMU will furnish and attach lugs to the service drop conductors and the customer will attach the lugs to the bus inside the building.

(f) *Relocation of service connection.*

(1) If the customer requires the relocation of an overhead service connection, RMU will relocate its service connection and make any necessary changes in its facilities at the customer's expense.

(2) If, because of public improvement such as street widening, grading, excavating sidewalk spaces, or for other reasons beyond the customer's and RMU's control, RMU must move facilities with which it serves the customer, RMU as a condition of continued service may require that a new service connection, either primary or secondary, be established under the same terms as an original service connection from the standpoint of RMU and customer expense and installation.

(Code 1996, § 11.05.034)

Sec. 98-226. - UNDERGROUND SERVICE CONNECTIONS.

(a) *Generally.*

(1) RMU shall designate the point on RMU's distribution system or electric service station where the service connection will be attached. It is the customer's responsibility to furnish, install, own, and maintain underground service connections and underground residential services.

(2) For underground service connections to certain customers see sections 98-250 through 98-254

(b) *Repair or replacement of residential cable service connections.* It is the customer's responsibility to repair and/or replace cable for residential service connections.

(Code 1996, § 11.05.040)

Sec. 98-227. - UNDERGROUND PRIMARY SERVICE CONNECTION DEFINED.

An underground primary service connection consists of the underground supply conductors or cables, terminals, ducts, etc., between RMU's primary distribution system (2,400 volts and above) and an electric service station.

(Code 1996, § 11.05.041)

Sec. 98-228. - INSTALLATION OF UNDERGROUND PRIMARY SERVICE CONNECTIONS.

Before work is started by the customer on the installation of any portion of an underground primary service connection, a plan showing the proposed installation shall be submitted to RMU for its approval as related to RMU requirements. Such installation shall be made in accordance with the approved plan and be subject to examination to the extent deemed necessary by RMU.

(Code 1996, § 11.05.042)

Sec. 98-229. - UNDERGROUND PRIMARY SERVICE CONNECTIONS TO PRIMARY DISTRIBUTION SYSTEMS.

(a) *Nonresidential customers.*

(1) RMU will furnish, install, own and maintain as standard an underground primary service connection from RMU's underground distribution system to the property line and, subject to the conditions of subsection (b) of this section, an extension on private property at a cost not in excess of the cost of a standard two-pole, three-span service connection from the overhead system to an electric service station. Additional primary service connection facilities will be furnished in accordance with the provisions for furnishing optional facilities.

(2) Primary service connections on private property may be installed either in duct or, if the installation is practicable, by direct burial. If duct is used, the customer shall furnish, install, own and maintain the duct in accordance with the provisions of section 98-232(a). If direct burial cable is used, RMU will trench and backfill in addition to providing the cable at a cost not in excess of the cost of a standard two-pole, three-span service connection from the overhead system. Additional facilities will be furnished under optional facilities. Installation of direct burial cable is subject to the provisions of section 98-250(a)(2)—(6), (10) and (11).

(b) *Residential customers.* If the owner of a residence or apartment building with less than four units desires direct burial cable for an underground primary service connection from RMU's underground distribution system and if such an installation is practical, then, subject to the provisions of section 98-250(a)(2)—(6), (10) and (11), RMU will furnish, install, own and maintain such service connection at RMU's standard charge (see sections 98-253 and 98-254).

(Code 1996, § 11.05.043)

Sec. 98-230. - UNDERGROUND PRIMARY SERVICE CONNECTIONS TO OVERHEAD DISTRIBUTION CENTERS.

(a) *Nonresidential customers.*

(1) If a nonresidential customer furnishes, installs, owns and maintains acceptable duct in accordance with provisions of section 98-232 from a point on the property line designated by RMU

to an electric service station, RMU will furnish, install, own and maintain all other primary service connection facilities in accordance with the provisions for furnishing optional facilities (see section 98-223(b)).

(2) If the customer desires direct burial cable for the portion of the primary service connection on the customer's property and if such an installation is practical, then, subject to the provisions of section 98-250(a)(2)—(6), (10) and (11), RMU will furnish, install, own and maintain such cable and will trench and back fill in accordance with the provisions for furnishing optional facilities (see section 98-232).

(b) *Residential customers.* If the owner of a residence or an apartment building with less than four units desires direct burial cable for an underground primary service connection from RMU's overhead distribution system and if such service connection is practical, then, subject to the provisions of section 98-250(a)(2)—(6), (10) and (11), RMU will furnish, install, own and maintain such service connection at RMU's standard charge (see sections 98-253 and 98-254).

(Code 1996, § 11.05.044)

Sec. 98-231. - UNDERGROUND SECONDARY SERVICE CONNECTION DEFINED.

An underground secondary service connection consists of the underground supply conductors or cables, including ducts where necessary, from either RMU's secondary distribution system (480 volts and below), or an electric service station, to an outdoor meter connection device, a junction cabinet, indoor meter connection device, instrument transformer cabinet, or disconnecting means.

(Code 1996, § 11.05.045)

Sec. 98-232. - UNDERGROUND SECONDARY SERVICE CONNECTION TO UNDERGROUND DISTRIBUTION SYSTEM.

Secondary connections to underground distribution systems of nonresidential customers are the responsibility of the customer to furnish, install, own and maintain.

(Code 1996, § 11.05.046)

Sec. 98-233. - UNDERGROUND SECONDARY SERVICE CONNECTIONS TO OVERHEAD DISTRIBUTION SYSTEMS.

The following shall apply to residential and nonresidential customers:

(1) If the customer wishes to do so and it is practical for a customer to take underground secondary service from RMU's overhead distribution system or an electric service station, the customer shall furnish, install, own and maintain all of the service connection located beyond the pole, service pedestal, or the electric service station.

(2) Where one or two customers take underground secondary service from the same RMU distribution pole, unless directed by RMU to follow the specifications of subsection (3) of this section, the customer shall furnish and install cable and duct extending from the customer's service entrance equipment to such pole and furnish sufficient additional cable to extend up the pole for connection to RMU's line. If the customer installs direct burial cable, the customer shall terminate the trench at the pole. If the customer installs cable in duct on the customer's property, such duct shall terminate with a bend at the base of the pole. The installation must meet RMU requirements

and shall be subject to RMU approval and local codes. In either case, the balance of the installation to complete the connection to RMU's line will be made by RMU at its expense and it will own and maintain such portion of the installation except for the cable and the duct. In case the customer takes service from RMU's distribution system and municipal requirements do not permit him to install any necessary duct under public streets or alleys or on poles in public streets or alleys, RMU, in accordance with the provisions for furnishing optional facilities, will shall furnish, install, own and maintain the duct from the pole to the nearest point at the property line adjacent to such pole.

(3) Where more than two customers take underground secondary service from a single RMU distribution pole, or in case of one or two customers where RMU deems it necessary, each customer shall furnish, install, own and maintain all materials from the customer's service entrance equipment to a service pedestal. The customer's trench shall terminate at the pedestal and an additional eight feet of cable shall be left for connection to the pedestal. RMU will complete the trenching, install, own and maintain all necessary material from the pole to and including the pedestal and will connect the customer's cable to the pedestal.

(4) Where the connection of underground secondary service cable to an overhead line is made on a customer-owned pole or an electric service station, the service connection on and beyond the customer-owned pole or electric service station shall be furnished, installed, owned and maintained by the customer. Where RMU's service drop is attached to a customer-owned pole, the portion of the cable installed on the pole shall be installed in duct from and including a bend at the base of the pole to a point above the ground level to be determined by RMU.

(Code 1996, § 11.05.047)

Sec. 98-234. - INSTALLATION OF UNDERGROUND SECONDARY SERVICE CONNECTIONS.

(a) *Generally.* That portion of the underground secondary service connection installed by a customer shall be at the location and grade designated by RMU for connection to its underground or overhead system or electric service station. When such connection is to be made, a plan showing the customer's proposed installation shall be submitted to RMU for approval as to its requirements before construction is started. Such an installation shall be made in accordance with the approved plan and RMU's requirements. The installation shall be subject to inspection by RMU to the extent deemed necessary.

(b) *Secondary cable installation.*

(1) Cable shall be installed in acceptable duct, or, if of a suitable type and in an acceptable location, may be buried directly in the ground.

(2) The minimum depth for installing cable in the ground shall be 24 inches. The horizontal separation between the cable and gas, water, and sewer pipes should be a minimum of 30 inches.

(3) Where cable is buried in the ground under public or private drives, roadways, streets, alleys, etc., protection from mechanical damage shall be provided by installing the cable in such areas in a duct suitable for this purpose.

(4) For three-phase service connections installed in duct at least one conductor, or an equal number of conductors, for each phase and the neutral conductor shall be in each duct. For single-phase service connections installed in duct at least one conductor, or an equal number of conductors, for each ungrounded side of the circuit and one neutral conductor shall be in each duct. If more than one duct is used, the conductor sizes should be chosen so that the ratios of the currents

in each phase are the same in each duct.

(c) *Duct installation.*

(1) The underground duct installation for secondary utilization voltages shall consist of duct suitable for this purpose and shall be installed in as straight a line as possible and on an even grade without dips or bumps. Where possible the slope of the duct shall be toward the service pole or underground distribution line.

(2) Service ducts installed by the customer from the end of an existing or proposed RMU's duct run, shall be of the same size and formation and at least the same number as RMU's ducts.

(3) Where cable not in duct is to enter a building, the section of cable extending through the wall shall be enclosed in suitable and properly sized conduit which extends out from the building to a point beyond where the earth has been disturbed by excavating for the building.

(4) Where cable installed in metallic duct is to enter a building wall, such duct may be extended through the building wall.

(5) Where the underground secondary service connection enters the building, the entrance shall be properly sealed to prevent water seepage. The customer shall seal the intervening space between the wall and the duct. The customer shall seal the space between the duct wall and the cable in each occupied duct and the openings in any spare duct. The customer shall be responsible for maintenance of these seals.

(6) The portion of service ducts containing RMU-owned cables, inside a building, shall not be installed in any location where they would be subjected to excessive heat, such as near boilers, steam mains, etc.

(7) Service duct containing RMU-owned cables, extending more than five feet within a building shall be entirely covered with a suitable fireproofing material such as two inches of concrete.

(d) *Relocation of underground service connections (all classes of customers).*

(1) If the customer requires the relocation of an underground service connection for his convenience, because of construction, or to avoid overbuilding or otherwise obstructing access to the service connection, the customer will, at the customer's expense, relocate the service connection and make any necessary changes in other equipment previously furnished and installed at the customer's expense.

(2) If, because of public improvement such as street widening, grading, excavating sidewalk spaces, or for other reasons beyond the customer's and RMU's control, RMU must move facilities with which it serves the customer, RMU, as a condition of continued service, may require that a new service connection, either primary or secondary, be established under the same terms as an original service connection from the standpoint of RMU and customer expense and installation.

(Code 1996, § 11.05.048)

Sec. 98-235. - SERVICE ENTRANCE EQUIPMENT.

(a) *Definition; components.*

(1) The service entrance equipment, in the case of an overhead secondary service connection,

will include some or all of the following: a service head, a service run, a meter connection device, an instrument transformer cabinet, service entrance, disconnecting means, and an approved ground connection.

(2) The service entrance equipment, in the case of an underground secondary service connection, will include some or all of the following: a junction cabinet, a meter connection device, an instrument transformer cabinet, service entrance, disconnecting means, and an approved ground connection.

(3) The service entrance equipment, in the case where the customer desires the installation of a meter on a pole and a secondary service supply from a single point of delivery to one or more buildings, may consist of the equipment listed in either subsection (a)(1) or (a)(2) of this section. RMU should be consulted regarding the requirements for such equipment.

(4) A service head is a weather-tight fitting attached to the free end of a service run and is used to prevent water from entering the service run.

(5) A service run consists of conduit or tubing (rigid metal, intermediate metal, electrical metallic, rigid non-metallic approved for this purpose) with enclosed conductors, or an approved service entrance cable, installed between the service head and either the outdoor meter connection device or, in the case of indoor metering, the point where the service entrance equipment enters the building.

(6) A meter connection device is a device to which a meter is attached and may consist of a meter socket for a single or three-phase self-contained meter, or a combination meter socket and test switch for an instrument transformer meter installation.

(7) A junction box or cabinet is a metal enclosure suitable for the connection of the customer's cables to RMU's cables.

(8) An instrument transformer cabinet consists of a metal enclosure containing the assembly and necessary supports for the installation of the instrument transformers, cables and color-coded conductors.

(9) A service entrance consists of either rigid metallic or intermediate metal conduit, electric metallic tubing or rigid non-metallic conduit approved for this purpose with enclosed conductors or approved service entrance cable. If the service entrance includes rigid nonmetallic conduit, the continuity of the equipment ground shall be maintained with a metallic (bonding) conductor. The service entrance, in the case of either indoor or outdoor metering, connects the metering equipment and the disconnecting means installed in conjunction with and, in the case of indoor metering, includes either:

- a. The continuation of the service run from the point where the service entrance equipment enters the building to either the metering equipment or the disconnecting means;
- b. In the case where a junction cabinet is installed by RMU, the conductors and conduit connecting the junction cabinet to either the metering equipment or the disconnecting means; or
- c. In the case where a recessed head is installed, the connectors, bus conductors and the bus enclosure, where required, connecting the terminals of the service connection to the metering equipment or the disconnecting means.

(10) A disconnecting means is a device or devices used to disconnect all conductors, except the grounded neutral, from the source of supply. For further information see subsections (c)(1)—(4) of this section.

(11) A ground connection consists of a conductor (metallic protection if any) and clamps which are used to connect all metallic enclosures of an electrical installation and the neutral conductor to two grounding electrodes minimum, installed in conformance with the applicable electrical code (local code or National Electrical Code). For further information see section 98-236(a) and (b).

(b) *Service entrance equipment requirements.*

(1) The service run shall be installed entirely on the outside of the building to be served. Conductors in conduit or duct placed under at least two inches of concrete beneath a building, or buried in two inches of brick masonry or in concrete within a wall, shall be considered outside the building. Where the service entrance passes through the wall of the building it shall pass through the wall as close as practical to the point at which it is to be terminated.

(2) The customer shall furnish, install, own and maintain all service entrance equipment other than the metering equipment. Meter connection devices, including wiring or bus connections within such devices, shall be furnished and installed by the customer. RMU will, at its expense, when requested by the customer, make certain necessary repairs of the parts enclosed in the meter connection device if parts are available. RMU will not, however, replace the cabinet or enclosure.

(3) The conductors and conduit of the service entrance equipment shall be continuous (i.e., conductors not spliced; the conduit system electrically and mechanically continuous) on the line side of the meter or meters, except that:

- a. The conductors may be tapped in approved fittings for the connection of individual meter connection terminals to the service conductors supplying a multiple-occupancy building; and
- b. Approved self-locking fittings may be substituted for conduit bends.

(4) The conductor of service run and service entrance shall meet or exceed the amperage rating of the disconnecting device as defined by local code or the National Electrical Code. Wire size will be as follows:

Service

Amperage	Copper Wire	Aluminum Wire
60	#6	#6
100	#4	#2
150	#1	#2/0
200	2/0	4/0
400	400 mcm	600 mcm

(5) Weathertight fittings shall be used in connecting a service run or service entrance to an outdoor meter connection device.

(6) All service runs shall be equipped with service heads.

(7) Metered and unmetered conductors shall not be installed in the same conduit, raceway, or switchboard section unless separated by an approved barrier or raceway (conduit).

(8) The grounded neutral conductor of either a single-phase or three-phase, four-wire installation; the ground return conductor of a three-phase, four-wire, delta installation, and in the case of a three phase, four wire, delta installation, the conductor for the phase having the highest voltage to ground shall be identified in such a manner that they are readily distinguishable.

(c) *Disconnecting means.*

(1) The customer's service entrance equipment shall include a readily accessible means of disconnection from RMU's distribution system.

(2) A service disconnecting means shall be installed on the load side of each meter.

(3) All conductors on the line side of the metering equipment and between the termination of the service entrance conduit and the customer's bus bars shall be readily accessible for examination.

(4) Each service disconnecting means rated at 600 amperes or more shall have ground fault protection furnished, installed and maintained by the customer.

(Code 1996, § 11.05.050)

Sec. 98-236. - GROUNDING.

(a) All metallic components and the neutral conductor or ground return conductor of the service entrance equipment shall be permanently grounded.

(b) One end of a ground connection (the grounding conductor and its metallic protection, if any) shall be connected by means of a permanently effective ground clamp to a minimum of two metallic grounding electrodes in accordance with the requirements of the applicable local code or the National Electrical Code. No grounding connection to a water system will be allowed.

(c) The other end of a ground connection shall be connected at the disconnecting means, or at a pole-mounted outdoor meter connection device where a disconnecting means is not installed.

(1) If connected at the disconnecting means:

a. The grounding conductors shall be connected to the ground lug (attached to the neutral or ground phase bus) and the grounding screw of the disconnecting means; and

b. The metallic protection of the grounding conductor, if any, shall be connected to the enclosure for such disconnecting means.

(2) If connected to an outdoor meter connection device, the grounding conductor shall be connected to the ground stud of such device and the metallic protection, if any, to the enclosure of such device.

(d) The neutral or ground return conductor of the service entrance equipment conductors shall be connected to the neutral bus or terminal of the disconnecting means, and to the ground stud or terminal of the meter connection device.

(e) Ground connections to a water piping system are prohibited.

(Code 1996, § 11.05.052)

Sec. 98-237. - METERING.

(a) Metering equipment which will be provided by RMU consists of one or more of the following items as are required for the particular installation: watt-hour meters, demand registers, recording demand devices, associated relays and devices and instrument transformers. The equipment supplied by RMU for a specific installation will be dependent upon the billing requirements of the applicable rate and RMU's standard practices. RMU will only allow metering equipment to be installed on its poles or equipment in limited circumstances and then only with advance approval of RMU.

(b) Tampering with a RMU meter, breaking of meter seals, and/or installing conductors to carry unmetered current is prohibited by law and may result in criminal prosecution. Meters or service connections, etc. shall not be disconnected, removed or relocated without RMU's authorization. Tampering with any meter, the associated wiring or related facilities to reduce a customer's metered usage may result in disconnection of service and/or require a service deposit. In addition, the customer will be billed for the estimated revenue loss attributable to the said tampering plus all related expenses incurred in replacing and/or repairing facilities.

(c) If the metering equipment is compatible, RMU may provide meter contacts at customer request and expense for KYZ pulses, end of interval pulses, and demand thresholds.

(d) Load profiles may be provided by RMU at customer expense if metering equipment permits this option.

(Code 1996, § 11.05.060)

Sec. 98-238. - TYPES OF METERING.

(a) *Self-contained installations.*

(1) Self-contained metering equipment shall be installed for all new or revised installations if the supply voltage of the service to be metered is 240 volts or less and the disconnecting means has a rating equal to or less than:

- a. 200 amperes, three-phase.
- b. 350 amperes, extended service, single-phase for nonresidential customers with approved extended meter socket.
- c. 350 amperes, extended service, single-phase for residential customers with approved extended meter socket.

The provisions of subsection (b) of this section shall apply to subsection (1)b of this section when the disconnecting means is over 300 amperes and is U.L. listed for continuous duty of 100 percent of its rating.

(2) Any existing self-contained bottom-connected meter installation which fails or causes trouble for the customer shall be replaced by the customer with a RMU approved self-contained socket-type meter installation.

(b) *Instrument transformer installations.*

(1) A current transformer metering installation (a metering installation which utilizes current transformers) shall be installed for all new installations or installations revised to provide for additional load if the supply voltage of the service to be metered is 480 volts or less and the disconnecting means has a rating in excess of:

- a. 200 amperes, three-phase.
- b. 350 amperes, single-phase for nonresidential customers.
- c. 350 amperes, single-phase for residential customers.
- d. 300 amperes, single-phase for all customers when the disconnecting means is U.L. listed for continuous duty of 100 percent of its rating.

(2) Any existing self-contained metering installation which exceeds the current rating of the equipment must be upgraded to the appropriate size together with the service connection to be metered at the customer's expense.

(3) Where the supply voltage is higher than 240 volts, current and potential transformers shall be installed for all new or revised metering installations.

(4) Metered and unmetered conductors shall not be installed in the same conduit, raceway or switchboard section unless separated by an approved barrier or raceway.

(Code 1996, § 11.05.062)

Sec. 98-239. - METERING SEQUENCE.

(a) *Definition.* A meter-switch-fuse sequence is an installation where the metering equipment is connected to the supply side of the disconnecting means installed in conjunction with the meter. A switch-fuse-meter sequence is an installation where the metering equipment is connected on the load side of the disconnecting means installed in conjunction with the meter.

(b) *Single-phase and three-phase type.*

(1) A meter-switch-fuse sequence shall be followed for all single or multi-unit self-contained or instrument transformer metering installations.

(2) Where variances or exceptions to the rules for metering sequence are requested, RMU's approval must be obtained prior to installation.

(Code 1996, § 11.05.064)

Sec. 98-240. - LOCATION OF METERING EQUIPMENT.

(a) *Generally.*

(1) The customer shall provide a suitable place for the metering equipment which shall be readily accessible to employees of RMU for the reading, testing, inspecting or exchanging of such equipment. The location of the equipment shall not conflict with state or local governmental code requirements. The customer shall consult RMU regarding the proper location of the equipment.

(2) For all new and revised single-phase and three-phase installations requiring the use of a

self-contained meter, the metering equipment shall be installed outside of the building.

(3) For all new and revised single-phase and three-phase installations requiring the use of instrument transformers, the metering equipment shall be located as specified below:

a. When the utilization voltage is 480 volts or less and the disconnecting means is rated at 200 through 1,200 amperes, the metering equipment, where practical, shall be installed outside of the building. The metering equipment includes the meters, the associated current transformers and the demand metering equipment.

b. For all other installations requiring the use of instrument transformers, the metering equipment must be located outside the building unless an indoor installation of any or all of the components is specifically designated by RMU.

(4) When modernizing or upgrading work is performed on existing indoor metering installations, it is required, where practical, that all meters, both single-phase and three-phase, be relocated outdoors.

(5) Metering equipment shall not, for example, be installed in any of the following locations:

- a. Attics;
- b. Basements projecting under sidewalks;
- c. Bathrooms;
- d. Chemical rooms;
- e. Clothes closets;
- f. Coal bins;
- g. Crawl spaces and stairways;
- h. Dog yards or runs;
- i. Fenced yards with locked gates;
- j. Incinerator rooms;
- k. Kitchens;
- l. Lavatories;
- m. Manholes;
- n. Shower and locker rooms; or
- o. Storerooms.

(6) Metering equipment shall not, for example, be installed behind, over, under, or adjacent to:

- a. Boilers;

- b. Chemical tanks;
- c. Doors;
- d. Exposed machinery;
- e. Fire escapes;
- f. Furnaces;
- g. Hatches;
- h. Heaters;
- i. Laundry tubs;
- j. Natural gas meter (see note);
- k. Radiators;
- l. Sinks;
- m. Steam pipes;
- n. Stoves;
- o. Tanks;
- p. Tracks for overhead doors; or
- q. Windows.

Note: Metering equipment must maintain a three-foot minimum clearance from a natural gas meter pursuant to subsection (a)(9) of this section.

(7) Metering equipment shall not be installed in locations where there is excessive heat, moisture, vibrations, fumes, a corrosive or explosive atmosphere or dust, or against downspouts, or in locations subject to flooding.

(8) Outdoors, metering equipment shall not protrude over a sidewalk, driveway, loading ramp, or be exposed to possible mechanical damage.

(9) Metering equipment shall not be installed within three feet of any gas meter, gas valve, or disconnected gas fitting. Metering equipment shall not be installed in areas with a corrosive or explosive atmosphere.

(10) Access to meter locations (meter rooms) shall be through public walkways, halls, etc. and not through locked or private rooms, tenant space, lavatories, limited access ways, etc.

(11) Metering equipment approved for installation indoors shall be located as near as practical to the point where the service entrance conductors enter the building and in accordance with local code requirements. When two or more metering equipment devices are installed within the building, the meter devices shall be grouped together in the same room and on the same wall.

(12) Where metering equipment is installed on balconies, access must be by stairs, not ship ladders. The customer must provide platform space in front of the metering equipment of at least three feet and be protected by a suitable railing.

(13) Where metering equipment is to be installed in a narrow passageway or in a narrow space such as in back of tanks, switchboards, or machines properly guarded, the minimum clear space in front of the metering equipment shall be three feet.

(14) Metering equipment placed behind uninsulated heating tanks, machines in motion, etc., shall be located at a distance from such equipment as specified by RMU.

(15) For large multiple-occupancy buildings requiring an indoor location for the metering equipment, the equipment may be grouped together and installed in an accessible location in the basement or on the first floor. High-rise buildings may find it more practicable to have the metering equipment located on each or every other floor in special meter rooms. Meters shall not be installed in individual tenant space. Where meter rooms are necessary, they shall be of sufficient size to allow ready access to the meter and its accessories for the purpose of reading, testing, and maintenance. Where meter rooms are locked, keys must be available to RMU personnel at all times.

(b) *Recording demand register or totalizing meter.* When a recording demand register or totalizing meter is required for a large commercial or industrial customer, the customer shall consult RMU as to the location of the metering equipment.

(c) *Metering voltage over 600 volts.*

(1) The rules herein stated will also apply to the location of watt-hour meters where the metering voltage exceeds 600 volts. The location of the instrument transformers will vary with the voltage and type of service. Specifications and prints shall be submitted to RMU for approval as related to RMU requirements before any equipment is purchased, installed or constructed.

(2) Where variances or exceptions to the rules for metering location are requested, RMU approval must be obtained prior to installation.

(Code 1996, § 11.05.066)

Sec. 98-241. - INSTALLATION OF METERS.

(a) *Generally.*

(1) Meter connection devices of a type approved by RMU (both indoor and outdoor) shall be furnished, installed and maintained by the customer.

(2) RMU has certain minimum and maximum mounting heights as well as minimum acceptable front and side clearances for meter installations. This information is available from RMU.

(3) When metering equipment is installed in a multiple-occupancy building (two or more occupants), each meter connection device shall be labeled, tagged, or stenciled by the customer to show the complete address and location of the area served. This includes the apartment, office, or store in the building for which the metering equipment is being installed.

(4) Conduit or wire connections to an instrument transformer meter connection device shall be made below the meter test switch using the knockouts provided.

(5) All metering facilities shall be installed in such a manner as to be plumb and to ensure permanent attachment to a rigid, vibration-free wall or structure.

(b) *Self-contained meter connection devices.*

(1) The customer shall provide and install a mounting board in accordance with RMU's specifications for all indoor installations of single or multiple-position meter connection devices where the condition of the wall precludes a plumb installation.

(2) In the case of multiple-position or grouped meter connection devices, conductors or bus from the source of supply shall be continuous to the last meter connection device and connected to the meter connection device terminals in accordance with RMU's requirements.

(3) Metered load conductors shall not pass through adjacent meter connection devices unless such conductors are properly barriered from the unmetered conductors and are an integral part of an approved prewired multiple-position meter socket assembly.

(4) Where meter connection devices are installed in locations not adjacent to the service entrance, the unmetered feeder conductors, to the extent practical, should be installed with a continuous run of conduit and cable without splice boxes or similar type fittings.

(c) *Instrument transformers.*

(1) An instrument transformer metering installation generally consists of instrument transformers, an instrument transformer cabinet containing color-coded conductors, a meter connection device with test switches and a watt-hour meter with an appropriate demand device.

(2) Except where instrument transformers are a part of an electric service station, they shall be installed by the customer.

(3) Unless outdoor type instrument transformers are provided the customer shall furnish, install and maintain a cabinet approved by RMU or under the conditions set forth in subsections (c)(4) and (5) of this section, a suitable enclosure for the instrument transformers. If the cabinet is to be installed outdoors, it shall be weatherproof.

(4) Upon specific approval by RMU, instrument transformers may be installed in a common cabinet with the disconnecting means provided that the portion of the cabinet containing the transformers is separated by means of an isolating barrier from the portion containing the disconnecting means, and provided further that the cabinet is constructed in accordance with RMU's requirements. In the case of such an installation the connection of the supply conductors to either the disconnecting means or the current transformer shall be accessible for inspection. The instrument transformer compartment shall contain only supply conductors and meter wiring. Specifications and prints shall be submitted to RMU for approval as related to RMU requirements before any equipment is purchased or constructed.

(5) Where the equipment and wiring requirements for an instrument transformer installation are not set forth in RMU's current published drawings and specifications, the customer shall furnish specifications and prints for RMU approval as related to RMU requirements of such installation before any equipment is purchased or constructed. This equipment shall be installed in accordance with RMU requirements.

(d) *Color-coded wires.* Except where the meter is mounted on the door of the instrument cabinet, with

appropriate wiring connections, the customer shall provide a suitable conduit extending between the instrument transformer cabinet and the meter connection device. The customer shall install such conduit, exposed where practical, and the color-coded conductors (provided by RMU) which connect the instrument transformers to the meter test switch. RMU will make the final connections. Where the instrument transformers are to be installed on a RMU pole or structure, RMU will provide the conduit to be installed on the pole or structure and install the instrument transformers, the conduit, and conductors on the pole or structure.

(e) *Instrument transformer meter connection devices and recording demand devices.*

(1) The meter connection device shall be installed as close as practical to the instrument transformer cabinet.

(2) When recording demand equipment is required the customer shall consult RMU as to the location of the metering equipment.

(f) *Compliance.* RMU may refuse to connect service if, in its judgment, the customer's metering installation does not meet RMU's requirements herein stated. Even if service is connected, the customer is responsible for the adequacy, conformance to codes, safety and reliability of the equipment and facilities owned, installed and maintained by the customer.

(Code 1996, § 11.05.068)

Sec. 98-242. - EQUIPMENT CAUSING INTERFERENCE OR REQUIRING ADDITIONAL FACILITIES.

(a) In order that RMU may avoid unnecessary delays in providing adequate and uniform service to its customers, it is recommended that the customer, prior to purchase, submit to RMU information regarding any equipment which is thought might cause interference with service to other customers or require additional facilities for its satisfactory operation.

(b) RMU reserves the right to examine and test any equipment connected to its lines and to require that such equipment be provided with nameplates showing the voltage, phase, full-load amperes, maximum current, maximum kilovolt-amperes, and such other information as may be necessary to determine the operating characteristics of the equipment.

(Code 1996, § 11.05.070)

Sec. 98-243. - SINGLE-PHASE SERVICE.

(a) In general all miscellaneous single-phase equipment in the 120 volt class may be operated as follows: Either a 120/208, 120/240, or higher supply voltage (depending on the service voltage in that area) should be used if the aggregate rating of such equipment exceeds two horsepower, two kilowatts, or two kilovolt-amperes. Such equipment shall be balanced on the phase conductors as closely as practicable.

(b) Any single-phase piece of equipment having a rated capacity in excess of two kilowatts or two kilovolt-amperes shall be operated at not less than 208 volts.

(Code 1996, § 11.05.072)

Sec. 98-244. - THREE-PHASE SERVICE.

(a) *Generally.*

(1) Three-phase service may be provided for any single-phase load where, in RMU's judgment, the customer's total connected load is of a size that three-phase is desirable. Where three-phase service is supplied, all single-phase load shall be balanced on all phase conductors as closely as practical.

(2) Any motor with a rated capacity in excess of five horsepower shall normally be three-phase. Single-phase motors with a rated capacity in excess of five horsepower shall not be operated from RMU's system except in such locations where, in RMU's judgment, the available distribution line has sufficient capacity to permit such operation.

(b) *Residential customers.*

(1) Three-phase service will be provided for residential customers upon request irrespective of the amount of the connected load. If a three-phase secondary supply is not available adjacent to the customer's property, the necessary primary and secondary extensions will be furnished by RMU without charge if:

- a. Three-phase service is required for the operation of a motor not smaller than ten horsepower or for motors with an aggregate of 20 horsepower; and
- b. The three-phase motor load to be served does not include any motor with starting Kva exceeding that of a standard 30 horsepower squirrel-cage induction motor (150 Kva).

(2) For three-phase loads which do not meet these conditions, the necessary primary and/or secondary overhead extensions(s) will be installed in accordance with the provisions for furnishing optional facilities. The cost of such optional facilities will include, where necessary for such service, the cost of extending any primary phase and/or secondary phase wires. The company may, at its option, provide a suitable phase converter in lieu of making a three-phase line extension.

(c) *Nonresidential customers.*

(1) Three-phase service will be provided:

- a. Upon request:
 1. Where the normal load includes three-phase equipment but also totals more than ten kilowatts (considering motor load as one kilowatt per horsepower and not including lighting, domestic ranges, water heaters, welders, or motors smaller than one-half horsepower); or
 2. Where the normal load includes five horsepower or more of three-phase motors (not including any motors rated at less than one-half horsepower); or
- b. Where required in RMU's judgment (see subsections (a)(1) and (2) of this section).

(2) If a nonresidential customer requiring three-phase service does not qualify for three-phase service under subsection (c)(1) of this section, the additional RMU facilities necessary to furnish such service, including the necessary primary and secondary overhead line extension, will be installed by RMU in accordance with the provisions for furnishing optional facilities.

(3) When a nonresidential customer being supplied with three-phase service reduces the connected load below the conditions stated in subsections (c)(1)b. and (2) of this section, the supply

of three-phase service will be continued provided the customer pays the necessary charges in accordance with the provisions for furnishing optional facilities.

(4) For a nonresidential customer who qualifies for three-phase service under subsections (c)(1)b. and (2) of this section, the necessary primary and/or secondary overhead line extensions will be furnished without charge if:

a. Three-phase service is required for the operation of a motor not smaller than ten horsepower or for motors with an aggregate of 20 horsepower; and

b. The three-phase motor load to be served does not include any motor with starting Kva exceeding that of a standard 30 horsepower squirrel-cage induction motor (150 Kva).

(5) For a nonresidential customer who qualifies for three-phase service under the provisions of subsections (c)(1)b. and (2) of this section, but does not meet the provisions of subsection (c)(4) of this section, the necessary primary and/or secondary overhead extension(s) will be installed by RMU in upon payment in accordance with the provisions for furnishing optional facilities. The company may, at its option, provide a suitable phase converter in lieu of making a three-phase line extension.

(Code 1996, § 11.05.073)

Sec. 98-245. - STARTING CURRENTS.

(a) Motors having locked rotor currents which conform to industry standards (EEI-NEMA) are approved for use throughout RMU's system, as follows:

Equipment ⁽¹⁾	Type and Voltage of Equipment	Maximum Starting Current ⁽²⁾
Conventional motorized equipment rated in horsepower	120 volts, single-phase 240 volts, single-phase	52.2 amperes
	2 horsepower or less	62.6 amperes
	Over 2 horsepower, but not over 5 horsepower	62.6 amperes plus 20.9 amperes per horsepower over 2 horsepower
	240 volts, three-phase:	
	2 horsepower or less	54.5 amperes
Air conditioning or heat pump equipment rated in Btu per hour	Over 2 horsepower but not over 20 horsepower	54.5 amperes plus 15.3 amperes per horsepower over 2 horsepower
	120 volts, single-phase	52.2 amperes
	240 volts, single-phase:	
	20,000 Btuh or less	62.2 amperes
	Not over 50,000 Btuh	3.1 amperes per 1,000 Btuh over 20,000 Btuh
	240 volts, three phase:	
	20,000 Btuh or less	54.5 amperes
	Over 20,000 Btuh but not over	54.5 amperes plus 2.7 amperes

	50,000 Btuh	per 1,000 Btuh over 20,000 Btuh
	Over 50,000 Btuh but not over 225,000 Btuh	136.4 amperes plus 1.1 amperes per 1000 Btuh over 50,000 Btuh

Notes:

⁽¹⁾ The table applies to installations where there are not more than four starts per hour, with long periods of continuous operation under maximum load conditions.

⁽²⁾ Starting current is the locked rotor current taken from the supply line with all power consuming components including a current reducing starter if used, connected in the starting position. Where the equipment contains motors arranged for sequence starting, the table applies to that combination of power consuming components which produces the highest starting current. The interval between successive steps shall not be less than one-half second.

(b) RMU will, upon request, furnish information regarding permitted starting currents and other current fluctuations in cases not covered by subsection (a) of this section. The currents permitted will depend upon the frequency of operation, the size, and character of the customer's load, and the design of RMU's supply system in the area and, will generally be equivalent to the maximum current which, in RMU's opinion, can be supplied without causing:

- (1) Undue interference with service to other customers;
- (2) RMU to provide additional or different facilities, such as a larger transformer than that considered standard for the customer's load; or
- (3) Damage to RMU facilities.

(c) Whenever a customer's starting current or other current fluctuation beyond permitted limits causes undue interference to other customers, the customer shall provide a starting device or a starting device and a motor of a type which will eliminate such interference. Where practical, RMU may furnish suitable facilities to eliminate the interference or damage to other customers or RMU's facilities in accordance with the provisions for furnishing optional facilities.

(Code 1996, § 11.05.074)

Sec. 98-246. - INTERFERING LOADS.

(a) Whenever a customer's utilization equipment, other than equipment acceptable under section 98-245(a) and (b), has characteristics which cause undue interference to other customers, the customer shall make changes in such equipment or provide and maintain, at the customer's expense, the necessary additional equipment to prevent or eliminate such interference; however, where practical, RMU may furnish, in accordance with the provisions for furnishing optional facilities, the necessary facilities to prevent or eliminate such interference.

(b) When a customer desires additional RMU facilities (such as transformers) to minimize voltage

fluctuations on the customer's own electrical circuits or to provide satisfactory operation of the customer's equipment such as, but not limited to, welders, induction heating equipment, X-ray machines or computer and data processing equipment, such facilities, where practical, may be furnished by RMU in accordance with the provisions for furnishing optional facilities.

(c) High-frequency equipment such as, but not limited to, electronic heating equipment, spark discharge devices, radio transmitting equipment, etc., shall be designed and operated so as not to create higher frequencies or other disturbances on RMU's 60 hertz (cycle) electrical system which might interfere with the proper operation of communication or remote control systems, computers, electronic production equipment, radios, or other utilization equipment of RMU's other customers.

(d) Two or more pieces of utilization equipment, such as motors, welders, etc., controlled simultaneously through one control device, shall be considered as a single unit for the purpose of this section's requirements.

(e) Undervoltage release starting equipment is required on all motors 7½ horsepower and larger. The undervoltage release shall be of a type that returns the starting device to the off position when the electric supply is interrupted. Under certain conditions, time delay under-voltage release starting equipment will be permitted.

(f) Manually operated reduced voltage starting devices shall be so constructed that they cannot be placed in the running position before passing through the starting position.

(Code 1996, § 11.05.075)

Sec. 98-247. - POWER FACTOR.

(a) *Generally.*

(1) Whenever the customer's utilization equipment has characteristics that produce low power factor, RMU reserves the right to require the customer to correct the low power factor at the time of the customer's maximum demand to a value not less than 95 percent lagging as measured at the point of metering.

(2) When RMU requires the customer to correct the low power factor of the customer's installation, either:

a. The customer shall, at the customer's expense, furnish, install, and maintain the necessary corrective equipment to correct the power factor to comply with RMU's minimum requirements; or

b. RMU will furnish the necessary facilities in accordance with the provisions for furnishing optional facilities.

(b) *Installation of capacitors.* When a customer installs capacitors on the secondary side of RMU's transformers to improve the power factor of the customer's installation, the customer shall furnish, at the request of RMU, in order to avoid abnormal voltages or damage to transformer, a means of automatically disconnecting any or all of the capacitors when the equipment causing the low power factor is not operating. Where it is not practical for the customer to comply with RMU's request to install the secondary capacitors with an automatic disconnecting means, RMU will shall furnish, in accordance with the provisions for furnishing optional facilities, any necessary additional transformer capacity and/or primary capacitors with such automatic disconnecting means as may be required. However, if the customer owns

the primary service connection, the customer may install such capacitor installations on such connection and RMU will furnish any necessary additional transformer capacity under the conditions described above.

(Code 1996, § 11.05.076)

Sec. 98-248. - MISCELLANEOUS EQUIPMENT.

(a) *Welders.* Transformer type welders shall not be operated from a service voltage of less than 208 volts.

(b) *Flashing signs.* All flashing signs having more than one circuit shall be balanced on the phase conductors as closely as practical throughout each portion of the flashing cycle.

(c) *Furnaces and ovens.* Resistance furnaces or ovens rated 30 kilovolt-amperes or larger shall be three-phase. RMU shall be consulted regarding the service requirements for arc furnaces.

(d) *Emergency lighting.* When an emergency lighting system necessitates the installation of a separate meter, service drop, or other optional service facilities, RMU will furnish such facilities in accordance with the provisions for furnishing optional facilities.

(Code 1996, § 11.05.078)

Sec. 98-249. - OPTIONAL OR NONSTANDARD FACILITIES.

(a) Unless otherwise provided in the rate:

(1) RMU will furnish as a standard installation the facilities adequate to supply service at a single point of delivery to a normal load equal to the maximum 15-minute demand of the customer, at a power factor of not less than 85 percent lagging;

(2) Each such installation shall include, where necessary, facilities for one standard transformation; and

(3) RMU will furnish as a standard metering installation the meters adequate to measure at a single point of delivery the demand and energy consumption of the entire premises, the type of such meters to be determined by RMU's standard practice.

(b) In the event service facilities in addition to or different from a standard installation are requested by the customer or are required to serve the customer's load, RMU shall furnish, install, and maintain such facilities, subject to the following conditions:

(1) The type, extent and location of such service facilities shall be determined by agreement between RMU and the customer.

(2) Such service facilities shall be the property of RMU.

(3) If the amount by which the estimated cost of the facilities installed exceeds the cost of a standard installation is more than \$100.00, the customer shall pay RMU such amount at the time of installation including taxes, if any, except:

a. In the case of meters, the customer shall pay monthly rentals in accordance with the provisions of RMU's current practice; and

b. In the case of transformers and any other equipment which RMU may elect to provide on a rental basis (in lieu of which the customer may provide, install, and maintain his own facilities for the same purpose), the customer shall pay a rental equal to the amount by which RMU's standard rental charges for the equipment installed exceed those for the equipment included in a standard installation. Whenever an installation is made which requires a rental payment, or when there is a change in facilities which requires a different rental payment, the rental charge for all facilities of the same class will be based on the charges in effect at the time of the installation or change.

(4) In case the providing of optional or nonstandard facilities involves the furnishing, installing, and maintaining of facilities which may reasonably be used for other customers, the cost or rental payable by the customer shall be that portion of the total cost or rental which is reasonably assignable to the customer.

(5) Late payment charges shall be applicable to all rental charges under this section.

(Code 1996, § 11.05.080)

Sec. 98-250. - FURNISHING OF UNDERGROUND SERVICE FACILITIES.

(a) Where overhead supply would be standard, RMU will, upon request, provide underground service in accordance with provisions of the following subsections if the conditions of such subsections are met.

(b) If RMU, in accordance with the applicable subsections of this section and sections 98-226—98-234 and 98-253—98-255, furnishes, installs, owns, and maintains an underground system including underground service connections, the customer shall comply with the following requirements before trenching operations are begun by RMU:

- (1) Provide such permits, easements or other rights as RMU reasonably deems necessary for the ownership, installation, operation, maintenance and replacement of RMU facilities so provided;
- (2) Remove all obstructions from such easement strips or rights-of-way including above and below grade rubble or tree stumps, etc., in redeveloped and undeveloped areas;
- (3) Grade the easement strips or rights-of-way to a level not above nor more than four inches below final grade;
- (4) Install marker stakes for lot corners and grade purposes placed at intervals designated by RMU;
- (5) Make the easement strips or rights-of-way accessible to RMU's equipment; and
- (6) In the case of a new development, provide a document specifying the final grade and drainage of the development.

(c) In the event RMU is requested to provide an underground system different from or more elaborate than the one reasonably considered by RMU to be practical, the developer or customer shall reimburse RMU for any additional cost resulting therefrom in accordance with RMU's provisions for furnishing optional facilities.

(d) All facilities provided by the developer or customer shall be furnished and installed in accordance with RMU specifications.

- (e) RMU shall be paid any additional cost incurred by reason of:
- (1) Crossing streets, alleys, parking areas or other areas in the development which cannot be trenched in a normal manner;
 - (2) Special municipal requirements; or
 - (3) Rearrangement of or change in facilities caused by changes made by the developer or customer after the initial planning.
- (f) RMU shall not be required to install the electrical system in segments smaller than considered economical by RMU.
- (g) Overhead service shall not be provided where an underground system has been established.
- (h) Where an overhead system exists, and the customer requests replacement with an underground system RMU will provide an underground system on the same basis as set forth in the subsections of this section except that the customer shall reimburse RMU for the value of the remaining life of the overhead facilities to be removed plus removal cost less salvage. If the overhead system includes feeders or other facilities not used to provide service to such customer, the additional cost of installing such facilities underground or rerouting them overhead shall be borne by the customer.
- (i) If an underground system is requested by a group of individual property owners, RMU will not attempt to allocate its charges, if any, among the individual property owners, but will require such owners, acting as a group, to make a single payment of the total charges applicable to all the affected properties before the work commences.
- (j) Following installation of underground service facilities, or in the case of the repair and acquisition of a service connection in accordance with section 98-226(b), RMU shall have continued access to the facilities without impediments from overbuilding, increase in established grade or other obstructions for operation, maintenance and replacement of such facilities. When these conditions are not met, any additional costs incurred by RMU by reason thereof shall be paid by the customer. In the event a change in grade reduces the depth of RMU's installed underground facilities, the customer (property owner) shall restore the proper grade at the customer's expense or reimburse RMU for any required relocation or revision.
- (k) Removal of obstructions or restoration of turf or other landscaping features on the customer's property (outside of the primary distribution system easement strip) for the establishment, installation, maintenance or replacement of a direct burial service connection shall be the responsibility and at the expense of the customer if the work done on the customer's property is required or requested by the customer for the customer's electric supply. If such work is required by RMU, such removal or restoration shall be the responsibility of RMU and at its expense.
- (l) If RMU schedules underground work on an occupied premises outside of the primary distribution system easement strip, RMU will contact the occupant prior to digging for the purpose of locating customer underground facilities. In case of an emergency dealing with safety or restoration of service, RMU personnel will attempt such contact prior to digging, but will proceed with the work if the contact cannot be made in a timely fashion.
- (m) If an underground system is requested for projects other than those meeting the conditions set forth above, such system will be furnished by RMU in accordance with the provisions for furnishing optional

facilities.

(Code 1996, § 11.05.090)

Sec. 98-251. - MULTIPLE OCCUPANCY DEVELOPMENTS.

(a) If an underground system is requested to serve a group of four or more residential or commercial customers located in an apartment house project, a shopping center or a similar development, underground facilities will be provided by RMU subject to the conditions in subsections (b) and (c) of this section.

(b) The developer shall furnish RMU a plat of the area to be served showing location of buildings, driveways, parking areas, approximate number of customers to be served in each building, and an estimate of electrical requirements of the project. Based on this information RMU will design an underground system capable of supplying in a practical manner the electrical needs of the customers to be served in the project. The developer shall provide such permits, easements, or other rights as RMU reasonably deems necessary for the ownership, operation, maintenance and replacement of its facilities within the project.

(c) RMU shall furnish, install, own, and maintain at its expense all of the electrical facilities required for the proposed underground system except as follows:

(1) If it is practical to service the development from RMU's existing or proposed secondary distribution system at or adjacent to the development property line, the developer shall furnish, install, own and maintain at the customer's expense, any manholes, duct or conduit required for the underground system and, if the customer desires any primary service facilities within the property, all necessary pads for transformer installation. If direct burial cable is used, the necessary trenching and back filling shall be at the developer's expense.

(2) The developer, at the customer's expense, will furnish, install, own and maintain all conduits required within buildings. Secondary underground cables will be installed within buildings in accordance with the provisions of section 98-232

(3) Primary cables required within buildings to provide service in such buildings shall be subject to RMU's provisions for furnishing optional facilities.

(4) In the case of an electric service station, the customer shall provide the pad and secondary cable and conduit at the customer's expense (see section 98-222(b)(2) and (3)).

(d) If the developer of an area planned for commercial or industrial buildings, such as an industrial park, requires underground facilities where overhead facilities are standard, and does not qualify for underground facilities under subsections (a) through (c) of this section, RMU shall furnish an underground distribution system and the developer shall pay the excess cost of such system over the cost of a standard overhead distribution system. If there is no developer, and underground facilities are required by the owner of an individual site in such area, the owner shall pay the excess cost in accordance with the foregoing sentence provided, however, that if, within five years from the date of installation of such facilities, additional customers are served from the underground system installed hereunder, such additional customers shall pay their proportionate shares of such excess cost. Such payments shall be distributed among the owner and additional customers previously making payments hereunder in accordance with their prior contributions.

(Code 1996, § 11.05.092)

Sec. 98-252. - SINGLE-FAMILY DEVELOPMENTS.

(a) If an underground system is requested for a single-family residential units not now served, an underground primary system will be installed by RMU, except to the extent set forth in the other applicable subsections of sections 98-250 and 98-251 and this section, and in accordance with the standard charges in sections 98-253 and 98-254

(b) A refundable deposit required for each lot to be served shall be made before construction of the underground system is started. The customer, contractor, developer, etc., shall contact the RMU business office concerning the deposit amount and payment thereof. Such deposit shall be refunded as each residential unit is connected. Any portion of the deposit not so refunded and remaining at the end of ten years from the date of installation shall become the property of RMU. RMU will not be required to pay interest on any such deposit. In no case shall the amount refunded exceed the amount of the original deposit.

(Code 1996, § 11.05.094)

Sec. 98-253. - Standard Charges For Residential Underground Service; Charges For Underground Distribution Systems.

(a) For groups of single-family units consisting of, but not limited to, individual residences, mobile homes in a permanent mobile home park, qualifying lots in a recreational park, less than four unit apartment buildings, or a row house development, RMU will construct the underground primary distribution system. The customer will be responsible for furnishing, installing, owning, and maintaining the secondary underground service. The customer shall pay a deposit in advance of construction for the total cost to install the primary distribution system. RMU will refund the average cost per lot of the primary and secondary system. The refund will be made for each residential unit that has permanent electric service and is a permanently occupied dwelling. The refundable amount shall be payable in advance of the construction or at a date(s) agreed to by the Rochelle Municipal Utilities. Any portion of the deposit not so refunded and remaining at the end of ten years from the date of installation shall become the property of RMU. RMU will not be required to pay interest on any such deposit. In no case shall the amount refunded exceed the amount of the original deposit.

(b) An additional nonrefundable charge will be required if the average length of lot lines along the route of the proposed distribution system exceeds 15 feet. A charge per foot per lot shall be made for the excess of average lot line length over 125 feet. The charge for additional cable, on a per foot basis, shall be a flat charge, as in effect from time to time, determined by RMU. Contact RMU for current standard charges.

(c) Where primary and/or secondary distribution system risers on RMU-owned cable poles are required to supply underground distribution systems to service fewer than eight single-family units, a charge shall be made for each riser so required. The charge for each type or riser shall be a flat charge, as in effect from time to time, determined by RMU. Contact RMU for current standard charges.

(d) Charges are subject to conditions set forth in section 98-250(b)—(f), (j), and (k), which set forth certain situations requiring additional charge. For example, if hand digging is necessary, the extra cost will be reflected in charges to the customer.

(Code 1996, § 11.05.100)

Sec. 98-254. - CHARGES FOR UNDERGROUND SERVICE CONNECTIONS.

(a) *Primary service connection.* In cases where a primary service connection is required, a charge per foot shall be made for the first 135 feet of the service connection as measured from the point at which it crosses the lot line or easement line (if no lot line is crossed) to the base of the electric service station. If the length of the service connection exceeds 135 feet, an additional and separate charge per foot shall be made for such excess. If service is supplied from an overhead distribution system, an additional charge is made for the primary riser on the pole. The charges for additional cable, on a per foot basis, and the charge for each riser shall be at flat charges, as in effect from time to time, determined by RMU. Contact RMU for the current standard charges.

(b) *Secondary service connection.* The customer is responsible to furnish, install, own, and maintain all underground secondary connections.

(Code 1996, § 11.05.102)

Sec. 98-255. - STREET LIGHTING CONSTRUCTION.

(a) RMU will furnish, install, own, and maintain street lighting if requested by the customer. The customer shall pay the costs for furnishing and installation/construction prior to the beginning of the work. If the customer chooses to furnish and install street lighting, which is to be owned and maintained by RMU, the street lighting shall conform to the standards established by RMU or the local code.

(b) Street lighting standards used for construction by RMU will be as published by the Illuminating Engineering Society (IES).

(c) Before work is started by RMU on the installation of any portion of a street lighting construction project, a plan showing the proposed installation shall be submitted to RMU for its approval as related to RMU requirements. Such installation shall be made in accordance with the approved plan and be subject to examination to the extent deemed necessary by RMU.

(d) If RMU, in accordance with the applicable subsections of this section, furnishes, installs, owns, and maintains the street lighting, the customer shall comply with the following requirements before construction is begun by RMU:

- (1) Provide such permits, easements or other rights as RMU reasonably deems necessary for the ownership, installation, operation, maintenance and replacement of RMU facilities so provided;
- (2) Remove all obstructions from such easement strips or rights-of-way including above and below grade rubble or tree stumps, etc, in redeveloped and undeveloped areas;
- (3) Grade the easement strips or rights-of-way to a level not above nor more than four inches below final grade;
- (4) Install marker stakes for lot corners and grade purposes placed at intervals designated by RMU;
- (5) Make the easement strips or rights-of-way accessible to RMU's equipment and;
- (6) In the case of a new development, provide a document specifying the final grade and drainage of the development.

(e) Charges for rental, maintenance and operation of street lights shall be in accordance with

established rate schedules.

(Code 1996, § 11.05.110)

Sec. 98-256. - POLE ATTACHMENTS.

(a) No public or private entity, other than the city, shall make or maintain any attachment to or within any RMU poles, ducts or conduits (including without limitation any crossbars, line wires, guy wires, cables, apparatus, fixtures or other appurtenances affixed to or carried on said pole, duct or conduit), without having in place a valid unexpired pole attachment agreement between the entity and the city for the pole, duct or conduit, and without first having received any required permits and paid all required pole attachment fees for the pole, duct or conduit.

(b) Any attachment to an RMU pole, duct or conduit which is made or maintained in violation of this section shall be an unauthorized attachment. Any such attachment which is initially an authorized attachment shall become an unauthorized attachment upon the expiration or breach of the pole attachment agreement, including without limitation the failure to make timely payment of any pole attachment fee. Any unauthorized attachment shall constitute a trespass upon property of the city.

(c) Pole attachment fees shall be set by resolution of the city council from time to time.

(d) Any public or private entity which makes or maintains an unauthorized pole attachment shall pay, within ten days following receipt of written notice from the city, an unauthorized attachment fee of three times the annual pole attachment fee for each unauthorized attachment, for each year or part of a year dating from the date the unauthorized attachment was made or, if the attachment was initially an authorized attachment, from the date the attachment became an unauthorized attachment.

(e) If payment of unauthorized attachment fees is not made in a timely manner, RMU may recover the amount of such fees, together with declaratory and/or injunctive relief, and costs, including reasonable attorneys fees, in any court of competent jurisdiction.

(Ord. No. 08-3658, 3-24-2008)

Sec. 98-257. - AGGREGATION OF RETAIL CUSTOMER DEMAND RESPONSE.

(a) The City of Rochelle or its authorized designee is the sole entity permitted to bid demand response on behalf of retail customers served by the City of Rochelle directly into any Federal Energy Regulatory Commission-approved independent system operator's or regional transmission organization's organized electric markets.

(b) Retail customers served by the City of Rochelle wishing to bid their demand response into a Federal Energy Regulatory Commission-approved independent system operator's or regional transmission organization's organized electric markets may do so by participating in the program established by the City of Rochelle or its authorized designee. Retail customers are not permitted to participate in the demand response program of any other entity without the express prior authorization of the City of Rochelle.

(Ord. No. 09-3784, 2-9-2009)

Sec. 98-258. - ANCILLARY SERVICES PROVIDED BY DEMAND RESPONSE RESOURCES.

(a) The City of Rochelle or its authorized designee is the sole entity permitted to bid demand response

on behalf of retail customers served by City of Rochelle directly into any Federal Energy Regulatory Commission-approved independent system operator's or regional transmission organization's organized markets for energy imbalance, spinning reserves, supplemental reserves, reactive power and voltage control, or regulation and frequency response ancillary services (or its functional equivalent in the Federal Energy Regulatory Commission-approved independent system operator's or regional transmission organization's tariff).

(b) Retail customers served by the City of Rochelle wishing to bid their demand response into a Federal Energy Regulatory Commission-approved independent system operator's or regional transmission organization's organized markets for energy imbalance, spinning reserves, supplemental reserves, reactive power and voltage control, or regulation and frequency response ancillary services (or its functional equivalent in the Federal Energy Regulatory Commission-approved independent system operator's or regional transmission organization's tariff) may do so by participating in the program established by the City of Rochelle or its authorized designee. Retail customers are not permitted to participate in the demand response program of any other entity without the express prior authorization of the City of Rochelle.

(Ord. No. 09-3784, 2-9-2009)

ARTICLE VI. - INTERCONNECTION AND NET METERING

[Sec. 98-259. - Interconnection.](#)

[Sec. 98-260. - Net metering.](#)

[Sec. 98-261. - Eligible on-site generating facilities.](#)

Sec. 98-259. - INTERCONNECTION.

RMU shall make available, upon request, interconnection services to any customer that meets the applicable requirements. Interconnection services in this article refers to on-site generating facilities connected to the RMU electric distribution system in a manner that will allow excess electricity generated by the eligible on-site generating facility to be safely delivered onto RMU's electric distribution system. The requirements for interconnection services shall be established by resolution of the city council.

(Ord. No. 09-3878, § 1(Exh. A), 12-14-2009)

Sec. 98-260. - NET METERING.

RMU shall make available, upon request, net metering service to any customer taking service from RMU who meets the applicable requirements. Net metering in this article refers to service to an electric customer under which electric energy generated by that electric customer from an eligible on-site generating facility owned by that customer and, under some circumstances, delivered onto RMU's electric distribution system, may be used to offset electric energy provided by RMU to the electric customer. The requirements for net metering service shall be established by resolution of the city council.

(Ord. No. 09-3878, § 1(Exh. A), 12-14-2009)

Sec. 98-261. - ELIGIBLE ON-SITE GENERATING FACILITIES.

For purposes of this article an eligible on-site generating facility shall be defined as a renewable generating facility such as a photovoltaic facility or small wind turbines. Other forms of renewable generation, such as sources fueled by landfill methane, fuel cells, or micro turbines by renewable fuels shall be considered on a case by case basis. In all cases, facilities interconnected must be deemed to be renewable to in order to be eligible.

(Ord. No. 09-3878, § 1(Exh. A), 12-14-2009)

Chapters 99—101 - RESERVED

Chapter 102 - VEGETATION

ARTICLE I. - IN GENERAL

ARTICLE II. - TREES AND SHRUBS

ARTICLE I. - IN GENERAL

[Secs. 102-1—102-30. - Reserved.](#)

Secs. 102-1—102-30. - RESERVED.

ARTICLE II. - TREES AND SHRUBS

- Sec. 102-31. - Permit for planting tree or shrub in public place.
- Sec. 102-32. - Permit for removing tree or shrub in public place.
- Sec. 102-33. - Injuring tree or shrub in public place.
- Sec. 102-34. - Attaching advertisement or notice to tree or shrub in public place.
- Sec. 102-35. - Trees or shrubs overhanging or liable to fall on street or other public place.
- Sec. 102-36. - Attaching wire or rope to tree or shrub in public place.
- Sec. 102-37. - Trimming of trees and shrubs near poles and wires.
- Sec. 102-38. - Damage from leaking gas pipes.
- Sec. 102-39. - Damage from excavations.

Sec. 102-31. - PERMIT FOR PLANTING TREE OR SHRUB IN PUBLIC PLACE.

(a) *Required.* It is unlawful to plant any tree or bush in any public street, parkway or other public place without having obtained a permit therefor, the fee for which shall be established by resolution by the council from time to time.

(b) *Application; issuance.* Applications for the permit required by subsection (a) of this section shall be made to the building division and referred by such division to the director of public works before issuance. All trees and shrubs so planted shall be placed subject to the direction and approval of the director.

(Code 1996, §§ 12.50.010, 12.50.020)

Sec. 102-32. - PERMIT FOR REMOVING TREE OR SHRUB IN PUBLIC PLACE.

It is unlawful to remove or cut down any tree or shrub in any public place, without having obtained a permit therefor, the fee for which shall be such amount as established by the council by resolution from time to time. Applications for such permits shall be made to and approved by the department of public works.

(Code 1996, § 12.50.030)

Sec. 102-33. - INJURING TREE OR SHRUB IN PUBLIC PLACE.

It is unlawful to injure any tree or shrub planted or growing in any public place.

(Code 1996, § 12.50.040)

Sec. 102-34. - ATTACHING ADVERTISEMENT OR NOTICE TO TREE OR SHRUB IN PUBLIC PLACE.

It is unlawful to attach any sign, advertisement or notice to any tree or shrub in any public place.

(Code 1996, § 12.50.050)

Sec. 102-35. - TREES OR SHRUBS OVERHANGING OR LIABLE TO FALL ON STREET OR OTHER PUBLIC PLACE.**(a) *Trimming required.***

(1) Any tree or shrub which hangs over any sidewalk, street or other public place in the city in such a way as to impede or interfere with traffic or travel shall be trimmed by the owner of the premises abutting or of the premises on which such tree or shrub grows so that the obstruction shall cease.

(2) 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.

(b) *Trimming by city.* The director of public works may trim any tree or shrub or remove any such tree or branch thereof so that the obstruction or danger to traffic or passage shall be done away with.

(Code 1996, §§ 12.50.060, 12.50.070)

Sec. 102-36. - ATTACHING WIRE OR ROPE TO TREE OR SHRUB IN PUBLIC PLACE.

It is unlawful to attach any wire or rope to any tree or shrub in any public street, parkway or other public place without the permission of the department of public works.

(Code 1996, § 12.50.080)

Sec. 102-37. - TRIMMING OF TREES AND SHRUBS NEAR POLES AND WIRES.

Any person who maintains poles or wires in the streets, alleys or other public places shall, in the absence of provision in the franchise concerning the subject, keep such wires and poles free from and away from any trees and shrubs in such places as far as may be possible, and shall keep all such trees and shrubs near such wires and poles properly trimmed, subject to supervision of the director of utilities or his agent, so that no injury shall be done either to the poles or wires or to the shrubs and trees by their contact.

(Code 1996, § 12.50.090)

Sec. 102-38. - DAMAGE FROM LEAKING GAS PIPES.

Any person maintaining any gas pipe in the city shall keep such pipe free from leaks so that no injury shall be done thereby to any trees or shrubs.

(Code 1996, § 12.50.100)

Sec. 102-39. - DAMAGE FROM EXCAVATIONS.

In making excavations in streets or other public places proper care shall be taken to avoid injury to the roots of any tree or shrub wherever possible.

(Code 1996, § 12.50.110)

Chapters 103—105 - RESERVED

Chapter 106 - VEHICLES FOR HIRE

ARTICLE I. - IN GENERAL

ARTICLE II. - LICENSE

ARTICLE III. - MAINTENANCE AND CONDUCT

ARTICLE I. - IN GENERAL

Sec. 106-1. - Definitions.

Sec. 106-2. - Operation of taxicab or limousine business.

Secs. 106-3—106-30. - Reserved.

Sec. 106-1. - DEFINITIONS.

As used in this chapter, the following terms shall have the following meanings:

Limousine shall mean any vehicle used for the transportation of persons when the payment is not based on a meter charge but is prearranged for a designated destination.

Taxicab shall mean any vehicle intended to be used for the transportation of persons when the payment is usually based and recorded as a taxi meter charge between a point of origin and a destination.

(Ord. No. 08-3677, § 1, 5-12-2008)

Sec. 106-2. - OPERATION OF TAXICAB OR LIMOUSINE BUSINESS.

No person, firm or entity shall operate a taxicab or limousine business within the city except in compliance with the provisions of this chapter. Without limiting the applicability of any other remedies, the city shall have the right to an injunction to restrain or enjoin any violation, or threatened violation, of this chapter, and in such event, to recover its costs and reasonable attorney's fees in addition to any other relief obtained.

(Ord. No. 08-3677, § 1, 5-12-2008)

Secs. 106-3—106-30. - RESERVED.

ARTICLE II. - LICENSE ^[13]

⁽¹³⁾ **Editor's note—** Ord. No. 08-3677, §§ 1, 2 (Exh. A), adopted May 12, 2008, amended Art. II (title) to read as herein set out. Former Art. II (title), pertained to taxicabs. See the Code Comparative Table for complete derivation.

[Sec. 106-31. - Required; number of licenses.](#)

[Sec. 106-32. - Application.](#)

[Sec. 106-33. - Fee.](#)

[Secs. 106-34—106-40. - Reserved.](#)

Sec. 106-31. - REQUIRED; NUMBER OF LICENSES.

It is unlawful to conduct or operate a taxicab or limousine business without having first obtained a license therefor as herein provided. There shall be issued in the city not more than three taxicab licenses and not more than three limousine licenses.

(Code 1996, § 5.50.010; Ord. No. 08-3677, § 1, 5-12-2008)

Sec. 106-32. - APPLICATION.

Applications for the license required by section 106-31 shall be made, in writing, to the city clerk. Each application shall state thereon the name, business telephone number and the address of the place of business of the applicant, the number of vehicles to be operated, and the number of drivers to be employed. Such application shall also state the make, model and present title, license and serial number of each vehicle to be operated, and the names and addresses of drivers to be employed. Upon receiving such application, the city council shall cause an investigation to be made of the criminal history of the applicant. Each applicant shall be fingerprinted and shall pay any applicable fees in connection with the fingerprinting and the use of the fingerprint in connection with the investigation. No such license shall be issued to any person who has been convicted of a felony. No taxicab license shall be issued to an applicant who is using property zoned residential (R-1 thru R-5) as his place of business.

(Code 1996, § 5.50.020; Ord. No. 05-3335, § 5.50.020, 7-11-2005; Ord. No. 08-3677, § 1, 5-12-2008)

Sec. 106-33. - FEE.

The annual fee for the license required by section 106-61 shall be as provided in section 26-44. Whenever a licensee adds to the number of vehicles, or changes the drivers in his employ, he shall notify the city clerk, in writing, of such change.

(Code 1996, § 5.50.030; Ord. No. 08-3677, § 1, 5-12-2008)

Editor's note— Ord. No. 08-3677, § 1, adopted May 12, 2008, set out provisions renumbering Art. II, §§ 106-31—106-36, 106-38 and 106-39 as Art. III, §§ 106-41—106-48, as set out herein. Ord. No. 08-3677, § 1, also repealed § 106-37, which pertained to parking limitations. See the Code Comparative Table for complete derivation.

Secs. 106-34—106-40. - RESERVED.

ARTICLE III. - MAINTENANCE AND CONDUCT

Sec. 106-41. - Vehicle equipment and maintenance; safety test; certificate.

Sec. 106-42. - Owner's name and vehicle number to be shown on vehicles.

Sec. 106-43. - Register of drivers.

Sec. 106-44. - Posting of taxicab rates of fare.

Sec. 106-45. - Receipt for fare.

Sec. 106-46. - Right of driver to demand advance payment.

Sec. 106-47. - Conduct of driver.

Sec. 106-48. - Delivery of alcoholic liquor prohibited.

Secs. 106-49—106-60. - Reserved.

Sec. 106-41. - VEHICLE EQUIPMENT AND MAINTENANCE; SAFETY TEST; CERTIFICATE.

Every taxicab and limousine licensed under this chapter shall at all times be in compliance with all applicable permit, license and inspection requirements of the State of Illinois.

(Code 1996, § 5.50.040; Ord. No. 08-3677, § 1, 5-12-2008)

Sec. 106-42. - OWNER'S NAME AND VEHICLE NUMBER TO BE SHOWN ON VEHICLES.

The name of the owner of a taxicab shall be printed or painted in a prominent place on the righthand side of the vehicle, in letters at least two inches high; and if any licensee operates more than one such vehicle, such vehicle shall be numbered, with figures not less than two inches high; but no two vehicles operated by the same licensee shall bear the same number. The names and numbers shall be of such size and color as to be readily visible from a distance of 25 feet.

(Code 1996, § 5.50.050; Ord. No. 08-3677, § 1, 5-12-2008)

Sec. 106-43. - REGISTER OF DRIVERS.

Each person licensed under the provisions of this article to conduct or engage in a taxicab business in the city shall keep a register showing the name and address of every driver of a taxicab in his employ. A copy of such register shall be filed with the chief of police and updated promptly as changes are made. Prior to employing any driver to operate a taxi within the corporate limits of the city, the applicant shall provide the name and address of the driver to the chief of police, who shall conduct a background check on the driver as soon as practicable. No driver shall be employed to operate a taxi within the corporate limits of the city until the completion of the background check. No driver shall be employed to operate a taxi within the corporate limits of the city whose criminal history or driving record indicates unfitness for the position. The chief of police shall make a written determination of fitness based upon the results of the background check. Any adverse determination by the chief of police may be appealed by the applicant to the city manager within seven days of receipt of the adverse determination. All appeals shall be in writing. The city manager's decision on the appeal shall be made in writing within seven days after receipt of the appeal.

(Code 1996, § 5.50.060; Ord. No. 05-3335, § 5.50.060, 7-11-2005; Ord. No. 08-3677, § 1, 5-12-2008)

Sec. 106-44. - POSTING OF TAXICAB RATES OF FARE.

Each taxicab in service must have the current fare rates charged by the operator posted both upon the passenger window and inside the passenger compartment of the cab in print which can be read from a distance of at least four feet.

(Code 1996, § 5.50.070; Ord. No. 08-3677, § 1, 5-12-2008)

Sec. 106-45. - RECEIPT FOR FARE.

Any passenger paying a taxicab or limousine fare is entitled to a receipt showing the amount paid.

(Code 1996, § 5.50.080; Ord. No. 08-3677, § 1, 5-12-2008)

Sec. 106-46. - RIGHT OF DRIVER TO DEMAND ADVANCE PAYMENT.

Every owner or driver of a taxicab or limousine has the right to demand his fare in advance from the person so employing him or entering his vehicle, and may refuse to convey any person who does not comply with the demand.

(Code 1996, § 5.50.090; Ord. No. 08-3677, § 1, 5-12-2008)

Sec. 106-47. - CONDUCT OF DRIVER.

It is unlawful for any person driving a taxicab or limousine to engage in any conduct constituting disorderly conduct while so occupied or while in charge of a vehicle, or drink any intoxicating liquor at such times. It is unlawful for any such driver to use obscene, as defined in 720 ILCS 5/11-20, language.

(Code 1996, § 5.50.120; Ord. No. 08-3677, § 1, 5-12-2008)

Sec. 106-48. - DELIVERY OF ALCOHOLIC LIQUOR PROHIBITED.

It is unlawful for the owner or driver of any taxicab licensed under this article to make deliveries of alcoholic liquor in any manner whatsoever.

(Code 1996, § 5.50.130; Ord. No. 08-3677, § 1, 5-12-2008)

Editor's note— Ord. No. 08-3677, § 1, adopted May 12, 2008, repealed Art. II, Div. 2, which pertained to licenses. See the Code Comparative Table for complete derivation.

Secs. 106-49—106-60. - RESERVED.

Chapters 107—109 - RESERVED

Chapter 110 - ZONING

ARTICLE I. - IN GENERAL
ARTICLE II. - ADMINISTRATION AND ENFORCEMENT
ARTICLE III. - DISTRICTS
ARTICLE IV. - LOT AND YARD REQUIREMENTS
ARTICLE V. - PERFORMANCE STANDARDS
ARTICLE VI. - LANDSCAPING
ARTICLE VII. - PLANNED UNIT DEVELOPMENTS
ARTICLE VIII. - MOBILE HOME PARKS
ARTICLE IX. - SHORELANDS AND WATERCOURSES
ARTICLE X. - STANDARDS AND REQUIREMENTS FOR MISCELLANEOUS USES
ARTICLE XI. - NONCONFORMING LOTS, STRUCTURES, AND USES
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ARTICLE XIII. - SIGNS
ARTICLE XIV. - ANTENNAS AND SATELLITE DISHES
ARTICLE XV. - EXCEPTIONS AND MODIFICATIONS

ARTICLE I. - IN GENERAL

Sec. 110-1. - Statutory authority.
Sec. 110-2. - Title.
Sec. 110-3. - Intent; scope.
Sec. 110-4. - Purpose.
Sec. 110-5. - Conflicting regulations or agreements.
Sec. 110-6. - Interpretation.
Sec. 110-7. - Reserved.
Sec. 110-8. - Jurisdiction.
Sec. 110-9. - Definitions.
Sec. 110-10. - Use restrictions.
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Sec. 110-12. - Cemeteries and burials.
Sec. 110-13. - General development procedure.
Sec. 110-14. - Vision clearance triangle.
Sec. 110-15. - Buildings under construction.
Sec. 110-16. - Building moving.
Secs. 110-17—110-40. - Reserved.

Sec. 110-1. - STATUTORY AUTHORITY.

The regulations codified in this chapter are adopted under the authority granted by 65 ILCS 5/11-13-1.

(Code 1996, § 17.04.010)

Sec. 110-2. - TITLE.

This chapter shall be known, cited and referred to as the "Rochelle Zoning Ordinance."

(Code 1996, § 17.04.020)

Sec. 110-3. - INTENT; SCOPE.

This chapter divides the city into districts for the purpose of classifying, regulating and restricting the location of trades, industries and commercial enterprises, and the location of buildings arranged, intended and designed for specified uses, or regulating and limiting the height and bulk of buildings hereafter erected, or classifying, regulating, and determining the area of front, rear and side yards, courts and other open spaces about buildings, and of regulating and limiting the intensity of the use of the land and lot areas within such city; creates a planning and zoning commission; defines certain terms used in this chapter; provides penalties for its violation; and designates the time when this chapter shall take effect.

(Code 1996, § 17.04.030; Ord. No. 08-3676, § 3 (Exh. B), 5-12-2008)

Sec. 110-4. - PURPOSE.

This chapter is adopted for the following purposes:

- (1) To promote and protect the public health, safety, morals, comfort, convenience and general welfare of the people;
- (2) 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;
- (3) To protect the character and stability of residential, business and manufacturing areas within the city, and to promote the orderly and beneficial development of such areas;
- (4) To provide adequate light, air, privacy and convenience of access to property;
- (5) To regulate the intensity of use of lot area, and to determine the area of open space surrounding buildings necessary to provide adequate light and air and to protect the public health;
- (6) To establish building lines and the location of buildings designed for residential, business, manufacturing and other uses within such areas;
- (7) To fix reasonable standards to which buildings or structures shall conform;
- (8) To prohibit uses, buildings or structures incompatible with the character of development or intended uses within specified zoning districts;
- (9) To prevent additions to, or alteration or remodeling of, existing buildings or structures in such a way as to avoid the restrictions and limitations imposed hereunder;
- (10) 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;
- (11) To protect against fire, explosion, noxious fumes and other hazards in the interest of the public health, safety, comfort and general welfare;
- (12) 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;

(13) To conserve the taxable value of land and buildings throughout the city;

(14) To provide for the elimination of nonconforming uses of land, buildings and structures which are adversely affecting the character and value of desirable development in each district; and

(15) To define and limit the powers and duties of the administrative officers and bodies as provided herein.

(Code 1996, § 17.04.040)

Sec. 110-5. - CONFLICTING REGULATIONS OR AGREEMENTS.

It is not the intent of this chapter to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, ordinances, rules, regulations or permits previously adopted or issued pursuant to law. However, wherever this chapter imposes greater restrictions, the provisions of this chapter shall govern.

(Code 1996, § 17.04.050)

Sec. 110-6. - INTERPRETATION.

(a) The provisions of this chapter shall be interpreted and applied as minimum requirements, shall be liberally construed in favor of the city, and shall not be deemed a limitation or repeal of any other power granted by the laws of the state.

(b) For the purposes of interpreting and administering this chapter, the following rules shall be used:

(1) Words used in the present tense shall include the future; and words used in the singular shall include the plural number, and the plural the singular, where the context requires.

(2) The word "shall" is mandatory and not discretionary.

(3) The word "may" is permissive.

(4) The word "lot" includes the words "piece," "parcel," and "tract," and the phrase "used for" shall include the phrases "arranged for," "intended for," "maintained for" and "occupied for."

(5) All measured distances shall be to the nearest integral foot. If a fraction is one-half foot or less, the integral foot next below shall be taken.

(6) Any words not herein defined shall be construed in their general accepted meanings in the most recent publication of Merriam-Webster International Dictionary.

(7) The words and terms set forth in section 110-9 wherever they occur in this chapter shall be interpreted as defined in section 110-9

(Code 1996, § 17.04.060)

Sec. 110-7. - RESERVED.**Sec. 110-8. - JURISDICTION.**

Jurisdiction of the regulations contained in this chapter shall apply to all lands and waters within the corporate limits of the city.

(Code 1996, § 17.04.080)

Sec. 110-9. - DEFINITIONS.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessory building or use.

- (1) The term "accessory building or use" means a subordinate building or use which is located on the same lot on which the main 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.
- (2) An "accessory use" includes, but is not limited to, the following:
 - a. A child's playhouse, garden house and private greenhouse;
 - b. A garage, shed or building for domestic storage;
 - c. 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;
 - d. 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;
 - e. Off-street motor vehicle parking areas, and loading and unloading facilities;
 - f. Signs as permitted and regulated in each district incorporated in this chapter;
 - g. Fences and walls;
 - h. Satellite antenna and/or a satellite receiving station;
 - i. Decks whether attached or not to the principle building.

Acreage means any tract or parcel of land which has not been subdivided and platted.

Agricultural use includes farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture, and animal and poultry husbandry, and the necessary accessory uses for packing, treating, or storing the produce; provided, however, that the operation of any such accessory uses shall be secondary to that of the normal agricultural activities.

Alley means a public way, not more than 30 feet wide, which affords only a secondary means of access to abutting property.

Apartment means a room or suite of rooms in a multifamily structure, which is arranged, designed, used or intended to be used as a single housekeeping unit. Individual bathrooms and complete kitchen facilities, permanently installed, must always be included for each apartment.

Automobile repair, major, means engine rebuilding or major reconditioning of worn or damaged motor vehicles or trailers; collision service, including body, frame or fender straightening or repair; and overall painting of vehicles.

Automobile repair, minor, means incidental repairs, replacement of parts, and motor service of automobiles, but not including any operation specified under the term "automobile repair, major."

Automobile service station means a place where gasoline stored only in underground tanks, kerosene, and lubricating oil or grease for operation of automobiles are offered for sale directly to the public on the premises, including minor accessories and services for automobiles, and including automobile repairs, and washing of automobiles. When the dispensing, sale or offering for sale of motor fuels or oils is incidental to the conduct of a public garage, the premises shall be classified as a public garage, or auto wash.

Auto wrecking means any place where two 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 vehicles or parts thereof; and includes any farm vehicles or farm machinery, or parts thereof, stored in the open and not being restored to operating condition.

Basement means a story partly or wholly underground where more than one-half of its height is above established curb level or above the average level of the adjoining ground where curb level has not been established.

Billboard means any structure or portion thereof upon which signs or advertisements are used as an outdoor display. This definition does not include any bulletin board used to display official court or public notices, or signs advertising the sale or lease of the premises on which the sign is located.

Boardinghouse means a building, other than a hotel or restaurant, where meals and lodging are provided for compensation for four or more persons who are not members of the keeper's family.

Block means a tract of land bounded by streets or, in lieu of a street, by public parks, cemeteries, railroad rights-of-way or a corporate boundary line of the city.

Buildable area means the space remaining after the minimum open space requirements of this chapter have been complied with.

Building means 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 shelter, enclosure or protection of persons, animals or chattels. Any structure with interior areas not normally accessible for human use, such as gasholders, oil tanks, water tanks, grain elevators, coalbunkers, oil cracking towers and other similar structures, are not considered as buildings.

Building height means the vertical distance from the grade to the top of the highest roof beams of a flat roof, or to the mean level of the highest gable or slope of a hip roof. When a building faces on more than one street, the height shall be measured from the average of the grades at the center of each street front.

Bus lot means any lot or land area used for the storage or layover of passenger buses or motor coaches

used in public transportation.

Carport means a structure attached to or made a part of the main structure, and which is open to the weather on at least two sides, intended for the use of sheltering not more than two motor-driven passenger vehicles.

Cartage, local, means pickup and delivery of parcels, packages and freight by motor truck within the city area.

Cellar means a story, partly or wholly underground, where more than one-half of its height is below the established curb level or above the average level of the adjoining ground where curb level has not been established.

Conditional (special) use means a use of land, water or building which is allowable only after the issuance of a special permit by the city council under conditions specified in this chapter.

Court means the vertical distance from the lowest level of the court to the mean height of the top of the enclosing walls.

Curb level means 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 street, the curb level shall be the average of the levels of the curbs at the center of the front on 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.

Day care home means family home which receives more than three and up to a maximum of 12 children for less than 24 hours per day, including the family's adopted or natural children and all other persons under the age of 12 years, excluding facilities which received only children from a single household, that is licensed by the state under 225 ILCS 10/1 et seq., the Child Care Act of 1969.

Day nursery and *nursery school* mean premises operated for the care and education of young children below the age of six.

Density means number of living units per acre allowable under the schedule of district regulations.

Detached structure means a structure surrounded by an open space on the same lot.

Dwelling means a building or portion thereof, but not an automobile house trailer, designed exclusively for residential occupancy, including one-family dwelling units, two-family dwelling units and multiple-family dwelling units, but not including hotels, boardinghouses or lodginghouses.

Dwelling group means two or more one-family or multiple-family dwellings located on one zoning lot, but not including tourist courts, lodginghouses or boardinghouses.

Dwelling, multiple family, means a building, or portion thereof, designed for occupancy by three or more families living independently of each other.

Dwelling, one-family, means a building designed exclusively for use and occupancy by one family, entirely separated by space from any other building.

Dwelling, row (party-wall), means a row of two to eight attached, one family, party-wall dwellings, not more than 2½ stories in height.

Dwelling, two-family, means a building designed exclusively for occupancy by two families.

Dwelling unit means one or more rooms in a residential structure, designed for living and sleeping purposes and limited in occupancy to one family. Individual bathrooms and complete kitchen facilities, permanently installed, must always be included for each dwelling unit.

Efficiency unit means a dwelling unit consisting of one principal room for living and sleeping purposes, exclusive of bathroom, kitchen, hallway, closets or dining alcove directly off the principal room, providing such dining alcove does not exceed 125 square feet in area.

Family means one or more persons related by blood, marriage or adoption, or a group of not more than five 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.

Floor area means area in square feet of all floors in all buildings, including elevators and stairways, measured from outside of exterior wall to outside of exterior wall and multiplied by the number of floors. The term "floor area" includes basements which are used in the primary function of the building.

Floor area ratio means the square footage of floor area on all floors for each square foot of lot area.

Frontage means the smallest dimension of a lot abutting a public street measured along the street line.

Garage, bus, means any building used or intended to be used for the storage of three or more passenger motorbuses, or motor coaches used in public transportation, including school buses.

Garage, bus or truck, means a building which is used or intended to be used for the storage of motor trucks, truck trailers, tractors and commercial vehicles.

Garage, private, means a detached accessory building or portion of the main building designed, arranged, used or intended to be used for the storage of passenger automobiles of the occupants of the premises.

Garage, public, means a 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.

Group day care home means a family home which receives more than three and up to a maximum of 16 children for less than 24 hours per day, including the family's adopted or natural children and all other persons under the age of 12 years, that is licensed by the state under 225 ILCS 10/1 et seq., the Child Care Act of 1969.

Home occupation means a gainful occupation conducted by members of the family only within their place of residence.

Hospital and *sanatorium* mean an institution open to the public in which or injured persons are given medical or surgical care; or for the care of contagious diseases or incurable patients.

Hotel, apartment, means a building containing dwelling units or individual guestrooms, the majority of which are not for transients. Maid and janitor services are provided, but kitchen facilities are not necessarily included.

Hotel, transient, means a building in which 50 percent or more of the rooms or suites are reserved to provide living and sleeping accommodations for transient guests who are lodged with or without meals,

and in which no provisions are made for cooking in any individual room or suite.

Householder means the occupant of a dwelling unit, who is either the owner or lessee thereof.

Junkyard means open area where waste, scrap, iron, paper, rags or similar materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, but excluding similar uses taking place entirely within a completely enclosed building.

Kennel, commercial, means any lot or premises on which two or more dogs, at least four months of age, are kept, boarded for compensation, or kept or bred for sale.

Laboratory, commercial, means a place devoted to experimental study, such as testing and analyzing. Manufacturing, assembly or packaging of products is not to be permitted within this definition.

Living space ratio means the square footage of open space, less the space used for vehicular movement, that exists for each square foot of building floor area.

Loading space and unloading space (off-street) means a hard-surfaced area other than a street or a public way, the principal use of which is for the standing, loading and unloading of motor trucks, tractors and trailers, to avoid undue interference with the public use of streets and alleys. Such space shall not be less than ten feet in width, 45 feet in length, and 14 feet in height, exclusive of access aisles and maneuvering space.

Lodginghouse means a building with not more than five guestrooms where lodging is provided for compensation pursuant to previous arrangements, but not open to the public or transients.

Lot, corner, means a parcel of land situated at the intersection of two or more streets, or adjoining a curved street at the end of a block.

Lot depth means the horizontal distance between the front and rear lot lines measured in the mean direction of the side lot lines.

Lot frontage means 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 provided, however, that the yards parallel to a duplex party wall shall be side yards as defined in this section.

Lot, interior, means a lot other than a corner lot.

Lot line, rear, means the lot line most nearly parallel to the front line. Other lot lines are side lot lines.

Lot, nonconforming, means any lot containing less than the required square footage, or other requirements as specified in this chapter.

Lot, through, means a lot having frontage on two parallel or approximately parallel streets, and which is not a corner lot.

Lot width means the horizontal distance between the side lot lines measured at right angles to the lot depth at the setback line.

Lot, zoning, means a plot of ground, made up of one or more parcels, which is or may be occupied by a building, including the open spaces required by this chapter.

Mobile home means a structure designed for permanent habitation and so constructed as to permit its

transport on wheels, temporarily or permanently attached to its frame, from the place of its construction to the location, or subsequent location, at which it is intended to be a permanent home, and designed to permit the occupancy thereof as a dwelling place for one or more persons.

Motor freight terminal means a building in which freight brought to such building by motor truck is assembled and sorted for routing in intrastate and interstate shipment by motor truck.

Motor truck repair shop means a premises where motor trucks, trailers, truck trailers and industrial and commercial vehicles, or their bodies, are overhauled, built, rebuilt or repaired.

Nonconforming use means any building, structure or land lawfully occupied by a use or lawfully established at the time of the passage of the ordinance from which this chapter is derived or amendments thereto, which does not conform after the passage of this chapter or amendments thereto with the use regulations of this chapter.

Nursing home and *rest home* mean a private home for the care of children or the aged or infirmed, 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.

Open space means total area in square feet of all uncovered open space of the land area within the site to be developed, plus one-half of covered open spaces such as park shelters and carports.

Open space ratio means the square footage of site "open space" provided for each foot of building floor area.

Parcel delivery station means a building in which commodities, sold at retail within the city area and packaged by the retailer, are assembled, sold and routed for delivery to retail customers located within the city area.

Parking area means an open, hard-surfaced area of land, other than a street of public way, the principal use of which is for the storage (parking) of passenger automobiles or commercial vehicles under three-ton capacity by the public, whether for compensation or not, or as an accommodation to clients or customers.

Parking area, private, means an open, hard-surfaced area of land, other than a street or public way, designed, arranged and made available for the storage or private passenger automobiles only of occupants of the building or buildings for which the parking area is developed and is accessory.

Parking area, public, means 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 three-ton capacity, and available to the public, whether for compensation, free, or as an accommodation to clients or customers.

Parking space, automobile, means space within a parking area or a building of not less than 180 square feet (nine feet by 20 feet minimum) exclusive of access drives or aisles, ramps, columns or office and work areas for the storage of one passenger automobile or commercial vehicle under three-ton capacity.

Pawnshop means any place of business that is regulated by the Illinois Pawnbroker Regulation Act which defines a pawnbroker as every individual or business entity which lends money on the deposit or pledge of physically delivered personal property, other than property the ownership of which is subject to a legal dispute, securities, printed evidence of indebtedness or printed evidence of ownership of the personal property, or who deals in the purchase of such property on the condition of selling the property back again at a stipulated price, shall be held and is hereby declared and defined to be a pawnbroker. The business

of a pawnbroker does not include the lending of money on deposit or pledge of title to property. Any change in the definition in the Illinois Pawnbrokers Act will constitute a change in the definition of a pawnshop.

Philanthropic institution means a nonprofit charitable institution devoted to the housing, training and care of children, or of aged, indigent, handicapped or underprivileged persons, but not including the following:

- (1) Office buildings, except as accessory to and located on the same lot with an institutional activity, as listed above;
- (2) Hospitals, clinics or sanitariums;
- (3) Correctional institutions;
- (4) Institutions or homes for the insane or those of unsound mind;
- (5) Lodginghouse or dormitories providing temporary quarters for transient unemployed persons;
- (6) Organizations devoted to collecting and salvaging new or used materials; or
- (7) Organizations devoted principally to distributing food, clothing or supplies on a charitable basis.

Porch means a roofed-over structure projecting out from the wall or walls of a main structure and commonly open to the weather in part.

Principal building means the building on a lot in which is conducted the principal use as permitted on such lot by the regulations of the district in which it is located.

Public utility means any person, firm, corporation or municipal department, duly authorized to furnish under municipal regulation to the public, electricity, gas, steam, telephone, telegraph, transportation or water.

Railroad hub facility means intermodal rail yards and facilities; marshalling yards; transload facilities; automotive loading, unloading and parking; railroad storage, switching or classification yards; locomotive, railroad car, crane, container and/or intermodal equipment repair, washing, fueling and cleaning facilities; off-street public and private parking (including trucks and truck trailers); offices and office buildings; indoor and/or outdoor storage, including without limitation trailer, material storage and container storage facilities; antennae and antennae towers, dishes and appurtenances thereto (including without limitation microwave, cell radio, TV or other transmission and reception); crew and employee change, housing and dining facilities; employee training facilities; gate stations, lighting standards and towers; cross dock facilities; warehouse; motel; restaurant; gas and oil station; truck and automotive repair facilities. In addition to the foregoing: (1) the outdoor conduct of any permitted use is expressly allowed; and (2) nothing contained in this chapter, including without limitation section 110-549, shall be deemed to prohibit or regulate the type of material contained in locomotives, trains, train cars, intermodal containers, trucks or any other type of containers or vehicles.

Railroad right-of-way means a strip of land with tracks and auxiliary facilities for truck operation, but not including depots, loading platforms, stations, train sheds, warehouses, car shops, car yards, locomotive shops or water towers.

Recreation space means total area in square feet which is countable as open space, but is not paved in

streets, walks or driveways and is suitable for recreation pursuits. That part of a recreation area having a dimension of less than 20 feet shall not be included as countable recreation space. In addition, countable recreation space must be at least 20 feet away from any residential wall containing a window on the ground floor.

Recreation space ratio means the square footage of space for active recreation provided for each square foot of building area.

Setback means a minimum horizontal distance between the street line (right-of-way) and the nearest point of a building or any projection thereto.

Sexually oriented materials means movies, films, slides, animated pictures, pictures, photographs, books, videos, DVDs, and computer software which show contact, however slight, between the sex organ or anus of one person by an object, the sex organ, mouth or anus of another person, or any intrusion, however slight, of any part of the body of one person or any animal or object into the sex organ or anus of another person, including but not limited to cunnilingus, fellatio or anal penetration, also, artificial devices which are similar in appearance to male or female sexual organs; excepting those materials which are available as a reference in a public library, or accredited educational facility or school, or as used in connection with counseling, therapy, or treatment by a state licensed medical or mental health facility or person.

Sexually oriented materials, sales or rentals, means any sale, rental, use, or opportunity to view, whether in connection with another business or use or not, of sexually oriented materials.

Sign means any works, letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names or trademarks by which anything is made known and which are used to advertise or promote an individual, firm, association, corporation, professional business, commodity or product and which is visible from any public street or highway.

Special use. See *Conditional use*.

Stable, livery, means 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.

(1) "Story" means 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 14 feet in height shall be considered as an additional story for each 14 feet or fraction thereof.

(2) For purposes of building height measurement, the term "story" means the vertical distance from top to top of two successive tiers of beams or finished floor surfaces; and, for the topmost story, from the top of the floor finish to the top of the ceiling joists, or, where there is not a ceiling, to the top of the roof rafters.

Street means a public way other than an alley.

Street line means a line separating an abutting lot, piece or parcel of land from a street.

Structural alterations means any change which would prolong the life of the supporting members of a building or structure, such as bearing walls, columns, beams or girders.

Structure means anything constructed or erected which requires location on the ground or is attached to something having location on the ground.

Terrace, open, means a level and rather narrow plane, or platform, which, for the purposes of this chapter, is located adjacent to one or more faces of the main structures, and which is constructed not more than four feet in height above the average level of the adjoining ground.

Tourist court, motor lodge and motel mean 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 facilities.

Tourist home means a dwelling in which accommodations are provided or offered for transient guests.

Transloading means the process of transferring a [shipment](#) from one mode of [transportation](#) to another, such as railcar to truck (and vice-versa). It is most commonly employed when one mode cannot be used for the entire trip, as for instance when goods must be shipped internationally from one inland point to another. An "intermodal" facility is a form of transloading, even though in this case the product typically does not change containers. (Ord. No. 12-4186, 05/28/2012)

Truck parking area means any land used or intended to be used for the storage or parking of trucks, tractors, truck trailers and commercial vehicles, while not loading or unloading, and which exceed three tons in capacity.

Use means 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 means a zoning lot on which used cars or trucks are displayed for sale or trade.

Vision clearance triangle means an unoccupied triangular space at either:

- (1) The corner lot which is bounded by the street right-of-way lines; or
- (2) The intersection of the street line and the left side of the line of a private driveway at an egress point facing the public right-of-way which consists of the street lines or street and driveway lines, as the case may be, and a setback line connecting points determined by measurements from intersection of the street and driveway lines.

Wall, for purposes of building height measurement, means the vertical distance of such wall to the top of the wall.

Yard means any open space on the same lot with a building, unoccupied and unobstructed from the ground upward, except as otherwise provided in this chapter.

Yard, front, means a yard extending the full width of the lot between the front lot line and the nearest part of the main building.

Yard, rear, means a yard extending the full width of the lot, being the minimum horizontal distance between the rear lot line and the nearest part of the building.

Yard, side, means a yard extending from the front yard to the rear yard, being the minimum horizontal distance between a building and the side lot line.

Zoning maps means the maps incorporated into this chapter as a part hereof.

(Code 1996, §§ 17.08.005—17.08.520; Ord. No. 05-3330, § 1, 5-23-2005; Ord. No. 09-3879, § 2, 12-14-2009; Ord. No. 10-3990, § 1, 12-13-2010); 12-4186, 5-28-2012;

Sec. 110-10. - USE RESTRICTIONS.

The following use restrictions and regulations shall apply:

- (1) *Principal uses.* Only those principal uses specified for a district or on a planned development plat, their essential services, and the following uses shall be permitted in that district.
- (2) *Accessory uses and structures.* Accessory uses and structures are permitted in any district, but not until their principal structure is present or under construction.
- (3) *Uses by special permit (conditional or special uses).* Uses by special permit and their accessory uses are permitted in districts as specified, but only according to the procedure set forth in article II, division 2 of this chapter. Also, any development within 500 feet of the existing or proposed right-of-way of freeways, tollways, expressways, interstate and controlled access trafficways, or located along the intersecting streets and within 1,500 feet of the existing or proposed interchange or turning right-of-way, as measured along the center line of the intersecting street, shall be deemed to be a use by a special use permit, provided, however, that the aforesaid requirement shall not apply to any development within an I-3 zoning district. Developments requiring a special use permit shall be specifically reviewed by the planning and zoning commission, as provided in article II, division 2 of this chapter.
- (4) *Unclassified or unspecified uses.* In case of uncertainty where the zoning administrator is unable to determine literally whether a use is permitted as a principal or accessory use, he shall consult the board of zoning appeals for an interpretation.
- (5) *Temporary uses.* Temporary uses such as real estate field offices or shelters for materials and equipment being used in the construction of a permanent structure may be permitted by the zoning administrator through the issuance of a certificate of zoning compliance for a period not to exceed six months. This temporary certificate may be renewed semiannually but in no case shall the effective period of the certificate exceed two years.
- (6) *Performance standards.* Performance standards listed in article V of this chapter shall apply to all uses in all districts unless specifically waived by the city council after consulting with the planning and zoning commission.

(Code 1996, § 17.12.010; Ord. No. 08-3676, § 2 (Exh. B), 5-12-2008)

Sec. 110-11. - SITE RESTRICTIONS.

The following site restrictions and regulations shall apply:

- (1) *Soil conditions.*
 - a. No land shall be used or structure erected where the land is held unsuitable for such use or structure by the planning and zoning commission by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, low percolation rate or bearing strength, high erosion potential, or any other feature likely to be harmful to the health, safety, prosperity,

aesthetic and general welfare of the city. The planning and zoning commission may request expert advice from the building official, the local soil and water conservation district, or other sources regarding the interpretation of soil conditions and data. planning and zoning commission, in applying the provisions of this section, shall, in writing, recite the particular facts upon which it bases its conclusion that the land is not suitable for certain uses. The applicant shall have an opportunity to present evidence contesting such unsuitability, if he so desires.

b. Thereafter, the planning and zoning commission may affirm, modify, or withdraw its determination of unsuitability.

(2) *Frontage on public thoroughfare.* All lots shall abut upon a public thoroughfare.

(3) *Lots on undedicated portion of street.* No land use (building) permit shall be issued for a lot that abuts a public street dedicated to only a portion of its proposed width and located on that side thereof from which the required dedication has not been secured.

(4) *Occupancy of basement or cellar.* Basements and cellars may be occupied for residential purposes only as a related use to residential living on other stories of the same building, such as, but not limited to, bilevel residences. Such occupancy shall be permitted only if the cellar or basement conforms to the regulations pertaining to light, ventilation, area, height, fire restrictions, egress, etc., of the city building code.

(5) *Dimensions of building sites.* In no case shall the lot size be less than those specified as minimum requirements in this chapter. However, the planning and zoning commission may require lots larger than the said minimum where site and/or soil conditions would require. All uses not served by public sewers shall also conform to other applicable state and city regulations. Septic tanks and other similar systems shall not be deemed as public sewer systems.

(6) *Reduction or joint use.* No lot, yard, parking area or other space shall be reduced in area or dimension so as to meet the provisions of this chapter. No part of any lot, yard, parking area or other space required for a structure or use shall be used for any other structure or use.

(7) *Utility easements.* No structures, fences, trees, or shrubs shall be placed within established utility easements. The city shall not be liable for damages to property within said easements, where such damage results from maintenance, installation or replacement of utilities.

(Code 1996, § 17.12.020; Ord. No. 08-3676, § 2 (Exh. B), 5-12-2008)

Sec. 110-12. - CEMETERIES AND BURIALS.

It is unlawful for any person to establish a cemetery or to bury any person within the city limits, or within a mile of the city limits, except in an established cemetery.

(Code 1996, § 17.12.030)

Sec. 110-13. - GENERAL DEVELOPMENT PROCEDURE.

The planning and zoning commission and the city council shall continuously develop the city's comprehensive plan, including their planning policies to guide future decision. All comprehensive plan elements, in whatever degree of detail they may embody, shall provide the basis for approval of all development under this chapter, and no development shall be approved under this chapter which conflicts with any comprehensive plan elements.

(Code 1996, § 17.12.040; Ord. No. 08-3676, § 2 (Exh. B), 5-12-2008)

Sec. 110-14. - VISION CLEARANCE TRIANGLE.

In each quadrant of every intersection of any arterial street shown on the city's comprehensive plan or master plan and any other streets not located in a B-1 district with a private or public driveway or accessway providing egress for parking area of 1,000 square feet or more, there shall be designed a vision clearance triangle, bounded by the inner street lines (right-of-way), or the street line and driveway lines, as the case may be, and a line connecting them 25 feet from their intersection. Within this triangle no object shall be allowed above the height of 2½ feet above the streets and/or driveways if it obstructs the view across the triangle. This provision shall not apply to tree trunks, posts or wire fences.

(Code 1996, § 17.12.050)

Sec. 110-15. - BUILDINGS UNDER CONSTRUCTION.

Nothing in this chapter 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 Ordinance No. 1497, and upon which building actual construction was diligently carried on; provided that such building was completed within one year from the date of passage and publication of Ordinance No. 1497.

(Code 1996, § 17.12.060)

Sec. 110-16. - BUILDING MOVING.

(a) No building or structure shall be moved in whole or in part to any other location on the same or any other lot unless every portion of such building or structure which is moved, and the use thereof, is made to conform to all of the laws and regulations of the city, including, but not limited to, the zoning ordinance, building code, fire code, mechanical code and housing code, including obtaining of the necessary permits.

(b) No building or structure shall be moved as provided in this chapter without the approval of the planning and zoning commission given after public hearing and without the approval of the city council, with the exception of a garage or other accessory building which may be moved upon the lot upon which it is located, or an adjacent lot or lots under the same ownership.

(c) No building or structure shall be moved as provided in this chapter unless bond is given in sufficient amount, as determined by the city council, to insure that any repairs or other improvements required to be made under this chapter, or under any other applicable law or ordinance, be made within one year from the date such building or structure is moved.

(Code 1996, § 17.12.070; Ord. No. 08-3676, § 2 (Exh. B), 5-12-2008)

Secs. 110-17—110-40. - RESERVED.

ARTICLE II. - ADMINISTRATION AND ENFORCEMENT

DIVISION 1. - GENERALLY

DIVISION 2. - CONDITIONAL USE PERMITS
DIVISION 3. - VARIANCES
DIVISION 4. - AMENDMENTS

DIVISION 1. - GENERALLY

Sec. 110-41. - General duties of administrator.
Sec. 110-42. - Specific duties of administrator.
Sec. 110-43. - Land use (building) permits.
Sec. 110-44. - Certificate of compliance.
Sec. 110-45. - Administrative duties of planning and zoning commission.
Sec. 110-46. - Fees.
Sec. 110-47. - Violations; penalty.
Secs. 110-48—110-70. - Reserved.

Sec. 110-41. - GENERAL DUTIES OF ADMINISTRATOR.

It shall be the duty of the building official acting as zoning administrator to administer and enforce the provisions of this chapter. He shall be aided by the police department.

(Code 1996, § 17.96.010)

Sec. 110-42. - SPECIFIC DUTIES OF ADMINISTRATOR.

The specific duties of the building official in zoning administration shall include:

- (1) Providing zoning information upon request;
- (2) Receiving applications for land use (building) permits and certificates of compliance;
- (3) Receiving applications for conditional use permits, variances, amendments and appeals; referring such applications to the appropriate public body; requesting the city clerk to notify affected property owners of the required public hearings; and publishing notice of such hearings.
- (4) Conducting inspections;
- (5) Investigating violations;
- (6) Keeping the zoning map and text up-to-date.

(Code 1996, § 17.96.020)

Sec. 110-43. - LAND USE (BUILDING) PERMITS.

(a) No structure, water or land shall hereafter be used, no land use shall be erected, moved, or structurally altered, without full compliance with the terms of this chapter and other applicable regulations, until a land use permit has been issued.

(b) All applications for a land use permit shall be made to the building official and shall be accompanied by plans, in duplicate, drawn to scale, showing the name and address of the property owner; location, actual shape and dimensions of the lot to be built upon; high water mark of any abutting watercourse;

centerline of abutting streets and highways; the exact size and location on the lot of the proposed or existing building and accessory building; the lines within which the building shall be erected, altered or moved; the existing and intended use of each building or part of a building; the number of families the building is intended to accommodate; and such other information with regard to the lot and neighboring lots or buildings as may be necessary to determine and provide for the enforcement of this chapter. Fees for such shall be established by the city council.

(c) The building official shall issue or refuse to issue a land use permit within 20 days after receipt of an application therefor. Refusal to issue a land use permit shall be given in writing, with the reasons for such refusal.

(Code 1996, § 17.96.030)

Sec. 110-44. - CERTIFICATE OF COMPLIANCE.

(a) No vacant land shall be occupied or used, and no building hereafter erected, altered or moved shall be occupied until a certificate of compliance shall have been issued by the building official. Such certificate shall show that the building or premises, or part thereof, and the proposed use thereof are in conformity with the provisions of this chapter. Such certificate shall be applied for when application is made for a land use permit, and shall be issued within ten days after the completion of the work specified in such land use permit application, but only if the building or premises and the proposed use thereof conform with all the requirements of this chapter.

(b) Under such rules and regulations as may be established by the city council, the building official may issue a temporary certificate of compliance for part of a building.

(c) Upon written request from the owner, the building official shall issue a certificate of compliance for any building or premises existing on the effective date of the ordinance from which this chapter is derived; provided that on-site inspection shows that the extent and kind of use made of the building or premises conforms to the provisions of this chapter.

(Code 1996, § 17.96.040)

Sec. 110-45. - ADMINISTRATIVE DUTIES OF PLANNING AND ZONING COMMISSION.

The duties of the planning and zoning commission in zoning administration shall be:

(1) To hold public hearings on applications for amendments to this chapter. The commission shall not have the authority to make changes or amendments to this chapter. It shall act in an advisory manner to the city council, making its recommendation in all cases referred to it and transmitting them to the city council for final action.

(2) To hold public hearings on applications for conditional use permits provided for within this chapter, and to transmit its recommended action to the city council for final action.

(Code 1996, § 17.96.050; Ord. No. 08-3676, § 2 (Exh. B), 5-12-2008)

Sec. 110-46. - FEES.

Any person who petitions the city council or the planning and zoning commission, as the case may be, for annexation, zoning, zoning amendments to the regulations, map or designation, zoning variations, appeals, or conditional/special use permits shall accompany the respective petition with a fee as shall be

established and modified from time to time by city council resolution.

(Code 1996, § 17.96.060; Ord. No. 08-3676, § 2 (Exh. B), 5-12-2008)

Sec. 110-47. - VIOLATIONS; PENALTY.

Any person who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this chapter shall be subject to punishment as provided in section 1-15.

(Code 1996, § 17.96.070)

Secs. 110-48—110-70. - RESERVED.

DIVISION 2. - CONDITIONAL USE PERMITS

- Sec. 110-71. - Prerequisites for issuance.
- Sec. 110-72. - Application.
- Sec. 110-73. - Review by planning and zoning commission.
- Sec. 110-74. - Hearing.
- Sec. 110-75. - Review by highway agency.
- Sec. 110-76. - General standards for approval.
- Sec. 110-77. - Conditions.
- Secs. 110-78—110-100. - Reserved.

Sec. 110-71. - PREREQUISITES FOR ISSUANCE.

Before issuance of any special permit for a use not included on the district use classification list, section 110-291, for any building or use, the city council shall refer the proposed application to the city planning and zoning commission, which commission shall be given 60 days in which to make a report regarding the effect of such proposed building or use upon the character of the neighborhood, traffic conditions, public utility facilities and other matters pertaining to the public health, public safety and general welfare. No action shall be taken upon any application for a proposed building or use above referred to until and unless the report of the city planning and zoning commission has been filed; provided, however, that if no report is received from the city planning and zoning commission within 60 days, it shall be assumed that approval of the application has been given by the planning and zoning commission.

(Code 1996, § 17.80.010; Ord. No. 08-3676, § 2 (Exh. B), 5-12-2008)

Sec. 110-72. - APPLICATION.

Applications for conditional use permits shall be made in duplicate to the building official on forms provided by his office. Such applications shall be forwarded to the planning and zoning commission on receipt by the building official. Such applications shall include, where applicable:

- (1) Names and addresses of the applicant, owner of the site, architect, professional engineer, contractor and all opposite and abutting property owners of record;
- (2) Description of the subject site by lot, block and recorded subdivision, or by metes and bounds;

address of the subject site; type of structure; proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site lies;

(3) Plat of survey prepared by a registered land surveyor showing all of the information required for a land use permit and existing and proposed landscaping;

(4) Additional information as may be required by the planning and zoning commission, city engineer, building or health officials;

(5) Fee receipt from the city treasurer in the amount as established from time to time by the city council.

(Code 1996, § 17.80.020; Ord. No. 08-3676, § 2 (Exh. B), 5-12-2008)

Sec. 110-73. - REVIEW BY PLANNING AND ZONING COMMISSION.

The planning and zoning commission shall review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewerage and water systems and their proposed operation.

(Code 1996, § 17.80.030; Ord. No. 08-3676, § 2 (Exh. B), 5-12-2008)

Sec. 110-74. - HEARING.

The planning and zoning commission shall hold a public hearing on the proposed conditional use. Notice of time and place of such hearing shall be published not less than 15 days or more than 30 days preceding said hearing, and at least once in one or more newspapers of general circulation in the city. The city clerk shall notify all abutting or opposite property owners, as listed by the developer in the original application, of the time, date and subject matter of the hearing. Failure to comply with this provision shall not, however, invalidate any previous or subsequent action on the application.

(Code 1996, § 17.80.040; Ord. No. 08-3676, § 2 (Exh. B), 5-12-2008)

Sec. 110-75. - REVIEW BY HIGHWAY AGENCY.

Any development within 500 feet of the existing or proposed rights-of-way of freeways, expressways, interstate and controlled access trafficways, or within 1,500 feet of their existing or proposed interchange or turning lane rights-of-way, as measured along the centerline of the intersecting street, shall be specifically reviewed by the highway agency that has jurisdiction over the trafficway. The planning and zoning commission shall request such review and await the highway agency's recommendations for a period not to exceed 60 days before taking final action.

(Code 1996, § 17.80.050; Ord. No. 08-3676, § 2 (Exh. B), 5-12-2008)

Sec. 110-76. - GENERAL STANDARDS FOR APPROVAL.

No conditional use shall be recommended by the planning and zoning commission for approval to the city council unless the commission shall find that:

(1) The establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare;

(2) The conditional use will not be injurious to the use and enjoyment of other property in the

immediate vicinity for the purposes already permitted, nor substantially diminish and impair property value within the neighborhood;

(3) The establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;

(4) Adequate utilities, access road, drainage and/or necessary facilities have been or are being provided;

(5) Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets; and

(6) The conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located.

(Code 1996, § 17.80.060; Ord. No. 08-3676, § 2 (Exh. B), 5-12-2008)

Sec. 110-77. - CONDITIONS.

Conditions such as landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operational control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards, or parking requirements may be required by the planning and zoning commission upon its finding that these are necessary to fulfill the purpose and intent of this chapter.

(Code 1996, § 17.80.070; Ord. No. 08-3676, § 2 (Exh. B), 5-12-2008)

Secs. 110-78—110-100. - RESERVED.

DIVISION 3. - VARIANCES

[Sec. 110-101. - Purpose; conditions.](#)

[Sec. 110-102. - Application requirements.](#)

[Sec. 110-103. - Application procedure.](#)

[Sec. 110-104. - Standards for granting.](#)

[Secs. 110-105—110-120. - Reserved.](#)

Sec. 110-101. - PURPOSE; CONDITIONS.

Variances from the provisions of this chapter may be granted where practical difficulties or unusual hardships in complying with such provisions are determined to exist, but only after a public hearing has been duly advertised and held by the board of zoning appeals which may recommend such restrictions and conditions upon the premises benefited by a variance as it considers necessary, so that the public health, safety and general welfare may be secured and substantial justice done.

(Code 1996, § 17.88.010)

Sec. 110-102. - APPLICATION REQUIREMENTS.

Applications for variances shall be accompanied by the boundary survey and plot plan as required for land use permit applications, unless waived by the board of zoning appeals.

(Code 1996, § 17.88.020)

Sec. 110-103. - APPLICATION PROCEDURE.

The procedure for applying for a variance from the regulations of this chapter is as follows:

- (1) The property owner or his agent shall meet with the zoning administrator to explain his situation, learn the procedures and obtain an application form.
- (2) The applicant shall file the completed application form, together with the required exhibits, with the zoning administrator and shall pay a filing fee.
- (3) The zoning administrator shall transmit the application to the chairman of the board of appeals and shall determine with such chairman the time and place of the required public hearing.
- (4) The zoning administrator shall notify the city clerk to give notice of the scheduled public hearing to all property owners within 250 feet of the outer boundaries of the property in question. However, failure of any property owner to receive such notification shall not invalidate the proceedings.
- (5) The zoning administrator shall request the city clerk to have notice of the scheduled public hearings published in the official municipal newspaper.
- (6) The board of zoning appeals shall hold the public hearing within 30 days of filing and shall take one of the three actions: approval, denial or conditional approval.

(Code 1996, § 17.88.030)

Sec. 110-104. - STANDARDS FOR GRANTING.

The board of zoning appeals may recommend a variance from the regulations of this chapter when supporting evidence in each specific case indicates that:

- (1) Because of the particular physical surroundings, shape or topographic conditions of the specific parcel of land involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out;
- (2) The conditions upon which the petition for a variance is based are unique to the parcel of land for which the variance is sought and not applicable, generally, to other property with the same zoning classification;
- (3) The purpose of the variance is not based exclusively upon a desire to increase the value or income potential of the parcel of land;
- (4) The alleged difficulty or hardship is caused by the provisions of this chapter, and has not been created by any person presently or formerly having an interest in the parcel of land;
- (5) The granting of the variance will not be detrimental to the public welfare or injurious to other

land or improvements in the vicinity in which the parcel of land is located;

(6) The proposed variance will not impair an adequate supply of light and air to adjacent property; substantially increase the congestion of the public streets; increase the danger of fire; or endanger the public safety; or substantially diminish or impair property values within the vicinity;

(7) However, in an extraordinary situation in which the granting of a variance would benefit the city and the neighborhood in the present and foreseeable future, the applicant need only establish that the compliance is not practical as opposed to a hardship.

(Code 1996, § 17.88.040)

Secs. 110-105—110-120. - RESERVED.

DIVISION 4. - AMENDMENTS

Sec. 110-121. - Procedure generally.

Sec. 110-122. - Types.

Sec. 110-123. - Initiation of proceedings.

Sec. 110-124. - Requirements when amendment is initiated by property owners.

Sec. 110-125. - Procedure for initiation by property owner.

Sec. 110-126. - Hearing requirements; protests.

Sec. 110-127. - Two-thirds approval required.

Secs. 110-128—110-160. - Reserved.

Sec. 110-121. - PROCEDURE GENERALLY.

This chapter may be amended, changed or altered only by a favorable majority vote of the city council and only after a public hearing has been duly advertised and held by the planning and zoning commission.

(Code 1996, § 17.92.010; Ord. No. 08-3676, § 2 (Exh. B), 5-12-2008)

Sec. 110-122. - TYPES.

An amendment to this chapter may be one of the following:

- (1) A change in an existing district's boundary (rezoning);
- (2) A change in an existing district's regulations;
- (3) A change in any other provision of this chapter.

(Code 1996, § 17.92.020; Ord. No. 03-3143, § 1, 3-24-2003)

Sec. 110-123. - INITIATION OF PROCEEDINGS.

Proceedings for amending this chapter shall be initiated by at least one of the following three methods:

- (1) By petition of an owner or owners of property which is proposed to be rezoned, or for which

district regulation changes are proposed;

(2) By recommendations of the planning and zoning commission;

(3) By action of the city council.

(Code 1996, § 17.92.030; Ord. No. 08-3676, § 2 (Exh. B), 5-12-2008)

Sec. 110-124. - REQUIREMENTS WHEN AMENDMENT IS INITIATED BY PROPERTY OWNERS.

The following are required exhibits for rezoning or district regulation changes initiated by property owners:

(1) The boundary survey or plot plan as required for land use permit applications;

(2) Legal description of the property;

(3) A list naming property owners within 250 feet of the property in question together with stamped envelopes addressed to each of these property owners.

(Code 1996, § 17.92.040; Ord. No. 03-3143, § 2, 3-24-2003)

Sec. 110-125. - PROCEDURE FOR INITIATION BY PROPERTY OWNER.

The procedure for a property owner to initiate a rezoning or district regulation change applying to his property is as follows:

(1) The property owner or his agent shall meet with the zoning administrator to explain his situation, learn the procedures and obtain an application form.

(2) The applicant shall file the completed application form, together with the required exhibits, with the zoning administrator, and shall pay a filing fee.

(3) The zoning administrator shall transmit the application and required exhibits to the planning and zoning commission, and shall request the city clerk to give notice of the public hearing to the property owners within the affected zone and within 250 feet of the outer boundaries of the property in question. However, failure of any property owner to receive such notification shall not invalidate the proceedings.

(4) The zoning administrator shall request the city clerk to have notice of the required public hearing published in the official city newspaper.

(5) The planning and zoning commission shall hold the public hearing and shall, within 60 days of filing, recommend one of three actions: approval, denial or conditional approval.

(6) The planning and zoning commission shall transmit its recommendation to the city council for its official action.

(7) The city council shall act upon the application within 45 days after receiving the recommendation of the planning and zoning commission unless the petitioner agrees to extend the time for city council action.

(Code 1996, § 17.92.050; Ord. No. 03-3143, § 3, 3-24-2003; Ord. No. 08-3676, § 2 (Exh. B), 5-12-2008)

Sec. 110-126. - HEARING REQUIREMENTS; PROTESTS.

The regulations imposed and the districts created under the authority of this chapter may be amended from time to time by ordinance after the ordinance establishing them has gone into effect, but no such amendments shall be made without a hearing before some commission or committee designated by the corporate authorities. Notice shall be given of the time and place of the hearing, not more than 30 days or less than 15 days before the hearing, by publishing a notice thereof at least once in one or more newspapers published in the city. In case a written protest against any proposed amendment of the regulations or districts, signed and acknowledged by the owners of 20 percent of the frontage proposed to be altered; or by the owners of 20 percent of the frontage immediately adjoining or across an alley therefrom; or by the owners of 20 percent of the frontage directly opposite the frontage proposed to be altered, is filed with the city clerk, the amendment shall not be passed except by a favorable vote of two-thirds of the city council then holding office.

(Code 1996, § 17.92.060)

Sec. 110-127. - TWO-THIRDS APPROVAL REQUIRED.

No change shall be made in this chapter nor shall any zoning variation be granted within six months after the date upon which an official plan is adopted by the corporate authorities, unless such change in this chapter or such variation is approved by a two-thirds vote of the corporate authorities or the planning and zoning commission then holding office, as the case may be.

(Code 1996, § 17.92.070; Ord. No. 08-3676, § 2 (Exh. B), 5-12-2008)

Secs. 110-128—110-160. - RESERVED.**ARTICLE III. - DISTRICTS**

- DIVISION 1. - GENERALLY
- DIVISION 2. - RESIDENTIAL DISTRICTS
- DIVISION 3. - COMMERCIAL DISTRICTS
- DIVISION 3.5. - AIRPORT DISTRICTS
- DIVISION 4. - INDUSTRIAL DISTRICTS
- DIVISION 5. - R-O, RESIDENTIAL OFFICE DISTRICT
- DIVISION 6. - TTO, TRANSPORTATION TOURISM OVERLAY DISTRICT
- DIVISION 7. - TOD, TECHNOLOGY OVERLAY DISTRICT
- DIVISION 8. - DISTRICT USE CLASSIFICATION

DIVISION 1. - GENERALLY

- [Sec. 110-161. - Designated.](#)
- [Sec. 110-162. - Zoning map adopted.](#)
- [Sec. 110-163. - Zoning of annexed land; interpretation of district boundaries.](#)
- [Secs. 110-164—110-190. - Reserved.](#)

Sec. 110-161. - DESIGNATED.

In order to carry out the purposes and provisions of this chapter, the city is divided into the following districts:

(1)	<i>Residential districts.</i>	
	RD	Rural development district
	R-1	Single-family, low-density district
	R-2	Single-family, medium-density district
	R-3	Single-family, high-density district
	R-4	Multifamily, low-density district
	R-5	Multifamily, high-density district
	R-O	Residential office district
(2)	<i>Commercial districts.</i>	
	B-1	Central business district (CBD)
	B-2	Highway commercial district
	B-3	Neighborhood commercial district
(3)	<i>Industrial districts.</i>	
	I-1	Light (limited) industry district
	I-2	General industrial district
	I-3	Heavy industrial district
(4)	<i>Overlay districts</i>	
	TTO	Transportation tourism overlay district

(Code 1996, § 17.16.010; Ord. No. 04-3257, § 1(17.16.010), 7-26-2004)

Sec. 110-162. - ZONING MAP ADOPTED.

The locations and boundaries of the districts established in this article are shown upon the zoning map which is incorporated into this chapter. The zoning map, together with all notations, references and other information shown thereon, and all amendments thereto, shall be a part of this chapter 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 in this article. Such map, together with a copy of this chapter, shall be available for public inspection in the office of the city building official.

(Code 1996, § 17.16.020)

Sec. 110-163. - ZONING OF ANNEXED LAND; INTERPRETATION OF DISTRICT BOUNDARIES.

(a) Property which is annexed into the city shall be zoned in the classification as requested in the petition for annexation when action is taken to annex the property. If no zoning is requested in the petition for annexation, then the annexed property shall be zoned RD.

(b) Wherever any uncertainty exists as to the boundary of any use district, as shown on the zoning map incorporated in this article, as referred to in section 110-162, the following rules shall apply:

- (1) Where district boundary lines are indicated as following streets, alleys, or similar rights-of-way, they shall be construed as following the centerlines thereof.
- (2) Where district boundary lines are indicated as approximately following lot lines, such lot lines shall be construed to be such boundaries.
- (3) In unsubdivided property, the district boundary lines shown on the zoning map shall be determined by the use of the scale shown on such map.
- (c) Every building hereafter erected or structurally altered to provide dwelling units shall be located on a zoning lot as defined in section 110-9, and in no case shall there be more than one such building on one zoning lot.
- (d) 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 months after date of application filed for rezoning.

(Code 1996, § 17.16.030; Ord. No. 03-3143, § 4, 3-24-2003)

Secs. 110-164—110-190. - RESERVED.

DIVISION 2. - RESIDENTIAL DISTRICTS

Sec. 110-191. - RD rural development district.
 Sec. 110-192. - Single-family dwelling districts.
 Sec. 110-193. - R-4 multifamily, low-density district.
 Sec. 110-194. - R-5 multifamily, high-density district.
 Secs. 110-195—110-210. - Reserved.

Sec. 110-191. - RD RURAL DEVELOPMENT DISTRICT.

The RD rural development district provides a holding zone for areas that may be required for future urban development. These areas will be rezoned in accordance with the use designation appearing on the land use plan map where logical extension of utilities and facilities can be insured. This will discourage haphazard and premature development from occurring at the fringes of the community.

(Code 1996, § 17.20.010)

Sec. 110-192. - SINGLE-FAMILY DWELLING DISTRICTS.

- (a) *Generally.* The regulations set forth in this section, or set forth elsewhere in this chapter when referred to in this section, are the single-family dwelling district regulations.
- (b) *Use regulations.* A building or premises shall be used only for the following purposes:

- (1) Single-family dwelling, when having a minimum floor area of 1,000 square feet in the R-1 single-family, low-density district, 720 square feet in the R-2 single-family, medium-density districts,

600 square feet in the R-3 single-family, high-density districts when providing two off-street parking spaces in lieu of providing one off-street parking space on the lot. For purposes of these single-family dwelling districts, a dwelling may be occupied by one family or an individual plus no more than two lodgers, boarders or guests;

(2) Accessory buildings and accessory uses, customarily incidental to the above uses (not involving the conduct of a business), including a private garage, home occupations, the use of a lot or portion thereof for a vegetable or flower garden, and the housekeeping of small animals and fowl (not for sale) or not on a commercial basis. Any accessory building that is not a part of the main structure shall be located not less than 60 feet from the front lot line;

(3) Lot requirements shall be as specified in article IV of this chapter;

(4) Two-family dwellings may be erected in those locations in the R-1 single-family low-density dwelling district where, at the time of the effective date of the ordinance from which this chapter is derived, 40 percent or more of the frontage on one side of a street between two intersecting streets is occupied by two-family dwellings or two-family and multiple-family dwellings; provided, however, that the area and parking regulations of the R-4 multifamily, low-density district are complied with.

(Code 1996, § 17.20.020)

Sec. 110-193. - R-4 MULTIFAMILY, LOW-DENSITY DISTRICT.

(a) *Generally.* The regulations set forth in this section or set forth elsewhere in this chapter when referred to in this section are the R-4 multifamily, low-density district regulations.

(b) *Use regulations.* A building or premises shall be used only for the following purposes:

(1) Any use permitted in the single-family dwelling districts.

(2) Two-family dwellings when having not less than 600 square feet of floor space in each dwelling unit.

(3) Lot requirements shall be as specified in article IV of this chapter.

(4) Multiple-family dwellings may be erected in those locations in the R-4 multifamily, low-density district, where at the time of the effective date of the ordinance codified in this chapter, 40 percent or more of the frontage on one side of a street between two intersecting streets was occupied by multiple dwellings; provided, however, that the area and parking regulations of the R-5 multifamily, high-density district are complied with.

(5) Where a lot has less area than herein required for a dwelling and was of record at the time of the passage of the ordinance from which this chapter is derived, that lot may be used only for one single-family dwelling, or any other non-dwelling use permitted in this chapter.

(Code 1996, § 17.20.030)

Sec. 110-194. - R-5 MULTIFAMILY, HIGH-DENSITY DISTRICT.

(a) *Generally.* The regulations set forth in this section or set forth elsewhere in this chapter when referred to in this section are the R-5 multifamily, high-density district regulations.

- (b) *Use regulations.* A building or premises shall be used only for the following purposes:
- (1) Any use permitted in the R-4 multifamily, low-density districts.
 - (2) Multiple dwellings, when having the following minimum floor area for each living unit:
 - a. Two bedrooms or over, 600 square feet;
 - b. One bedroom, 450 square feet;
 - c. Efficiency units, 300 square feet.
 - (3) Lot requirements are as specified in article IV of this chapter.
- (c) *Intensity of use.* Except as hereinafter provided, all dwellings hereafter erected, enlarged, converted, relocated or reconstructed shall be located on lots containing the following areas:
- (1) All residential uses permitted in this district shall provide a minimum lot area of not less than 6,000 square feet.
 - (2) A lot on which there is erected a single-family dwelling shall contain an area of not less than 6,000 square feet.

LAND USE INTENSITY RATIOS

Land Use Intensity Rating	Maximum Floor Area Ratio	Minimum Open Space Ratio	Minimum Living Space Ratio	Recreation Space Ratio
3.0	0.100	8.0	6.5	0.25
3.1	0.107	7.4	5.8	0.24
3.2	0.115	6.9	5.2	0.23
3.3	0.123	6.4	4.7	0.23
3.4	0.132	5.9	4.2	0.22
3.5	0.141	5.5	3.8	0.21
3.6	0.152	5.1	3.5	0.20
3.7	0.162	4.8	3.3	0.20
3.8	0.174	4.4	3.0	0.19
3.9	0.187	4.2	2.8	0.19
4.0	0.200	3.8	2.6	0.18
4.1	0.214	3.6	2.4	0.18
4.2	0.230	3.3	2.2	0.17
4.3	0.246	3.0	2.0	0.16
4.4	0.264	2.8	1.8	0.16
4.5	0.283	2.6	1.7	0.15
4.6	0.303	2.4	1.5	0.15
4.7	0.325	2.2	1.4	0.14
4.8	0.348	2.1	1.3	0.14
4.9	0.383	1.9	1.2	0.14
5.0	0.429	1.8	1.1	0.13

5.1	0.429	1.7	1.0	0.13
5.2	0.459	1.6	0.91	0.12
5.3	0.492	1.5	0.84	0.12
5.4	0.528	1.4	0.77	0.12
5.5	0.566	1.3	0.71	0.11
5.6	0.606	1.2	0.66	0.11
5.7	0.650	1.1	0.00	

(Code 1996, § 17.20.040)

Secs. 110-195—110-210. - RESERVED.

DIVISION 3. - COMMERCIAL DISTRICTS

[Sec. 110-211. - B-1 central commercial district.](#)

[Sec. 110-212. - B-2 highway commercial district.](#)

[Sec. 110-213. - B-3 neighborhood commercial district.](#)

[Sec. 110-214. - Permitted land uses and developments.](#)

[Sec. 110-215. - Conditional \(special\) uses and developments.](#)

[Sec. 110-216. - Accessory buildings and uses.](#)

[Sec. 110-217. - Lot area, density and dimensional requirements.](#)

[Sec. 110-218. - Appearance criteria.](#)

[Sec. 110-219. - Permitted hours of operation.](#)

[Sec. 110-220. - Other development regulations for the B-3 neighborhood commercial district.](#)

Sec. 110-211. - B-1 CENTRAL COMMERCIAL DISTRICT.

The B-1 central commercial district provides for the continued development of the principal business and shopping function of the city. Mixed use in the central commercial district permits residential units in commercial buildings only when located above the first floor.

(1) Central commercial district dwellings shall have the following minimum floor area for each living unit:

- a. Two bedrooms, 600 square feet.
- b. One bedroom, 450 square feet.
- c. Efficiency unit, 300 square feet.

(Code 1996, § 17.24.010; Ord. No. 06-3388, 2-13-2006)

Editor's note— Ord. No. 06-3388, adopted Feb. 13, 2006, changed the title of § 110-211 from "B-1 central business district" to "B-1 central commercial district."

Sec. 110-212. - B-2 HIGHWAY COMMERCIAL DISTRICT.

The B-2 highway commercial district provides appropriate areas for highway-oriented commercial uses and those requiring large lots for off-street parking and outdoor display or storage of merchandise.

(Code 1996, § 17.24.020)

Sec. 110-213. - B-3 NEIGHBORHOOD COMMERCIAL DISTRICT.

The B-3 neighborhood commercial district is primarily intended to provide limited retail sales and service opportunities which constitute basic trade and personal services for the convenience of residents in adjacent residential neighborhoods. These commercial uses shall be of such a character and intensity as to be compatible with surrounding residential uses. This district may also serve as transition between more intense commercial districts and less intense residential districts. These regulations are supplemented and qualified by additional general regulations appearing elsewhere in this chapter and this Code which are incorporated into this section by reference.

(Ord. No. 06-3388, § 17.24.030, 2-13-2006)

Sec. 110-214. - PERMITTED LAND USES AND DEVELOPMENTS.

The following land uses and developments are permitted as a matter of right in this district when not in excess of 3,000 square feet of floor area:

- (1) Accessory uses and structures (subject to section 110-216 below);
- (2) Day care centers, nursery schools and day nurseries (subject to section 110-551);
- (3) Drop-off cleaning and laundry establishments;
- (4) Dwelling units, when located above the first floor;
- (5) Offices and office buildings, including, but not limited to, accountants, dentists, doctors, real estate salespersons, real estate brokers, and other similar types of offices, but excluding clinics;
- (6) Public buildings used by entities of government such as city, school district, township, park district, county, state or federal government. Vehicle maintenance, raw materials storage or other similar type uses shall not be permitted;
- (7) Service facilities, including, but not limited to, barbershops and beauty salons, artist studios, gift shops, jewelry stores, photographers, locksmiths, dressmakers and tailors, shoe repair, music and dance instruction studios, suntan parlors, and similar types of uses, including retail sales of ancillary items;
- (8) Stores and shops in which food products, beverages, household supplies, books, magazines and newspapers, pharmaceutical and personal items are sold directly to the public for use or consumption elsewhere than on the premises. Drive-through facilities, restaurants, and the sale of alcoholic beverages and motor fuel shall not be permitted.

(Ord. No. 06-3388, § 17.24.031, 2-13-2006)

Sec. 110-215. - CONDITIONAL (SPECIAL) USES AND DEVELOPMENTS.

The following land uses and developments may be permitted within this district under the conditions and requirements specified in article II, division 2 of this chapter:

- (1) Permitted land uses and developments, as identified in section 110-214 which exceed two stories or 30 feet in height (whichever is less) including rooftop mechanical equipment attached to the structure and in excess of 3,000 square feet of floor area;
- (2) Bed and breakfasts;
- (3) Drugstores (not including drive through facilities);
- (4) Financial institutions (not including drive-through facilities);
- (5) Food stores, grocery stores and convenience stores (excluding packaged liquor sales and the sale of motor fuel on the premises) exceeding 3,000 square feet of floor area;
- (6) Playgrounds or tot-lots; and
- (7) Restaurants and shops in which food products and/or beverages are sold directly to the public for consumption on the premises, excluding the sale of alcoholic beverages and drive-through facilities;

(Ord. No. 06-3388, § 17.24.032, 2-13-2006)

Sec. 110-216. - ACCESSORY BUILDINGS AND USES.

Accessory buildings and uses, as defined in section 110-9, as applicable, shall be allowed and shall include;

- (1) Storage of merchandise normally carried in stock on the same lot in conjunction with a permitted or conditional (special) use allowed within these district regulations. All stored merchandise must be in a fully enclosed accessory structure;
- (2) Off-street parking facilities and loading and unloading areas;
- (3) Lighting of parking areas shall be permitted when in conformance with section 110-343

(Ord. No. 06-3388, § 17.24.033, 2-13-2006)

Sec. 110-217. - LOT AREA, DENSITY AND DIMENSIONAL REQUIREMENTS.

Every lot or tract of land shall have a minimum lot area of not less than 10,000 square feet with a minimum lot width of 100 feet on a public right-of-way and shall be adequate to provide required building setbacks, landscaping and parking as required by this Code. Generally, this district shall be situated off of collector streets so as to avoid traffic congestion and conflict between commercial and residential uses. Building setback requirements for the B-3 neighborhood commercial district shall be as given in subsections (1)—(6) of this section. These setback requirements may be modified by notations as found in the "minimum lot requirements by district," as found in section 110-321.

- (1) *Front yard.* A front yard requirement of 30 feet shall be maintained;

- (2) *Side yards.* Side yard requirements of 20 feet shall be maintained on all interior lots. On corner lots, a corner side yard of 30 feet shall be required to be maintained for any side yard which abuts a road or street;
- (3) *Rear yard.* A rear yard of 30 feet shall be required to be maintained;
- (4) *Building height limitations.* Building height shall not exceed two stories or 30 feet (whichever is less) and shall include any rooftop mechanical or air conditioning devices;
- (5) *Principal and accessory structures—Limitation on lots.* One principal and one accessory structure shall be allowed on each lot or parcel; and
- (6) *Same—Total coverage limitation.* Not more than 30 percent of the total area of any lot or tract of land within this district shall be covered by principal and/or accessory structures.

(Ord. No. 06-3388, § 17.24.034, 2-13-2006)

Sec. 110-218. - APPEARANCE CRITERIA.

- (a) A brick facade shall be required on all sides of a building that face a right-of-way or that abut a residential district or residential use.
- (b) The colors used on the building shall not be garish, but rather in neutral or earth tones.
- (c) An accessory structure shall match the primary structure in architectural style, material and color.

(Ord. No. 06-3388, § 17.24.035, 2-13-2006)

Sec. 110-219. - Permitted hours of operation.

Hours of operation are limited to opening no earlier than 6:00 a.m. and closing no later than 10:00 p.m.

(Ord. No. 06-3388, § 17.24.036, 2-13-2006)

Sec. 110-220. - Other Development Regulations For The B-3 Neighborhood Commercial District.

The following references the appropriate titles and chapters of this Code which specify other regulations which may be applicable to developments within this district classification:

- (1) Chapter 98, utilities;
- (2) Chapter 82, streets, sidewalks, and other public places;
- (3) Chapter 22, buildings and building regulations;
- (4) Chapter 86, subdivisions;
- (5) Article V of this chapter, performance standards;
- (6) Article VI of this chapter, landscaping;
- (7) Article X of this chapter, standards and requirements for miscellaneous uses;
- (8) Article XII of this chapter, off-street loading and parking; and

(9) Article XIII of this chapter, signs.

(Ord. No. 06-3388, § 17.24.037, 2-13-2006)

DIVISION 3.5. - AIRPORT DISTRICTS

Sec. 110-221. - A airport district.
Sec. 110-222. - Location.
Sec. 110-223. - Permitted uses.
Sec. 110-224. - Prohibited uses.
Sec. 110-225. - Special uses.
Sec. 110-226. - Lot area, density and dimension requirements.
Sec. 110-227. - Appearance criteria.
Sec. 110-228. - Application and contents.
Secs. 110-229, 110-230. - Reserved.

Sec. 110-221. - A AIRPORT DISTRICT.

The A airport district is to promote development of airport related businesses, and other uses compatible with the City Airport Koritz Field in specified A districts within the city.

(Ord. No. 11-4008, § 1(Exh. A), 2-14-2011)

Sec. 110-222. - LOCATION.

The A district location is commonly known as Koritz Field and is described as an area of approximately 137 acres located northwest intersection of Illinois Route 251 and Gurler, and shall be bounded by:

Part of the Southeast Quarter of Section 34, Part of the South Half of Section 35 and Part of the Southwest Quarter of Section 36, Township 40 North, Range 1 East of the Third Principal Meridian, and Part of the Northwest Quarter of Section 2, Township 39 North, Range 1 East of the Third Principal Meridian, bounded and described as follows:

Beginning at a Point at the Southeast corner of said Section 34; thence North 89 degrees 29 minutes 34 seconds West along the South Line of said Southeast Quarter of Section 34, a distance of 149.31 feet; thence North 74 degrees 05 minutes 54 seconds East a distance of 99.95 feet; thence Northeasterly along a curve of radius 3944.72' curving to the left, a chord bearing of N 65°16'37" E, a chord length of 1216.41' and an arc length of 1221.27'; thence North 73 degrees 10 minutes 06 seconds East a distance of 156.28 feet; thence North 56 degrees 26 minutes 00 seconds East a distance of 165.24 feet; thence South 01 degrees 05 minutes 00 seconds West a distance of 304.22 feet; thence North 71 degrees 12 minutes 00 seconds East a distance of 5547.17 feet; thence South 00 degrees 28 minutes 09 seconds East a distance of 183.00 feet; thence South 04 degrees 59 minutes 31 seconds East a distance of 314.88 feet; thence South 00 degrees 35 minutes 36 seconds West a distance of 256.78 feet; thence Southwesterly along a curve of radius 1011.51' curving to the right, a chord bearing of S 03°57'13" W, a chord length of 141.01' and an arc length of 141.12'; thence North 89 degrees 29 minutes 00 seconds West a distance of 563.28 feet; thence South 71 degrees 12 minutes 00 seconds West a distance of 172.52 feet; thence South 00 degrees 36 minutes 50 seconds West a distance of 637.55 feet; thence South 54 degrees 08

minutes 04 seconds West a distance of 100.00 feet; thence South 35 degrees 51 minutes 56 seconds East a distance of 200.00 feet; thence South 54 degrees 08 minutes 04 seconds West a distance of 235.47 feet; thence Southwesterly along a curve of radius 1011.00' curving to the right, a chord bearing of S 3°43'04" W, a chord length of 365.59' and an arc length of 367.61'; thence North 89 degrees 30 minutes 31 seconds West a distance of 1136.49 feet; thence North 00 degrees 48 minutes 39 seconds East a distance of 687.39 feet; thence South 71 degrees 12 minutes 00 seconds West a distance of 1420.32 feet; thence South 01 degrees 06 minutes 40 seconds West a distance of 221.22 feet; thence North 89 degrees 28 minutes 48 seconds West a distance of 626.68 feet; thence South 71 degrees 13 minutes 30 seconds West a distance of 1285.61 feet; thence North 18 degrees 48 minutes 00 seconds West a distance of 450.16 feet; thence North 89 degrees 28 minutes 49 seconds West a distance of 995.80 feet to the Point of Beginning, containing 137.15 acres, more or less, subject to all easements, agreements county codes and/or ordinances of record if any, all situated in the Township of Flagg, the County of Ogle and also in the Township of Reynolds, the County of Lee and the State of Illinois.

The A district may be expanded from time to time for airport related uses upon approval of the city council after a public hearing before the planning and zoning commission.

(Ord. No. 11-4008, § 1(Exh. A), 2-14-2011)

Sec. 110-223. - PERMITTED USES.

(a) The following shall be permitted uses in the A district:

- (1) Airports.
- (2) Airplane maintenance facilities.
- (3) Airplane technology based businesses.
- (4) Flight related fueling facilities.
- (5) Heliports.
- (6) Restaurants.
- (7) Retail.
- (8) Schools.

(Ord. No. 11-4008, § 1(Exh. A), 2-14-2011)

Sec. 110-224. - PROHIBITED USES.

The following uses shall be prohibited in the A district:

- (1) Any uses, including without limitation that interfere with the airport hazard zoning (AHZ).
- (2) Any uses, including without limitation that interfere with the airport layout plan (ALP).
- (3) Other uses not listed as a permitted or special use in this district.

(Ord. No. 11-4008, § 1(Exh. A), 2-14-2011)

Sec. 110-225. - SPECIAL USES.

The following uses shall be special uses in the A district:

- (1) Airport related warehousing facilities.
- (2) Airport related distribution facilities.
- (3) Airport related manufacturing facilities.
- (4) Corporate professional offices.
- (5) Cargo facilities.
- (6) Skydiving operations.

(Ord. No. 11-4008, § 1(Exh. A), 2-14-2011)

Sec. 110-226. - LOT AREA, DENSITY AND DIMENSION REQUIREMENTS.

Front yard—30 feet.

Side yard—20 feet.

Corner side yard—30 feet.

Rear yard—30 feet.

Minimum lot width—100 feet.

Minimum lot size—15,000 square feet.

Minimum lot width and size do not apply if the use is located on the city airport property.

(Ord. No. 11-4008, § 1(Exh. A), 2-14-2011)

Sec. 110-227. - APPEARANCE CRITERIA.

No building permit approval shall be granted for the development of any building, structure or improvement on any parcel in the A district until the community development director or his designee has determined that the proposed development will conform to the following criteria:

- (1) *Relationship of buildings to site and context.*
 - a. The site shall be planned to provide for efficient screening, airplane movement, auto movement and parking areas.
 - b. Buildings location, mass, scale, and orientation shall be harmonious with the character of the adjoining structures and ALP.
 - c. Any site development shall comply with the requirements of the Rochelle Municipal Code.
- (2) *Building design.*

- a. To incorporate an architectural theme for the buildings and other structures in the A district, such buildings and structures shall have an airport related theme.
- b. Any building or structure in the A district shall meet the requirements of the AHZ, ALP and FAA in design.

(Ord. No. 11-4008, § 1(Exh. A), 2-14-2011)

Sec. 110-228. - APPLICATION AND CONTENTS.

Applications for development within the A district shall be accompanied by the boundary survey, architectural drawings, elevations, landscape plan and site engineering.

- (1) The property owner or his agent shall meet with the community development director and superintendent of streets/cemetery/airport and any other required city staff, to explain the development proposed, discuss procedures and obtain an application form.
- (2) The applicant shall file the completed application form, together with the required exhibits and the filing fee, with the community development department.
- (3) The community development director or designee shall transmit the application to the planning and zoning commission for review and consideration.
- (4) The planning and zoning commission shall determine whether the proposed development is consistent with the requirements of the A district, including without limitation whether the appearance and arrangement of buildings, off street parking, lighting, landscaping, ingress and egress, drainage, signs and other improvements are designed in a manner that will promote safety and convenience for the public and preserve property values of surrounding property. Following its consideration, the planning and zoning commission will recommend approval, denial or conditional approval of the application.
- (5) The planning and zoning commission's recommendation will be referred to the city council for final action.

(Ord. No. 11-4008, § 1(Exh. A), 2-14-2011)

Secs. 110-229, 110-230. - RESERVED.

DIVISION 4. - INDUSTRIAL DISTRICTS

Sec. 110-231. - I-1 light (limited) industry district.
 Sec. 110-232. - I-2 general industrial district.
 Sec. 110-233. - I-3 heavy industrial district.
 Secs. 110-234—110-250. - Reserved.

Sec. 110-231. - I-1 LIGHT (LIMITED) INDUSTRY DISTRICT.

The I-1 light (limited) industry district provides close-in areas, located adjacent to nonindustrial districts and uses, for the accommodation of those types of industrial activities that are not likely to result in

significant incompatibilities with adjacent nonindustrial uses.

(Code 1996, § 17.28.010)

Sec. 110-232. - I-2 GENERAL INDUSTRIAL DISTRICT.

The I-2 general industrial district provides for areas in more outlying locations for those types of activities which might result in incompatibilities with other types of uses.

(Code 1996, § 17.28.020)

Sec. 110-233. - I-3 HEAVY INDUSTRIAL DISTRICT.

The I-3 heavy industrial district provides for areas in more outlying locations for those types of activities which might result in incompatibilities with other types of uses, especially rail and transportation-related uses.

(Code 1996, § 17.28.030)

Secs. 110-234—110-250. - RESERVED.

DIVISION 5. - R-O, RESIDENTIAL OFFICE DISTRICT

[Sec. 110-251. - Purpose.](#)

[Sec. 110-252. - Special requirements.](#)

[Sec. 110-253. - Special use permit for bed and breakfast.](#)

[Sec. 110-254. - Operation of bed and breakfast.](#)

[Sec. 110-255. - Enforcement.](#)

[Sec. 110-256. - Conflicting requirements.](#)

[Sec. 110-257. - Violations; penalty.](#)

[Secs. 110-258—110-269. - Reserved.](#)

Sec. 110-251. - PURPOSE.

The R-O residential office district provides for the integrated development of residential and office uses in or near the central part of the city and the downtown. This district would also provide for the conversion of existing single-family residences to multifamily dwellings or combination residential-commercial uses.

(Code 1996, § 17.32.010)

Sec. 110-252. - SPECIAL REQUIREMENTS.

The following special requirements shall apply in R-O districts:

- (1) The floor area, reception space, open space and living space ratios of the R-5 district shall apply. The measurement of floor space shall be the sum of both residential and commercial uses.
- (2) Hard-surfaced, off-street parking shall be provided in the amounts required in this chapter.

(3) Residential and commercial uses in a single structure shall provide separate means of ingress and egress.

(4) In structures housing multifamily uses, the size of dwelling or apartment units shall not exceed two bedrooms each.

CRITERIA FOR DETERMINATION OF NUMBER OF GUESTROOMS ALLOWED IN A GUESTHOUSE

Maximum Number
of Guestrooms

Permitted

Minimum Number
of Original

Bedrooms*

Minimum Gross House Size

(square feet)

Minimum Zoning Lot Size
(square feet)

See note below**	Maximum Off-Street Parking Spaces Required Per Lot/Size***			
1	2	2,000—2,499	5,000	2/5,000
2	3	2,500—2,999	5,000	3/7,500
3	4	3,000—3,499	7,000	4/10,000
4	5	3,500—4,999	12,000	5/12,500
5	6	5,000—up	20,000	6—8/20,000

*Assuming owner personally utilizes only one bedroom.

**Overall house size is to be determined by using outside dimensions and then calculating all areas improved for internal year-around living, including habitable rooms and all closets, hallways, stairways, bathrooms and full-height storage rooms, but not including any uninhabitable basement or attic areas, garages, porches, stoops, sheds or other accessory buildings.

***Includes spaces used by residents and assuming that usage of the lot is not diminished by unusual conditions, i.e., topography.

(5) The availability of on-street and off-street parking shall be considered. The physical and aesthetic impact of off-street parking located on the zoning lot shall not be detrimental to the existing character of the lot and the surrounding neighborhood.

(6) It shall be a priority to preserve greenspace; thus, off-street parking shall be related to the size and nature of lot.

(7) Rental of parking spaces on property other than the zoning lot of the bed and breakfast shall not be allowed over 300 feet from property.

(8) Each owner shall maintain a guest register.

(9) The owner shall comply with the minimum standards relating to serving breakfast and the standards relating to linen, towels, etc., as set forth in the Illinois Bed and Breakfast Act, 50 ILCS 820/1 et seq.

(10) The appearance of the bed and breakfast house may not be altered in a manner which would cause the premises to differ from its residential character by use of color, lighting, signs, etc.

(11) The owner must comply with fire prevention and safety ordinances adopted by the city.

(12) The special use permit shall be issued for a specific period of time, not longer than ten years.

(Code 1996, § 17.32.020)

Sec. 110-253. - Special use permit for bed and breakfast.

(a) An application for a bed and breakfast special use permit shall include at a minimum the following, together with payment of the appropriate fee:

(1) A site plan depicting all existing conditions of, and proposed modifications to, buildings, walks, drives, parking, berming, planting, fencing, signage and lighting. Pertinent elevations or perspective drawings may be requested for more accurate review of various details;

(2) Photographs of the house proposed for bed and breakfast use, accessory buildings and zoning lot;

(3) A floor plan showing all rooms and designation of room usage;

(4) In the case of special use permit renewal, records of payments to the state department of revenue, the county and the city for hotel/motel taxes shall be submitted.

(b) The special use permit shall contain a record of the information on which the permit is based, including the following:

(1) The specific period of time for which the permit shall be granted, not greater than ten years;

(2) Proof of registration with the state department of revenue, the county, and the city for hotel/motel taxes shall be given to the zoning administrator within 90 days;

(3) Proof of compliance with fire and safety criteria.

(Code 1996, § 17.33.040)

Sec. 110-254. - OPERATION OF BED AND BREAKFAST.

No person shall operate a bed and breakfast establishment without first having obtained the necessary special use permit from the city. The requirements set forth for the issuance of a special use permit must continue to be adhered to by the property owner so long as the property is used as a bed and breakfast establishment. Failure to adhere to these requirements will result in the immediate cancellation of the

special use permit by the city, together with other remedies as set forth in this Code.

(Code 1996, § 17.33.050)

Sec. 110-255. - ENFORCEMENT.

Enforcement of the standards set forth in this article shall be the responsibility of the office of the building inspector. Complaints regarding bed and breakfast noncompliance shall be directed to that office.

(Code 1996, § 17.33.060)

Sec. 110-256. - CONFLICTING REQUIREMENTS.

The provisions of this article shall be deemed as additional requirements to standards required by other ordinances of the city. In case of conflicting requirements, the most specific shall apply.

(Code 1996, § 17.33.070)

Sec. 110-257. - VIOLATIONS; PENALTY.

Failure to comply with this article and with other applicable state, county and city ordinances relating to bed and breakfast establishments shall be grounds for revocation of the special use permit. In addition, any person, firm, trust, corporation or other legal entity found to have violated this article has committed a city ordinance violation and may be punished as provided in section 1-15 for each offense.

(Code 1996, § 17.33.080)

Secs. 110-258—110-269. - RESERVED.

DIVISION 6. - TTO, TRANSPORTATION TOURISM OVERLAY DISTRICT

[Sec. 110-270. - Purpose.](#)

[Sec. 110-271. - Standards and special requirements.](#)

[Sec. 110-272. - Location.](#)

[Sec. 110-273. - Permitted uses.](#)

[Sec. 110-274. - Appearance criteria.](#)

[Sec. 110-275. - Application and contents.](#)

[Sec. 110-276. - Land use and development regulations.](#)

[Secs. 110-277—110-279. - Reserved.](#)

Sec. 110-270. - PURPOSE.

The purpose of the transportation tourism overlay (TTO) district is to provide for flexibility from the specific requirements of the underlying zoning districts. The TTO district was created to promote a distinctive character and visual quality of the existing neighborhood by ensuring that development visually provides a sense of place in terms of historical design within the neighborhood. This can be accomplished by using unique architectural design, layouts, signs, and landscaping. The TTO district is also to prevent the development of structures or uses which are not of acceptable exterior design or appearance, protect areas of natural scenic beauty, cultural or environmental interest and provide for ongoing community

involvement in project design and evolution of guidelines.

(Ord. No. 04-3257, § 1(17.34.010), 7-26-2004)

Sec. 110-271. - STANDARDS AND SPECIAL REQUIREMENTS.

Property located within the TTO district is subject to the regulation of the zoning classification and to additional requirements imposed from the district. In cases where the provisions of the TTO district conflict with regulations of the underlying zone, the overlay district regulations shall apply.

(1) *Projects consultation.* The city tourism and visitors association shall be consulted when project applications are submitted.

(2) *Notification.* The adjacent neighbors will be notified of proposed changes.

(Ord. No. 04-3257, § 1(17.34.011, 17.34.011.1, 17.34.011.2), 7-26-2004)

Sec. 110-272. - LOCATION.

The TTO district shall be bounded by:

(1) Lincoln Avenue (Third Avenue) and Cherry Avenue on the north;

(2) First Avenue on the south;

(3) The west boundary will be Fifteenth Street on the west; and

(4) North Main Street on the east.

(Ord. No. 04-3257, § 1(17.34.012), 7-26-2004)

Sec. 110-273. - PERMITTED USES.

(a) In addition to all uses allowed by the underlying zoning districts in the TTO district, the following shall be special uses in residential districts located in TTO district:

(1) Gift stores;

(2) Motels or hotels (having a transportation theme);

(3) Museums (having a transportation theme);

(4) Novelty stores;

(5) Residential, duplex;

(6) Residential, multifamily;

(7) Toy and hobby stores; and

(8) Variety shops.

(b) In addition to all uses allowed by the underlying zoning districts in the TTO district, the following shall be permitted uses in the I-1, light industry district located in the TTO district:

- (1) Bed and breakfast (having a transportation theme);
- (2) Bicycles, retail;
- (3) Gift stores;
- (4) Ice cream stores;
- (5) Miscellaneous, retail;
- (6) Motels or hotels (having a transportation theme);
- (7) Music stores;
- (8) Novelty stores;
- (9) Restaurant, dine-in (having a transportation theme);
- (10) Restaurant, drive-in (having a transportation theme);
- (11) Restaurant, alcoholic beverage (having a transportation theme);
- (12) Toy and hobby stores; and
- (13) Variety shops.

(Ord. No. 04-3257, § 1(17.34.013), 7-26-2004)

Sec. 110-274. - APPEARANCE CRITERIA.

No building permit approval shall be given for the development of any building, structure or improvement on any parcel in the TTO district until it has been determined that the proposed development will conform to the following criteria, and said review shall be conducted by the zoning administrator or his designee:

- (1) *Relationship of buildings to site and context.*
 - a. The site shall be planned to provide for efficient plantings, pedestrian movement and parking areas.
 - b. Building location, mass, scale, and orientation shall be harmonious with the character of the adjoining structures, except for those places required to have a transportation theme. For buildings having a transportation theme, their character may not be fully harmonious with adjoining structures, in which case the planning and zoning commission shall recommend to the city council an acceptable deviation from the character of adjoining structures.
 - c. Lot standards and setbacks shall follow the underlying zoning regulations but where a land use is different than the adjoining land use the building separation between uses shall be 15 feet.
 - d. Parking areas shall be treated with decorative elements, building wall extensions, plantings, berms or other means so as to screen parking areas from view from public ways and adjacent residential uses.
 - e. New utility services shall comply with the current city codes.

(2) *Building design.*

a. To encourage chromatic diversity in residential and commercial buildings in the TTO district, the color of the main siding material must be different from the color of the main siding material of adjacent buildings when two adjacent buildings are the same architectural model. The use of different trim colors, although encouraged, will not, in itself, count as a color change. Brick facing, unless covering the entire front elevation of the building except for trim or used on all elevations of the building, will not be considered the main siding material. The color of the main siding and trim shall not be garish in nature, but rather in neutral or earth tones.

b. To encourage architectural and visual diversity, buildings must have significantly different front elevations. The following elements will be used to evaluate front elevation changes:

1. Major elements.

- i. Configuration of siding material;
- ii. Window locations;
- iii. Roofline silhouette/additional or deletion of dormers;
- iv. Addition or deletion of porches; and
- v. Addition or deletion of front elevation extensions, for example bay windows, porticos.

2. Minor elements.

- i. Color of roofing material;
- ii. Garage (location, scale, style);
- iii. Window style;
- iv. Location of doors and windows; and
- v. Trim and architectural detailing.

c. Mechanical equipment or other utility hardware on the roof, ground, or buildings shall be screened from public view or they shall be located so as not to be visible from any public ways.

d. Exterior lighting shall be part of the architectural concept. Fixtures, standards, and all exposed accessories shall be included in the architectural design.

e. Refuse and waste removal areas, service yards, storage yards, and exterior work areas shall be screened from view from public ways.

(Ord. No. 04-3257, § 1(17.34.014), 7-26-2004; Ord. No. 08-3676, § 2 (Exh. B), 5-12-2008)

Sec. 110-275. - APPLICATION AND CONTENTS.

Applications for development within the TTO district shall be accompanied by the boundary survey, architectural drawings, elevations, landscape plans and site plans as required.

- (1) The property owner or his agent shall meet with the zoning administrator to explain his development proposed, learn the procedures and obtain an application form.
- (2) The applicant shall file the completed application form together with the required exhibits, with the zoning administrator and shall pay the required filing fee.
- (3) The zoning administrator shall transmit the application to the planning and zoning commission for its review and consideration of the application.
- (4) The planning and zoning commission shall determine whether the intent of the TTO district is being followed and review the appearance and arrangement of buildings, off-street parking, lighting, landscaping, ingress and egress, drainage, signs and other improvements to ensure that such are provided in a manner that will promote safety and convenience for the public and still preserve property values of surrounding property. Upon considering the evidence the planning and zoning commission will either recommend approval, denial or conditional approval.
- (5) The planning and zoning commission's recommendation will be referred to the city council for final action.

(Ord. No. 04-3257, § 1(17.34.015), 7-26-2004; Ord. No. 08-3676, § 2 (Exh. B), 5-12-2008)

Sec. 110-276. - LAND USE AND DEVELOPMENT REGULATIONS.

The land use and development regulations for the underlying zoning classifications shall apply, provided that the maximum lot coverage for nonresidential uses permitted in the TTO district on residential lots can be increased to 50 percent.

(Ord. No. 04-3257, § 1(17.34.016), 7-26-2004)

Secs. 110-277—110-279. - RESERVED.

DIVISION 7. - TOD, TECHNOLOGY OVERLAY DISTRICT

- Sec. 110-280. - Purpose.
- Sec. 110-281. - Standards and special requirements.
- Sec. 110-282. - Location.
- Sec. 110-283. - Permitted uses.
- Sec. 110-284. - Prohibited uses.
- Sec. 110-285. - Special uses.
- Sec. 110-286. - Appearance criteria.
- Sec. 110-287. - Application and contents.
- Sec. 110-288. - Land use and development regulations.
- Secs. 110-289, 110-290. - Reserved.

Sec. 110-280. - PURPOSE.

The purpose of the technology overlay district (TOD) is to promote development of technology-related businesses, and businesses compatible with technology-related businesses, in specified TOD zones within the city, by restricting the permitted uses within the TOD beyond the restrictions contained in the

underlying zoning district and by imposing certain other requirements necessary to protect the interest of technology-related businesses within the TOD.

(Ord. No. 07-3600, § 1, 8-27-2007)

Sec. 110-281. - STANDARDS AND SPECIAL REQUIREMENTS.

Property located within the TOD is subject to the regulations contained within the underlying zoning classification as well as the additional requirements imposed by the TOD. In cases where the provisions of the TOD conflict with the regulations of the underlying zoning classification, the provisions of the TOD shall be controlling.

(Ord. No. 07-3600, § 1, 8-27-2007)

Sec. 110-282. - LOCATION.

The TOD District location is commonly described as an area of approximately 160 acres located north of Route 38 and East of Dement Road and shall be bounded by:

The Southwest Quarter of the Northeast Quarter; the Southeast Quarter of the Northwest Quarter; the Northeast Quarter of the Southwest Quarter; the Northwest Quarter of the Southeast Quarter, ALSO a tract hereon described as being part of the North Half of the Southeast Quarter and part of the South Half of the Northeast Quarter, beginning at the intersection of the Westerly right-of-way line of FA Rte 412 (Interstate 39) and the South line of said North half of the Southeast Quarter; thence Easterly on and along last named line to the intersection of said line and the Easterly right-of-way line of said F.A. Rte 412; thence Northerly on and along last named line to the intersection of said line and the North line of said South Half of the Northeast Quarter; thence Westerly on and along last named line to the intersection of said line and the said Westerly right-of-way line of F.A. Rte 412; thence Southerly on and along last named line to the point of beginning, all in Section 17, in Township 40 North, Range 2 East of the Third Principal Meridian, in Ogle County, Illinois.

(Ord. No. 07-3600, § 1, 8-27-2007)

Sec. 110-283. - PERMITTED USES.

(a) The following shall be permitted uses in the TOD district:

- (1) Technology centers.
- (2) Data back-up centers.
- (3) Government technology centers.
- (4) Office research complexes.
- (5) Technology based businesses.

(Ord. No. 07-3600, § 1, 8-27-2007)

Sec. 110-284. - PROHIBITED USES.

The following uses shall be prohibited in the TOD:

- (1) Any uses, including without limitation warehousing, distribution, manufacturing, or research and development activities, that include hazardous materials or substances in their work.
- (2) Any use that exceeds a seismic threshold of _____ per the United States Bureau of Mines Rating Schedule.
- (3) Any uses in the B-2 zoning district which is not listed as a permitted or special use in this division.

(Ord. No. 07-3600, § 1, 8-27-2007)

Sec. 110-285. - SPECIAL USES.

The following uses shall be special uses in the TOD.

- (1) Retail.
- (2) Regional shopping center.
- (3) Hotel.
- (4) Other professional office complexes.
- (5) Restaurants—Non fast food.

(Ord. No. 07-3600, § 1, 8-27-2007)

Sec. 110-286. - APPEARANCE CRITERIA.

No building permit approval shall be granted for the development of any building, structure or improvement on any parcel in the TOD until the zoning administrator or his designee has determined that the proposed development will conform to the following criteria:

- (a) Relationship of buildings to site and context.
 1. The site shall be planned to provide for efficient plantings, pedestrian movement and parking areas.
 2. Building location, mass, scale, and orientation shall be harmonious with the character of the adjoining structures.
 3. Lot standards and setbacks shall follow the underlying zoning regulations except for the following:
 - a. Minimum front yard setback 100 feet.
 - b. Minimum rear yard setback 50 feet.
 - c. Minimum corner setback 100 feet.
 4. Parking areas shall be treated with decorative elements, building wall extensions, plantings, berms or other means so as to screen parking areas from view from public ways. Parking requirements for technology based businesses shall conform to industry standards for the proposed use on the site.

(b) Building design.

1. To encourage architectural diversity in buildings in the TOD district, buildings on adjacent sites shall not duplicate each other, but shall be designed to complement each other.
2. To encourage an architectural technology theme, buildings shall be constructed of prefabricated concrete, brick and/or glass and be of a modern design.
3. Mechanical equipment or other utility hardware on the roof, ground, or buildings shall be screened from public view or shall be located so as not to be visible from any public ways.
4. Exterior lighting shall be part of the architectural concept. Fixtures, standards, and all exposed accessories shall be included in the architectural design.
5. Refuse and waste removal areas, service yards, storage yards, and exterior work areas shall be screened from view of the public ways. Refuse containers shall be enclosed in material similar to the type of material used in the construction of the main building on the site.

(Ord. No. 07-3600, § 1, 8-27-2007)

Sec. 110-287. - APPLICATION AND CONTENTS.

Applications for development within the TOD shall be accompanied by the boundary survey, architectural drawings, elevations, landscape plan and site engineering.

- (a) The property owner or his agent shall meet with the zoning administrator to explain the development proposed, discuss procedures and obtain an application form.
- (b) The applicant shall file the completed application form, together with the required exhibits and the filing fee, with the zoning administrator.
- (c) The zoning administrator shall transmit the application to the planning and zoning commission for review and consideration.
- (d) The planning and zoning commission shall determine whether the proposed development is consistent with the requirements of the TOD, including without limitation whether the appearance and arrangement of buildings, off street parking, lighting, landscaping, ingress and egress, drainage, signs and other improvements are designed in a manner that will promote safety and convenience for the public and preserve property values of surrounding property. Following its consideration, the planning and zoning commission will recommend approval, denial or conditional approval of the application.
- (e) The planning and zoning commission's recommendation will be referred to the city council for final action.

(Ord. No. 07-3600, § 1, 8-27-2007; Ord. No. 08-3676, § 2 (Exh. B), 5-12-2008)

Sec. 110-288. - LAND USE AND DEVELOPMENT REGULATIONS.

The land use and development regulations for the underlying zoning classifications shall apply except where they conflict with the TOD regulations.

(Ord. No. 07-3600, § 1, 8-27-2007)

Secs. 110-289, 110-290. - Reserved.**DIVISION 8. - DISTRICT USE CLASSIFICATION**

[Sec. 110-291. - District use classification list.](#)

[Secs. 110-292—110-320. - Reserved.](#)

Sec. 110-291. - DISTRICT USE CLASSIFICATION LIST.

In the following list of uses, an "X" means that the use is permitted in the zoning district subject to the general provisions of this chapter; a "0" means that the use will be permitted only if a conditional (special) use permit is granted by the city council. For uses not included on this list, application shall be made to the planning and zoning commission for interpretation.

	RD	R-1	R-2	R-3	R-4	R-5	R-O	B-1	B-2	I-1	I-2	I-3
Abrasives manufacture											X	X
Acetylene manufacture											0	0
Acid manufacture											0	0
Agriculture, crops only	X	X	X	X					X	X	X	X
Agriculture, feeding and processing	0											
Agriculture, general	X	0	0	0								0
Aircraft sales and service	0										X	X
Airports, flying fields and terminals	0										0	0
Alkalies manufacture											0	0
Ammonia manufacture											0	0
Arms, ammunition and assembly manufacture											0	0
Amusement parks									0			
Animal fats manufacture											0	0
Animal hospital or husbandry service									0	0		
Antique and secondhand stores							X	X	X			
Apparel manufacture										0	X	X
Appliance sales								X	X			
Appliance repairs and sales								X	X			
Appliance manufacture											X	X
Art and music schools							X	X	X			
Asphalt manufacture											0	0

	RD	R-1	R-2	R-3	R-4	R-5	R-O	B-1	B-2	I-1	I-2	I-3
Auction								X	X	X	X	X
Auditoriums									0	0	X	X
Auto and auto parts manufacture and assembly											X	X
Auto accessories, retail								X	X	X		
Auto and truck repair									X	X	X	X
Auto sales and service									X	X	X	X
Auto service station									X	X	X	X
Auto washes									X	X	X	X
Auto wrecking											0	0
Bakeries, manufacturing									0	X	X	X
Bakeries, retail								X	X			
Bank and financial/loan institution								X	X			
Bar, tavern, cocktail lounge								X	X			
Barbershop and beauty shop							0	X	X			
Bed and Breakfast		0	0	0	0	0	0	0	0			
Bedding manufacture											X	X
Beverage manufacture											X	X
Bicycles, retail								X	X			
Billiard parlor								X	0			
Biological products manufacture and storage											0	0
Blast furnaces											0	0
Blueprint and photocopying								X	X	X		
Boardinghouse							0	0	0	0		
Boat building and repair											X	X
Book and stationary retail								X	X			
Bottling plants										X	X	X
Bowling alley								X	X			
Building material sales and storage enclosed									X	X	X	X
Business services							X	X	X	0		
Bus lots									X	X	X	X
Bus terminals									X			0
Cabinet/craft shop (not to exceed 3,000 square feet)									0	X	X	X
Camera store, retail only								X	X			
Campgrounds	0											
Candle manufacture											X	X
Cannery											X	X
Canvas products											X	X

	RD	R-1	R-2	R-3	R-4	R-5	R-O	B-1	B-2	I-1	I-2	I-3
manufacture												
Catalogue order store									X	X		
Cellular communication towers									0	0		
Cement manufacture											0	0
Cemetery and mausoleums	0	0	0	0								
Charcoal manufacture											X	X
Chemicals manufacture											0	0
Christmas Tree stands								0	0	X		
Church	0	0	0	0	0	0	0	0	0			
Clay and clay products manufacture											0	0
Cleaners								0	X	X		
Cleaning plant, commercial									0	X	X	X
Clinics medical or dental									X	X		
Clothing manufacture											X	
Clothing store								X	X			
College and universities	0	0	0	0	0	0	0	0	0	0		
Commercial storage, enclosed								0	0	X	X	X
Communication, telegraph, 2-way radio, etc.								0	0	0	0	0
Concrete products, manufacture										0	X	X
Confection manufacture										0	X	
Contractor's office							0	0	X	X	X	X
Cosmetics manufacture										0	X	X
Day care home		X	X	X	X	X						
Day nursery schools, subject to the provisions of section 110-551, as applicable							X					
Department store								X	X			
Direct mail advertising service							X	X	X	X		
Disinfectant manufacture										0	0	0
Dressmakers								0	0	X	X	X
Drive-in food service establishment								X	X			
Drive-in theater	0								0	0		
Drugstore, pharmacy								X	X			
Dry goods store								X	X			
Dye manufacture											0	0

	RD	R-1	R-2	R-3	R-4	R-5	R-O	B-1	B-2	I-1	I-2	I-3
Electrical appliance manufacture										X	X	X
Electronic equipment and products manufacture										X	X	X
Enamels and related product manufacture											0	0
Engine or motor manufacture											0	0
Equipment repair and storage, enclosed									0	X	X	X
Equipment repair and storage, outdoor										0	0	0
Excavation operations											X	X
Fairgrounds									0	0	0	
Farm equipment and implement retail							0	X	X			
Feed mill										X	X	X
Feed store									X			
Fertilizers manufacture											0	0
Flammables manufacture and storage										0	0	0
Flour milling and storage											X	X
Food processing											0	0
Food locker, processing											0	0
Freight terminal and freight yard										X	X	X
Fruit and vegetable stand								X	X			
Fuel oil, retail									X	0	0	0
Fuel refining											0	
Fuel storage											0	0
Funeral parlor							0	0	X			
Furniture manufacture											X	X
Furniture repair								0	0	X	X	X
Furniture store								X	X			
Fur products manufacture pressing and dyeing											0	
Garbage dump or incineration area											0	0
Garden supplies, retail								X	X	X		
Gift store								X	X			
Glass products manufacture										0	X	X
Glue and related products manufacture											0	0
Golf course and driving range	0	0	0	0	0	0	0	0	0	0	0	

	RD	R-1	R-2	R-3	R-4	R-5	R-O	B-1	B-2	I-1	I-2	I-3
Grain processing and storage											X	X
Greenhouse and nursery, commercial								0	0	X		
Grocery store, superette (3,000 square feet)								X	X	0		
Group day care home		X	X	X	X	X						
Gum and wood chemicals manufacture											0	0
Gymnasium	0	0	0	0	0	0	0	0				
Gypsum products manufacture											X	X
Hair products manufacture											0	0
Hardware store								X	X			
Healthcare clinic/office within 150 feet of a hospital, less dental offices					0	0	0	0	0			
Historic sites	0	0	0	0	0	0	0	0	0	0	0	
Hospital, sanitarium					0	0	0	0	0			
Housing, single-family	X	X	X	X	X	X	X					
Housing, multifamily					X	X	X					
Ice cream store								X	X			
Instrument manufacture										X	X	
Jewelry store								X	X			
Kennel	0								0	0	0	
Laboratory and research										0	0	0
Laundromat								X	X			
Leather products manufacture										0	X	X
Library							0	X	X			
Light assembly									0	X		
Liquor, retail								X	X			
Luggage store								X	X			
Machine manufacture											X	X
Machine shop										X	X	X
Manufacturing, general (unspecified)										0	0	0
Massage parlor							0	0	0			
Matches manufacture											0	0
Meat products manufacture										0	0	0
Metal products manufacture										0	X	X
Metal fabrication										0	X	X
Miniature golf								0	0	0		
Milling, corn, vegetable oil										0	X	X

	RD	R-1	R-2	R-3	R-4	R-5	R-O	B-1	B-2	I-1	I-2	I-3
Millwork manufacture										X	X	X
Mining and quarrying	0											
Miscellaneous, retail								0	0			
Mobile home park or courts	0					0						
Mobile home sales									X			
Mobile home and trailer manufacture										0	X	
Motel or hotel								X	X			
Music and art schools							X	X	X			
Music store								X	X			
Nursing home					0	0	0					
Offices (accountants, architects, appraisers, attorneys, auditors, consultants, engineers, real estate brokers and agents and other similar type offices but excluding doctors, dentists and clinics)							X					
Offices (unspecified)							0	X	X	X	X	X
Organization headquarters	0							X	X	X	0	
Packing and packaging									X	X	X	X
Paint, glass and wallpaper, store								X	X	X		
Paint and related products, manufacture										0	0	0
Paper products manufacture										0	X	X
Pawnshop								0	0			
Personal services (unspecified)							0	0	0			
Pet shop								0	0	0	0	
Pharmaceutical products and manufacture										0	0	0
Philanthropic institution							0	0	0			
Photographic processing							0	X	X	X		
Photographic studio							0	X	X			
Plastic products manufacture										0	X	X
Playgrounds or tot lots	0	0	0	0	0	0	0					
Plumbing sales and service									0	X		
Post offices								X	X	0		
Pottery and clay products,									0	0	X	X

	RD	R-1	R-2	R-3	R-4	R-5	R-O	B-1	B-2	I-1	I-2	I-3
manufacture												
Poultry processing											0	0
Printing/publishing/issuing, all								X	X	X	X	X
Processing, general										X	X	
Public transportation terminal								X	X	0	0	0
Publisher, office only								X	X			
Quarrying and mining	0										0	
Radio stations, studios								X	X			
Radio transmitting relay and towers	0										0	0
Railroad equipment manufacture										0	X	X
Railroad hub facility												X
Recreation centers								0	X	X		
Recreational vehicles, sales and services									0	X	X	
Residential, duplex	X				X	X	X	0				
Residential, multifamily						X	0	0				
Residential, single-family	X	X	X	X	X	X	X					
Restaurant, dine-in							X	X	X			
Restaurant, drive-in							0	X	X			
Restaurant, alcoholic beverage								X	X			
Roominghouse						0	0	0	0			
Rubber products manufacture										0	X	X
Rubber, reclamation										0	0	0
Schools, professional and technical	0						0	X	X			
Schools, primary and secondary		0	0	0	0	0	0	0	0			
Scrap metal salvage and storage										0	0	
Secondhand stores								X	X			
Seeds processing										X	X	X
Sexually oriented materials, sales or rentals												0
Shelter care	0	0	0	0	0	0	0					
Shoe store								X	X			
Shooting range	0										0	
Slaughterhouse											0	0
Social halls, lodges, fraternal organization and clubs								X	X			

	RD	R-1	R-2	R-3	R-4	R-5	R-O	B-1	B-2	I-1	I-2	I-3
Solid waste disposal	0										0	0
Sporting goods store								X	X			
Stable	X											
Stockyard											0	0
Storage, enclosed								0	X	X	X	X
Storage, outdoor									0	0	0	0
Studios, art or photographic								X	X	X		
Swimming pool, public	0	0	0	0	0	0	0		0			
Synthetic products manufacture										0	X	X
Tailoring								X	X	X	X	X
Taxi Cab Offices						0	X	X	X			
Tattoo parlor or business												0
Telegraph services									X	X		
TV transmitting station and relay towers	0									0	0	0
TV studios									X	X		
Tennis courts	0	0	0	0	0	0	0	0	0			
Textile manufacture										0	X	X
Theater, indoor								X	X			
Tobacco and Tobacco products manufacture											X	X
Toiletries manufacture										0	X	X
Toy and hobby stores								X	X			
Transloading											X	
Trucks and truck parts, manufacture and assembly										0	X	X
Truck and bus terminal and garage										X	X	X
Upholstery shop								X	X			
Variety shop								X	X			
Vegetable processing										0	X	X
Warehousing								0	0	X	X	X
Wood product manufacture										0	X	X
Wholesale outlets								0	0	0	0	0

(Code 1996, § 17.40.010; Ord. No. 03-3183, 8-25-2003; Ord. No. 05-3330, §§ 2, 3, 5-23-2005; Ord. No. 06-3456, § 2, 7-10-2006; Ord. No. 08-3676, § 3 (Exh. B), 5-12-2008; Ord. No. 09-3879, § 1, 12-14-2009; Ord. No. 12-4186, 5-28-2012)

Secs. 110-292—110-320. - RESERVED.

ARTICLE IV. - LOT AND YARD REQUIREMENTS

Sec. 110-321. - Minimum lot and yard areas by district.

Secs. 110-322—110-340. - Reserved.

Sec. 110-321. - MINIMUM LOT AND YARD AREAS BY DISTRICT.

It is unlawful to erect or alter any buildings within the city unless the following minimum lot and yard areas and bulk controls are provided and maintained in connection with such building:

MINIMUM LOT REQUIREMENTS BY DISTRICT

District	Minimum Area (square feet)	Minimum Width (feet)	Front (feet)	Rear (feet)	Side Interior (feet)	Corners (feet)	Building Height (feet)
RD	87,120	270	30	30	100	100	30
R-1	12,150	90	30	30	10	30	30
R-2	9,600	80	25	25	8	25	30
R-3	7,350	70	25	25	6	25	30
R-4	6,000	80	20	20	6	20	35
R-5	6,000	80	20	20	6	20	60
R-O	6,000	80	20	20	6	20	60
B-1	None	None	None	None	None	None	60
B-2	15,000	100	50	30	20	20	60
B-2*	15,000	100	100	30	20	20	60
I-1	9,600	80	20	20	15	20	60
I-1**	9,600	80	100	20	20	20	60
I-2	15,000	100	20	20	15	20	60
I-2**	15,000	100	100	20	20	20	60
I-3	30,000	200	30	30	15	20	150

*Caron to Dement Corridor.

**15th Street west on Highway 38 to city limits.

(1) These requirements shall be minimum standards unless and where the city building code imposes greater restrictions, then the requirements of the building code shall apply.

(2) Where adjacent structures have front yard setbacks different from those required, the minimum front yard setback shall be the average setback of such structures, but in no case shall the front yard setback be less than 20 feet.

- (3) Buildings in districts other than B-1 and over 2½ stories in height shall require five feet for each additional story in addition to the required minimum side yard.
- (4) Detached residential garages shall have a minimum rear yard of ten feet.
- (5) Duplex and multifamily dwellings must also comply with the land use intensity standards given in article III, division 2 of this chapter.
- (6) May be used for parking development.
- (7) Uses in any district, and located on IL Route 251 or IL Route 38, shall maintain a minimum setback of 72 feet from the centerline of said highway if the required setback should produce a lesser distance.
- (8) Where a business or industrial use in any business or industrial district other than B-1 abuts a residential district the minimum yard requirement of a yard abutting a residence district shall be 50 feet.
- (9) No more than one-third of a single-family lot can be covered with structures or paved areas.
- (10) In I-3 zoning districts, the aforesaid minimum front yard, rear yard, side interior yard, and corner requirements are not applicable where rail track facilities extend along the lot line of the property. In addition, notwithstanding anything contained herein to the contrary, signs and fences as well as the following facilities entering or leaving property in I-3 zoning district: rail racks, driveways, sidewalks, landscaping, utilities, overhead transmission lines and appurtenant facilities, and distribution lines, are specifically permitted within aforesaid yards for the purpose of entering or leaving property zoned I-3.
- (11) On a single-family lot no more than 40 percent of the rear yard may be occupied by accessory buildings or uses. Accessory buildings or uses do not count toward the maximum lot coverage of 33 percent of the lot.

(Code 1996, § 17.36.010; Ord. No. 03-3153, 4-28-2003; Ord. No. 10-3990, § 2, 12-13-2010)

Secs. 110-322—110-340. - RESERVED.

ARTICLE V. - PERFORMANCE STANDARDS

- Sec. 110-341. - General compliance.
- Sec. 110-342. - Emission of noise, odor, fumes, dust or particulate matter.
- Sec. 110-343. - Glare.
- Sec. 110-344. - Explosives.
- Sec. 110-345. - Vibration.
- Sec. 110-346. - Activities to be within enclosed buildings.
- Sec. 110-347. - Outdoor storage.
- Sec. 110-348. - Refuse.
- Sec. 110-349. - Landscaped yard along streets.

Sec. 110-350. - Use of trailers.
Secs. 110-351—110-370. - Reserved.

Sec. 110-341. - GENERAL COMPLIANCE.

The regulations in this article shall apply to all zoning districts unless specifically stated otherwise. Determination of potential or actual noncompliance with such regulations shall be made by the city council or its duly appointed agent. In addition, all manufacturing uses listed in the conditional use classification in the industrial district regulations shall give evidence of ability to comply with the following standards before the issuance of a land use permit or certificate of compliance. Continued compliance shall be required during the operation of such uses and activities. No use already established on the effective date of the ordinance codified in this article shall be so altered or modified as to conflict with or further conflict with the performance standards established hereafter.

(Code 1996, § 17.44.010)

Sec. 110-342. - EMISSION OF NOISE, ODOR, FUMES, DUST OR PARTICULATE MATTER.

(a) No activity or operation shall be established or maintained which by reason of its nature or manner of operation will cause the emission of noise, odor, toxic or noxious fumes, smoke, dust and particulate matter in such concentrations as to be detrimental to or endanger the public health, welfare, comfort and safety, or cause injury to property or business.

(b) For the purpose of testing and grading the density of smoke, the Ringelmann Smoke Chart, as published and used by the United States Geological Survey, is adopted as a standard for such grading, and smoke is defined as and declared to be "dense" when it is of a degree of density of number three of the chart or greater, for more than six minutes in any one hour, whether such period of time is consecutive or not.

(Code 1996, § 17.44.020)

Sec. 110-343. - GLARE.

Any lighting used to illuminate an off-street parking area or sign shall be arranged so as to deflect light away from any adjoining residential property or from the public streets. Direct or sky-reflected glare, whether from floodlights or from high-temperature processes such as combustion or welding, shall not be directed onto any adjoining property.

(Code 1996, § 17.44.030)

Sec. 110-344. - EXPLOSIVES.

No activities involving the storage, utilization or manufacture of materials, goods or products which could decompose by detonation shall be permitted, except such as are specifically licensed by the city council.

(Code 1996, § 17.44.040)

Sec. 110-345. - VIBRATION.

No activity or operation shall cause earth vibrations perceptible beyond the limits of the lot upon which the operation is located.

(Code 1996, § 17.44.050)

Sec. 110-346. - ACTIVITIES TO BE WITHIN ENCLOSED BUILDINGS.

All fabrication, manufacturing, processing or production shall be undertaken substantially within enclosed buildings, unless specifically exempted by the city council upon recommendation by the planning and zoning commission.

(Code 1996, § 17.44.060; Ord. No. 08-3676, § 2 (Exh. B), 5-12-2008)

Sec. 110-347. - OUTDOOR STORAGE.

All outdoor storage shall be prohibited in the B-1 district. Where outdoor storage of materials, goods and products exists or where fabrication, manufacturing or production occurs outside within other business and industrial districts, such storage or production shall be effectively screened from adjacent residential districts and public streets by a solid fence, compact hedge or similar opaque landscaped element. Such screening shall be placed along property lines or, in the case of screening, along a street, at least 15 feet from the street right-of-way or adjacent property line with landscaping between the screening and pavement. A louvered fence shall be considered "solid" if it blocks direct vision. The requirements of this section shall not apply to a railroad hub facility located in an I-3 zoning district, except where such I-3 property is located immediately adjacent to a property zoned residential at the time development of the property zoned I-3 is initially commenced.

(Code 1996, § 17.44.070)

Sec. 110-348. - REFUSE.

All waste material, vehicles in an inoperable condition, debris, refuse, or garbage not disposed of through the public sanitary sewage system shall be kept in an enclosed building or properly contained in a closed container designed for such purposes. The owner of vacant land shall be responsible for keeping such land free of refuse.

(Code 1996, § 17.44.070)

Sec. 110-349. - LANDSCAPED YARD ALONG STREETS.

In all zoning districts except for a railroad hub facility in an I-3 zoning district, all developed uses shall provide a landscaped yard along all streets. Such yard shall be kept clear of all structures and storage. Such yard shall be at least the depth of the front yard requirement in each district along all streets, measured from the street right-of-way. Except for driveways, the yard shall extend the entire frontage of the lot and along both streets in the case of a corner lot. No more than 30 percent of any lot width shall be paved. Nothing in this section shall supersede the dimensional requirements in section 110-622.

(Code 1996, § 17.44.090)

Sec. 110-350. - USE OF TRAILERS.

No trailer may be used for any residential, commercial or industrial purpose, either transiently or permanently, unless located in a trailer camp complying with the requirements of this chapter.

(Code 1996, § 17.44.100)

Secs. 110-351—110-370. - RESERVED.**ARTICLE VI. - LANDSCAPING**

DIVISION 1. - GENERALLY

DIVISION 2. - LANDSCAPE IMPROVEMENT STANDARDS

DIVISION 1. - GENERALLY[Sec. 110-371. - Purpose.](#)[Sec. 110-372. - General site development standards.](#)[Sec. 110-373. - Site plan.](#)[Secs. 110-374—110-400. - Reserved.](#)**Sec. 110-371. - PURPOSE.**

This article is established to create uniform landscape, buffering, and tree planting standards for the development of property in accordance with the site plan review process. These standards are intended to ensure that the city remains an attractive community in which to reside and operate a business, and to enhance the character of existing and new development. It is also the intent of this article to safeguard the ecological and aesthetic environment of the community.

(Code 1996, § 17.46.010)

Sec. 110-372. - GENERAL SITE DEVELOPMENT STANDARDS.

(a) *Applicability.* The following site development standards shall apply to all new construction requiring site plan review except for a railroad hub facility in excess of 100 acres as may otherwise be provided herein. All development along arterial streets shall be reviewed and approved by a landscape professional selected by the city.

(b) *Building to site relationship.*

(1) *Preservation of natural elements.* Except for a railroad hub facility in an I-3 zoning district, the site design shall minimize disruption of existing natural features, and wherever possible incorporate them into the overall design concept and ensure that the natural drainage on the site is not diverted from existing points of exit, and the rate of runoff at all points of exit shall remain consistent with previous rates at each point of exit and that overall velocity at which runoff is discharged is not affected and employ erosion control methods during construction. A railroad hub facility located in an I-3 zoning district shall be engineered in a manner consistent with applicable federal and state law and pursuant to a stormwater management plan approved per chapter 22, article X.

(2) *Specific areas to be preserved.* The following specific areas shall be preserved as undeveloped open space or shall be mitigated, except for a railroad hub facility in an I-3 zoning district in excess of 100 acres:

- a. Wetlands as described in section 404 of the Federal Water Pollution Control Act Amendments of 1972 (33 USC 1344) and delineated on wetlands maps prepared by the U.S. Fish and Wildlife Service, verified by on-site inspection.
- b. Lands in a designated flood plain or floodway.
- c. Significant trees with a caliper of six inches or greater, or stands of trees.
- d. Natural vegetation cover on all portions of the site outside designated construction zones.
- e. Habitats of endangered wildlife as identified by the federal and/or state department of conservation.
- f. A railroad hub facility in excess of 100 acres must comply with federal and state regulations regarding development in flood plain, floodway or wetlands. All permits required by federal and state regulations must be in place prior to the start of construction in flood plain, floodway and/or wetland areas.

(3) *Service/utility areas.* All service and utility areas which include, but are not limited to, loading docks, exterior storage areas, dumpsters and mechanical equipment such as plumbing vent stacks, HVAC transformers, fans and cooling towers, shall be screened from view by:

- a. Locating all service/utility areas away from public rights of way and concealing them from building entrances, pedestrian areas and adjacent residential structures.
- b. Providing for joint use of service areas by multiple adjoining buildings.
- c. Incorporating trash enclosures into building design.
- d. Preventing dumpsters in the middle of open spaces, parking lots or along circulation paths.
- e. Screening utility service areas from public view with building elements similar in appearance to the main structure.
- f. Providing below ground utility connections for all new developments.
- g. Screening rooftop mechanical equipment from view from adjoining properties by building elements such as parapet walls.

Permanent or temporary exterior storage or display of inventory, business vehicles or personal vehicles is prohibited without the issuance of a permit.

(4) *Public spaces and paths.* Public spaces and paths intended for pedestrian use should be designed to incorporate natural features, building and landscape elements to create safe and comfortable environments.

- a. All areas intended for pedestrian use shall be lighted.
- b. Pedestrian paths or sidewalks should be clearly distinguished from vehicular paths by landscaping, paving materials or architectural elements.

(Code 1996, § 17.46.020)

Sec. 110-373. - SITE PLAN.

The following shall establish the standards for the preparation and submission of required plans for landscape, buffering and tree preservation:

- (1) *Landscape plan required.* A landscape plan shall be required for all projects requiring site plan review approval.
- (2) *Contents of landscape plan.* At a minimum, all landscape plans shall include or have attached thereto the following information:
 - a. Titled "Landscape Plan," name and location of project, name and address of project developer, location and names of abutting streets and rights of way, graphic and written scale, date of plan and any subsequent revision. The landscape plan shall be drawn at a scale not smaller than one inch equals 20 feet.
 - b. Each site plan shall be accompanied by an analysis of the site describing geology and soil; topography; existing vegetation, existing structures and road networks; visual features; and present use of the site.
 - c. The location and dimensions of all existing and proposed property lines, buildings, structures, parking lots and driveways, roadways and rights of way, easements, sidewalks, bicycle paths, ground signs, refuse disposal areas, fences, freestanding electrical equipment, light fixtures, other surface utility structures, signs and other freestanding structural features, recreational facilities, setbacks and easements.
 - d. The location, quantity, installation size, mature size, and both scientific and common names of all proposed plant materials.
 - e. Existing and proposed contours, including the location, slope ratios (horizontal:vertical) of all proposed berming, at one-foot contour intervals. Location, extent and general elevations and slope ratios of all detention and retention areas and drainage ways. The elevations at top and bottom of all proposed retaining and screening walls and fences.
 - f. The designation, location, type and size of all existing trees six inches and larger in diameter measured six inches above natural grade. Any trees to be removed should be clearly identified. In the event a significant number of trees exist in concentrated areas on the site, the boundaries of the tree grove/forest or woodland area shall be shown with only trees ten inches and larger in diameter indicated within the woodland area.
 - g. Details of all fences and walls proposed to be constructed on the site.
 - h. Elevation, cross sections and other site of construction details determined to be necessary by the building official or zoning administrator.
 - i. Quantities indicating the number and total square feet of parking areas, percentage and number of square feet of the interior parking lot landscape area, total linear length of buffer yards, plant quantities provided within buffer yards, and number of square feet provided for property's interior open space.

(Code 1996, § 17.46.030)

Secs. 110-374—110-400. - RESERVED.**DIVISION 2. - LANDSCAPE IMPROVEMENT STANDARDS**

Sec. 110-401. - Applicability.
 Sec. 110-402. - Minimum landscaped open space; variances; railroad hub facilities.
 Sec. 110-403. - Types of landscaped areas.
 Sec. 110-404. - Interior parkways.
 Sec. 110-405. - Buffer yards.
 Sec. 110-406. - Parking lots.
 Sec. 110-407. - Site interior.
 Sec. 110-408. - Prohibited plant varieties.
 Sec. 110-409. - Planting methods.
 Sec. 110-410. - Performance guarantee; maintenance.
 Sec. 110-411. - Administrative relief.
 Secs. 110-412—110-430. - Reserved.

Sec. 110-401. - APPLICABILITY.

This division shall establish standards for the landscape improvements required to be installed as part of the development of new buildings, structures and uses of land requiring site plan review (excludes additions or alterations to existing buildings).

(Code 1996, § 17.46.040)

Sec. 110-402. - MINIMUM LANDSCAPED OPEN SPACE; VARIANCES; RAILROAD HUB FACILITIES.

For all sites, a minimum of 15 percent of total land area of the parcel shall be devoted to landscaped open space. The requirements contained in this article shall not apply to the B-1 zone except to the extent practical based upon the open space remaining after building construction. Stormwater detention and retention areas may be included as open space for a railroad hub facility in an I-3 zoning district.

(1) *Detention and retention basins and ponds.* Detention and retention basins and ponds shall be landscaped and shall include shade and ornamental trees, evergreens, shrubbery, hedges and other live planting materials.

(2) *Variances.* However, the city recognizes that, because of the wide variety of types of developments and the relationships between them, it is neither possible nor prudent to establish inflexible landscape requirements. Therefore, the city may allow variances to satisfy the standards set forth in this article.

(3) *Railroad hub facilities.* A railroad hub facility in excess of 100 acres shall present a site development plan for review to the planning and zoning commission. The planning and zoning commission will review the plan and make a recommendation to the city council to approve as presented, approve with modifications or disapprove. The plan submitted shall describe in detail all landscaping and site modifications proposed to ensure that the railroad hub facility presents an attractive appearance. Special attention shall be given to site appearance along public roadway

corridors. Railroad hub facility site improvement, including buildings, parking or outdoor storage areas, which are within 500 feet of a residential or commercial district located within the city at the time development of a railroad hub facility is initially commenced shall be screened by either opaque or semi-opaque fencing or compact hedge at least five feet in height.

(Code 1996, § 17.46.040(A); Ord. No. 08-3676, § 2 (Exh. B), 5-12-2008)

Sec. 110-403. - TYPES OF LANDSCAPED AREAS.

This article regulates landscaping of four distinct areas of a parcel as follows:

- (1) Interior parkway (front yard).
- (2) Buffer yards (side and rear yards).
- (3) Parking lots (on and off sites).
- (4) Site interior (adjacent to building walls).

Each area shall be landscaped in accordance with the criteria in this division.

(Code 1996, § 17.46.040(B))

Sec. 110-404. - INTERIOR PARKWAYS.

Interior parkway planting is required of developments in order to achieve two goals: (i) to screen vehicles which may be viewed from the public rights of way, and (ii) to enhance the image and character of the city along roadway corridors.

(1) Multiple-family residential districts.

- a. In multiple-family residential areas, there shall be a minimum 15-foot-wide interior parkway provided adjacent to all public rights-of-way.
- b. Shade trees shall be planted at a quantity of not less than one tree for every 40 linear feet of frontage parallel to and within the right of way, interior parkway, or within the first ten feet of the front property line.
- c. All surface areas of interior parkways shall be sodded or seeded where not otherwise planted.
- d. Where parking lots providing for five or more parking spaces are in view of the public right-of-way, there shall be installed within the interior parkway:
 1. One three-inch-caliper shade tree for every 30 linear feet of parkway frontage.
 2. A 100 percent screen of the parking lot frontage to a minimum height of three feet except for where vehicular sight lines may be impaired. Screening will consist of one or a combination of the following:
 - i. Masonry walls compatible with proposed building design, and landscaped as a foundation wall.
 - ii. Ornamental and evergreen trees, shrubs and ground covers. At a minimum, 30

percent of a planted screen shall be evergreen.

(2) *Business districts.*

- a. Commercial developments shall provide at minimum a ten-foot-wide interior parkway adjacent to all public rights-of-way.
- b. Shade trees shall be planted at a quantity of not less than one tree for every 40 linear feet of frontage parallel to and within the right-of-way or interior parkway.
- c. All surface areas of interior parkways shall be sodded where not otherwise planted.
- d. Where parking lots providing for five or more parking spaces are in view of the public right-of-way, there shall be installed:
 1. At minimum, one eight-foot ornamental or evergreen tree for every 30 feet of parkway frontage.
 2. A 100 percent screen of the parking lot frontage to a minimum height of three feet in the interior parkway, except for where vehicular sight lines may be impaired. Screening will consist of one or a combination of the following:
 - i. Masonry walls compatible with proposed building design, and landscaped as a foundation wall.
 - ii. An earth berm to a minimum height of three feet and minimum slope of 3:1.
 - iii. Ornamental and evergreen trees, shrubs and ground covers. At a minimum, 30 percent of a planted screen shall be evergreen.

(3) *Industrial districts.*

- a. Industrial properties, and properties in the I-1 and I-2 zoning districts shall provide a minimum 50-foot-wide interior parkway adjacent to all public rights-of-way.
- b. Shade trees shall be planted at a quantity of not less than one tree for every 40 linear feet of frontage parallel to and within the right-of-way, interior parkway, or within the first ten feet of the front property line.
- c. All surface areas of interior parkways shall be sodded where not otherwise planted.
- d. Where parking lots providing for five or more parking spaces are in view of the public right-of-way, the developer shall provide within the parkway:
 1. At minimum, one eight-foot ornamental or evergreen tree for every 30 feet of parkway frontage.
 2. A 100 percent screen of the parking lot frontage to a minimum height of three feet, except for where vehicular sight lines may be impaired. Screening will consist of one or a combination of the following:
 - i. Masonry walls compatible with proposed building design, and landscaped as a foundation wall.

- ii. Ornamental and evergreen trees, shrubs and ground covers. At a minimum, 30 percent of a planted screen shall be evergreen.
- iii. An earth berm to a minimum height of three feet and minimum slope of 3:1.

(4) *Additional requirements in all districts.* Interior parkways shall also contain shade, ornamental and evergreen trees, shrubs and ground covers along with earth berming in quantities and heights adequate to substantially screen on-site storage and service/utility areas from view of public rights-of-way.

(Code 1996, § 17.46.040(B)(1))

Sec. 110-405. - BUFFER YARDS.

All developments shall create a substantial buffer between land uses promoting a sense of privacy and security. Buffers may be composed of landscape plantings, earth berming and screen fencing as required for intended land use, using one or both of the alternatives described below:

(1) *Multiple-family residential districts.*

a. Alternative A:

- 1. A minimum 15-foot-wide planting strip shall be provided along the entire length of the buffer yard, except where cross access, utilities or special circumstances prohibit.
- 2. At minimum, 30 percent of the length of the buffer yard shall be planted with four-foot-high shrubs. Shrubs are intended to be planted in groupings or hedges throughout the buffer yard.
- 3. Twenty-five percent of all required shrubs and trees shall be evergreen.
- 4. There shall be a minimum total quantity of one 2½-inch caliper tree provided for every 50 feet lineal feet of buffer yard. Spacing of the required trees may vary according to design intent.
- 5. There shall be a minimum total quantity of one eight-foot-high ornamental/evergreen tree provided for every 80 feet of lineal length of buffer strip.
- 6. Earth berming at a maximum slope of 3:1 should be incorporated along a minimum of 75 percent of the linear length of the buffer strip.

b. Alternative B:

- 1. A minimum 25-foot-wide planting strip shall be provided along the entire length of the buffer yard, except where cross access, utilities or special circumstances prohibit.
- 2. At minimum, 20 percent of the linear length of the buffer strip shall be planted with four-foot-high shrubs. Shrubs are intended to be planted in groupings or hedges throughout the buffer strip.
- 3. Twenty-five percent of all required shrubs and trees shall be evergreen.
- 4. There shall be a minimum total quantity of one 2½-inch caliper tree provided for

every 60 linear feet of buffer yard. Spacing of the required trees may vary according to design intent.

5. There shall be a minimum total quantity of one six-foot-high ornamental/evergreen tree provided for every 100 feet of lineal length.

6. Earth berms at a minimum height of three feet and maximum slope of 3:1 shall be incorporated along at least 50 percent of the length of the buffer yard.

(2) *Business districts.*

a. *Business property abutting residential property.*

1. A minimum 25-foot-wide planting strip shall be provided along the entire length of the buffer yard, except where cross access, utilities or special circumstances prohibit.

2. There shall be a screen fence or wall of wood or other approved material six feet high and at least 75 percent opaque, installed along the entire length of the buffer yard.

3. At minimum, 25 percent of the buffer strip linear length shall be planted with shrubs three feet or greater in height.

4. At minimum, 25 percent of all required shrubs shall be evergreen.

5. There shall be a minimum quantity of one 2½-inch caliper tree provided for every 60 linear feet of the buffer yard. Spacing of required trees may vary according to design intent.

6. Up to 25 percent of the trees may be ornamental or evergreen trees.

7. All required plantings are required to be placed on residential side of the fence.

b. *Business property abutting business or industrial property.* One or both of the following alternatives should be used:

1. Alternative A:

i. A minimum ten-foot-wide planting strip shall be provided along the entire length of the buffer yard, except where cross access, utilities or special circumstances prohibit.

ii. At minimum, 30 percent of the buffer strip linear length shall be planted with shrubs three feet or greater in height.

iii. At minimum, 25 percent of all required shrubs shall be evergreen.

iv. There shall be a minimum quantity of one 2½-inch caliper tree provided for every 65 feet of buffer strip linear length. Spacing of required trees may vary according to design intent.

v. Up to 25 percent of the trees may be ornamental or evergreens trees.

vi. At minimum, 30 percent of the buffer strip linear length shall be earth bermed to

a minimum height of three feet and a maximum slope of 3:1 (vertical:horizontal).

2. Alternative B:

- i. A minimum 25-foot-wide planting strip shall be provided along the entire length of the buffer yard, except where cross access, utilities or special circumstances prohibit.
- ii. At minimum, 20 percent of the buffer strip linear length shall be planted with shrubs three feet or greater in height.
- iii. At minimum, 25 percent of all required shrubs shall be evergreen.
- iv. There shall be a minimum quantity of one 2½-inch caliper tree provided for every 70 feet of the buffer yard. Spacing of required trees may vary according to design intent.
- v. Up to 25 percent of the trees may be ornamental or evergreen trees.
- vi. At minimum, 20 percent of the buffer strip linear length shall be earth bermed to a minimum height of three feet and a maximum slope of 3:1 (vertical:horizontal).

(3) *Industrial districts.*

a. *Industrial property abutting residential property.*

- 1. A minimum 50-foot-wide planting strip shall be provided along the entire length of the buffer yard, except where cross access, utilities or special circumstances prohibit.
- 2. A screened fence or wall constructed of wood or other approved material being a minimum of six feet high and 75 percent opaque must be installed along the entire length of the buffer yard.
- 3. At minimum, 25 percent of the buffer strip linear length shall be planted with shrubs three feet or greater in height.
- 4. At minimum, 25 percent of all required shrubs shall be evergreen.
- 5. There shall be a minimum quantity of one 2½-inch caliper tree provided for every 40 linear feet of the buffer yard. Spacing of required trees may vary according to design intent.
- 6. Up to 25 percent of the trees may be ornamental or evergreen trees.
- 7. All required plantings are required to be placed on the residential side of the fence.

b. *Industrial property abutting business property.* One or both of the following alternatives should be used:

1. Alternative A:

- i. A minimum 15-foot-wide planting strip shall be provided along the entire length of the buffer yard, except where cross access, utilities or special circumstances prohibit.

- ii. There shall be a screen fence or wall of wood or other approved material six feet high and at least 75 percent opaque, to screen any open storage areas.
- iii. There shall be a minimum quantity of one 2½-inch caliper tree provided for every 60 feet of buffer strip linear length. Spacing of required trees may vary according to design intent.
- iv. Up to 25 percent of the trees may be ornamental or evergreen trees.
- v. At minimum, 50 percent of the buffer strip linear length shall be earth bermed to a minimum height of three feet at a maximum slope of 3:1 (vertical:horizontal).

2. Alternative B:

- i. A minimum 25-foot-wide planting strip shall be provided along the entire length of the buffer yard, except where cross access, utilities or special circumstances prohibit.
- ii. At minimum, 50 percent of the length of the buffer yard shall be planted with shrubs four feet or greater in height.
- iii. At minimum, 25 percent of all required shrubs shall be evergreen.
- iv. There shall be a minimum quantity of one 2½-inch caliper tree provided for every 70 feet of buffer strip linear length. Spacing of remaining trees may vary according to design intent.
- v. Up to 25 percent of the shade trees may be ornamental or evergreen trees.
- vi. At minimum, 25 percent of the buffer strip linear length, shall be earth bermed to a minimum height of three feet at a maximum slope of 3:1 (vertical:horizontal).
- vii. There shall be a screen fence or wall of wood or other approved material six feet high and at least 75 percent opaque, to screen any open storage areas.

c. *Manufacturing property abutting manufacturing property.*

- 1. A minimum ten-foot-wide planting strip shall be provided along the entire length of the buffer yard, except where cross access, utilities or special circumstances prohibit.
- 2. A minimum of 30 percent the length of the buffer yard shall be planted with shrubs four feet or greater in height.
- 3. There shall be a minimum quantity of one 2½-inch caliper shade tree provided for every 70 linear feet of the buffer yard. Spacing of required trees may vary according to design intent.
- 4. Up to 25 percent of the shade trees may be ornamental or evergreen trees.

(Code 1996, § 17.46.040(B)(2))

Sec. 110-406. - PARKING LOTS.

(a) Off-street parking areas shall not be allowed to dominate the image of any development. Parking lots serving all districts shall be lighted and landscaped. Parking lots serving or adjacent to residential developments shall be located to the rear or sides of buildings. All parking areas shall be located within 1,000 feet of the entrances to the buildings they are designated to serve.

(b) Landscaping shall be provided within all parking lots containing 20 or more parking spaces. Parking lot plantings are intended to provide screening, shade, subdivide space, and reduce glare and heat from pavement surfaces by meeting the following standards:

(1) Each parking row, regardless of its length, shall have a landscaped island at each end. Islands may be omitted to the extent necessary to ensure conformance with the required number of off-street parking spaces in article XII of this chapter. Landscape islands may be omitted in parking areas primarily used by trucks.

(2) There shall be a minimum total quantity of one three-inch caliper shade tree for every five parking spaces.

(3) All parking lots or portions of parking lots adjacent to buffer yards or interior parkways, and which are also adjacent to any residential property, shall be screened from view along its entire length.

(4) Parking lot landscape islands shall have barrier-type curbs.

(5) Parking lot landscape islands shall maintain a 30-inch clear area measured from face of curb to vehicular overhang. This may be provided through the use of concrete carriage walks or the planting of ground cover or sod.

(6) All parking lot island planters should be overexcavated to a two-foot depth for their entire width and length, backfilled with an appropriate mix of topsoil, peat moss and nutrients to replace the excavated material, and shall be compacted, leaving a crowned or mounded top.

(7) Parking lot landscape islands shall have a minimum width of seven feet measured from back of curb to back of curb) and a depth equal to the depth of the parking stall.

(8) Parking lot layout and planting designs shall account for and provide adequate room within buffer yard and/or interior parkway areas for snow storage.

(9) Berming in parking islands shall not exceed a maximum slope of 2:1.

(10) To ensure visibility all tree branching shall start no less than six feet above the parking lot pavement level, and shrubs shall not exceed a mature height of 30 inches above parking lot pavement level at the end of parking rows.

(11) To break up large expanses of parking, landscape islands shall be required such that no parking space may be greater than 90 linear feet away from either a landscape island or landscaping within a buffer yard, interior parkway or site interior landscaping. To achieve these objectives, one or both of the following alternatives shall be used:

a. Alternative A: A continuous curbed landscape island between rows of parking shall be provided. When such a continuous island is provided, it shall be a minimum of seven feet in

width and contain a minimum of one three-inch caliper shade tree for every 20 parking spaces.

b. Alternative B: A maximum of 20 parking spaces shall be permitted in length of any parking row. A curbed island at least seven feet wide and as deep as the parking stalls shall be provided to divide the row length. There shall be a minimum of one three-inch caliper shade tree for each island.

(Code 1996, § 17.46.040(B)(3))

Sec. 110-407. - SITE INTERIOR.

(a) *Generally.* Site interior landscaping shall utilize plant materials, earth berming and other elements to screen and aesthetically enhance site and buildings, through the implementation of the standards in this section.

(b) *Foundation planting.*

(1) A minimum four-foot-wide landscape area shall be provided along 50 percent of building walls (excluding driveways, entrance areas, patios and decks).

(2) One hundred percent of this landscape area shall be planted with a mixture of ornamental and evergreen trees, shrubs and ground cover (excluding sod).

(3) These plantings shall emphasize the softening of large expanses of the building walls, accent building entrances and architectural features, and screen mechanical equipment adjacent to buildings.

(Code 1996, § 17.46.040(B)(4))

Sec. 110-408. - PROHIBITED PLANT VARIETIES.

The following varieties of plants are restricted from use in any areas covered by this chapter. The city encourages the use of native plant species indigenous to the city.

Common Name	Scientific Name
LARGE TREES	
Weeping Willow	Salix alba
Poplars (except Cottonless Cottonwood)	Populus alba and others
Box Elder	Acer negundo
Tree of Heaven	Ailanthus altissima
Chinese Elm	Ulmus siberica
Female Ginkgo	Ginkgo biloba female
Mulberry	Morus alba and others
Black Locust	Robinia pseudoacacia
Sycamore	Platanus occidentalis
Seedling Form Soft (silver) Maple (improved forms are allowed)	Acer saccharinum
MEDIUM TREES	
All fruit trees	
Russian Olive	Elaeagnus angustifolia

SHRUBS	
Common Buckthorn	Rhamnus cathartica
Fall Honeysuckle	Lonicera maacki podocarpa
Tatatian Honeysuckle	Lonicera tatarica

(Code 1996, § 17.46.040(B))

Sec. 110-409. - PLANTING METHODS.

This section outlines guidelines for the installation of all landscape material.

- (1) Most small, deciduous trees may be moved bare rooted unless otherwise indicated. Roots of bare-rooting trees must be protected against drying out.
- (2) All coniferous trees shall be moved balled and burlapped. Balled roots should be prevented from drying out at the surface of their ball, and they should be protected from freezing.
- (3) Pits for the planting of bare root plans shall be least 12 inches larger in diameter than the diameter of the root system in order to accommodate the roots without crowding. For balled trees, the pits should be a minimum of 12 inches larger than the diameter of the ball of soil to allow proper backfill.
- (4) Plants shall be planted no deeper than previously grown with due allowance for settling.
- (5) In planting containers, artificial drainage shall be provided for the root system of any species intolerant of wet sites, or a species tolerant to wet sites shall be used.
- (6) Topsoil, compost, peat moss or an acceptable soil mixture may be placed about the roots of bare root stock or in the backfill around balled stock. When the planting is completed, the entire root system shall be thoroughly saturated with water and cord and burlap wrapping shall be cut and/or removed.
- (7) Although pruning should be done to develop a balance with the root system, excessive pruning at the time of transplanting should be avoided.
- (8) Tree trunks shall be suitably wrapped and guyed, or supported in an upright position, according to accepted arboricultural practices. The guys or support shall be installed so that they will neither girdle nor cause serious injury to the tree nor endanger public safety.

(Code 1996, § 17.46.040(C))

Sec. 110-410. - PERFORMANCE GUARANTEE; MAINTENANCE.

All required landscaping materials, both living and nonliving, shall be in place prior to the time of issuance of a final certificate of occupancy, weather permitting.

- (1) *Bond.* In periods of adverse weather conditions, a temporary certificate of occupancy may be issued, subject to the posting of a cash escrow or irrevocable letter of credit in an amount equal to 1½ times the estimated cost of the landscaping, with said estimated cost to be certified by a landscape contractor. The cash escrow or irrevocable letter of credit may be forfeited if the

landscaping is not completed within one year after the issuance of the temporary certificate. Forfeiture of any cash escrow or irrevocable letter of credit shall not relieve the owner of the responsibility to complete the required landscaping. The performance guarantee shall also be accompanied by a statement of the owner giving the city the right to enter upon the property to complete landscaping in the case of forfeiture.

(2) *Maintenance.* Trees, shrubs, and other landscaping materials depicted on landscaping plans approved by the city shall be considered to be elements of the project in the same manner as parking, building materials and other details. The developer, its successor and/or subsequent owners and their agents shall be responsible for maintenance of landscaping on the property on a continuing basis for the life of the development. Plant materials which exhibit evidence of insect pests, disease and/or damage shall be appropriately treated, and dead plants promptly remove and replaced within the next planting season after installation. All landscaping will be subject to periodic inspection by the zoning administrator, or his designee. Should landscaping not be installed, maintained and replaced as needed to comply with the approved plan, the owner and its agent or agents shall be considered in violation of the terms of the certificate of occupancy. The construction engineer is empowered to enforce the terms of this article.

(Code 1996, § 17.46.040(D))

Sec. 110-411. - ADMINISTRATIVE RELIEF.

(a) A written application for administrative relief of the requirements may be filed with the building permit. Ten copies of the application and all supporting documentation shall be submitted. Such application shall be submitted with the landscape plan and demonstrate the following:

(1) The strict application of the regulation in question is unreasonable given the development proposal or the measures proposed by the applicant, or that the property has extraordinary or exceptional physical conflicts that do not generally exist in nearby properties in the same zoning district and such conditions will not allow a reasonable use of the property in absence of relief.

(2) The site plan approving authority may or may not approve minor exceptions to this article. Such decisions may be appealed to the planning and zoning commission as provided in article II, division 3 of this chapter.

(3) An application may be made following the initial submission of a landscape plan to propose alternatives or changes to the approved plan or any plans pending approval, or as may be requested by the city. Any alterations or changes to a plan document upon resubmission to the building official or zoning administrator shall include plan copies required above, together with a written statement indicating all changes made and a revision block on the face of the plan indicating each date of revision.

(4) All plan changes shall be represented on the face of the plan by notation encompassing the area of change and with reference to the written statement of changes. Except where changes are noted, the content of the plan is presumed to be that of the last plan accepted by the building official or zoning administrator.

(5) The building official or zoning administrator may reject any plan changes where insufficient documentation of the location and nature of the changes lend the proposed revisions uninterpretable.

(b) Any proposed changes to a landscape plan following final action on the plan shall constitute a new application subject to the procedures and requirements of this article.

(Code 1996, § 17.46.040(E); Ord. No. 08-3676, § 3 (Exh. B), 5-12-2008)

Secs. 110-412—110-430. - RESERVED.

ARTICLE VII. - PLANNED UNIT DEVELOPMENTS

Sec. 110-431. - Purpose.
 Sec. 110-432. - Objectives.
 Sec. 110-433. - Modification of district regulations.
 Sec. 110-434. - General standards and criteria for PUDs.
 Sec. 110-435. - Types of PUDs.
 Sec. 110-436. - Permitted uses and density.
 Sec. 110-437. - Signs.
 Sec. 110-438. - Minimum site size.
 Sec. 110-439. - Common open space.
 Sec. 110-440. - Perimeter buffer requirements.
 Sec. 110-441. - Streets.
 Sec. 110-442. - Other development regulations.
 Sec. 110-443. - Application procedures.
 Sec. 110-444. - Administration of PUDs.
 Sec. 110-445. - Previously approved PUDs.
 Secs. 110-446—110-470. - Reserved.

Sec. 110-431. - PURPOSE.

(a) The development and execution of zoning regulations is based upon the division of the city into districts in which the use of land and buildings and the bulk and location of buildings and structures in relation to the land are substantially uniform. It is recognized by the city that new types, procedures, and relationships in land development are emerging and that the mixing of uses and variations in bulk regulations within districts can produce very satisfactory, desirable, and lasting results, if properly designed and planned, without adverse influence upon surrounding property. The following standards are established to provide flexibility to encourage sound and imaginative design, and to guard against the use of the planned unit development (PUD) technique solely as a means to intensify the use of land. A PUD is considered to be a subdivision of land.

(b) A person, by choosing to develop property as a planned unit development, elects to submit a contemplated development proposal to a legislative and discretionary review by the planning and zoning commission and city council.

(Ord. No. 03-3195, § 17.48.010, 10-27-2003; Ord. No. 08-3676, § 2 (Exh. B), 5-12-2008)

Sec. 110-432. - OBJECTIVES.

The PUD, as a subdivision of land, is intended to encourage improved design in the development of land by providing relief from traditional zoning requirements which may cause undue hardship or complication for desirable but unconventional development, and to establish standards and procedures for the

issuance of a conditional use permit for a PUD in order to achieve the following objectives:

- (1) Environmental design in the development of land that is of a higher quality that is normally possible through the strict application of general zoning ordinance requirements.
- (2) Diversification in the use permitted and variation in the relationship of uses, structures, open spaces, and heights of structures in developments conceived as cohesive unified projects.
- (3) Provision for functional and beneficial use of open space.
- (4) Preservation, to the greatest extent possible, of the archeological and historic resources and natural landscape features and amenities of a development site and to use such features in a harmonious fashion in the development.
- (5) Provision for a safe and desirable environment characterized by a unified building and sensitive site development program.
- (6) Economical development in relation to public services.
- (7) Creation of a variety of uses, in compatible arrangements, to provide a greater choice of living, employment, and shopping environments.
- (8) Efficient use of land resulting in more economic networks of infrastructure.
- (9) Coordination of architectural styles, building forms and relationships, graphics, and other private improvements.

(Ord. No. 03-3195, § 17.48.020, 10-27-2003)

Sec. 110-433. - MODIFICATION OF DISTRICT REGULATIONS.

PUDs, as subdivisions of land, shall be constructed in each zoning district as a conditional use subject to the standards and procedures as follows:

- (1) The PUD designation is not intended to be attached to existing zoning districts as an overlay. The PUD designation as detailed in this article is a separate use district and may be attached to a parcel of land through the process of land subdivision, rezoning, and zoning map amendment.
- (2) The ordinance approving the preliminary plat for the PUD may provide for such exceptions from the district regulations governing use, density, area, bulk, parking, signs, and the subdivision design standards as may be necessary or desirable to achieve the objectives of the proposed PUD, provided such exceptions are consistent with the standards and criteria contained in this article. No modifications of district requirements or subdivision design standards may be allowed when such proposed modification would result in:
 - a. Inconvenient or unsafe access to the PUD.
 - b. Traffic congestion in the streets which adjoin the PUD.
 - c. An undue or disproportionate burden on public parks, recreational areas, fire and police protection, schools, and other public facilities which serve or are proposed to serve the PUD.
 - d. A development which will be incompatible with the purpose of this chapter and the goals

and objectives of the comprehensive plan.

- e. Alteration, destruction, or diminution of natural landscape features such as floodplains, wetlands, fens, woodlands, prairie, rock outcroppings, seeps, springs, or steep slopes.
- f. Alteration, destruction of archeological and historic features.

(3) The planning and zoning commission may recommend to the city council and the city council may grant a conditional use permit which modifies the applicable district zoning regulations and subdivision regulations upon a written finding by the planning and zoning commission that the PUD meets the applicable objectives and standards and criteria contained in this article. Such written finding shall set out the reasons supporting each finding and shall support each of the following standards and the applicable provisions of section 110-432 and sections 110-434 through 110-436

(Ord. No. 03-3195, § 17.48.030, 10-27-2003; Ord. No. 08-3676, § 2 (Exh. B), 5-12-2008)

Sec. 110-434. - GENERAL STANDARDS AND CRITERIA FOR PUDS.

No PUD shall be authorized by the city council unless the planning and zoning commission shall find evidence establishing that:

- (1) The proposed development will not injure or damage the use, value and enjoyment of surrounding property, nor hinder or prevent the development of surrounding property per the comprehensive plan.
- (2) The proposed development can be substantially completed within the estimated period of time specified in the schedule of development submitted by the applicant.
- (3) The entire tract or parcel of land to be occupied by the proposed development shall be held in a single ownership, or if there are two or more owners, the application for such proposed development shall be filed jointly by all such owners.
- (4) The PUD submissions shall contain such proposed covenants, easements, other provisions relating to the bulk and location of buildings, uses and structures and public facilities as are necessary for the welfare of the PUD and are consistent with the best interests of the city. Such covenants, easements, and other provisions, when part of the approved final development, may be modified, removed or released only with the consent of the city council after a planning and zoning commission public hearing and a recommendation by the planning and zoning commission as provided in this article.
- (5) Sanitary sewers, storm sewers and water supply to service the development are adequate to serve the proposed development and will not reduce existing capacity below that necessary to serve existing developments, or overload local facilities beyond design capacity.
- (6) The location and arrangement of structures, parking areas, walks, lighting, and appurtenant facilities are compatible with the surrounding land uses, and any part of a proposed development not used for structures, parking and loading areas, or accessways, is landscaped or otherwise improved.
- (7) The project area is adaptable to unified development and shall have within or through the area no physical features that will tend to destroy the neighborhood or community cohesiveness. The minimum site size for any PUD shall be 20 acres, but within the central business district there is no

minimum site size for a PUD.

(8) The uses permitted in the development are necessary or desirable and the need for such uses is clearly demonstrated by the applicant.

(9) The dominant land use of the proposed PUD is consistent with the recommendations of the comprehensive plan for the area containing the PUD.

(10) Any modifications of the standards and specifications of this chapter or other regulations that would otherwise be applicable to the site are warranted by the design of the PUD, and the amenities incorporated in it, and are not inconsistent with the public general welfare.

(11) Exceptional landscaping features such as larger caliper, varied species, and reduce spacing of trees and additional sodding above the minimum requirements as specified in chapter 86

(12) All proposed streets and driveways are adequate to serve the residents, occupants, visitors, or other anticipated traffic of the PUD. Entrance points or locations of streets and driveways upon previously existing public roadways shall be subject to the approval of the city, and if applicable, a county highway department, and the state department of transportation. If traffic control devices are required to prevent or relieve hazards or congestion on adjacent streets and the proposed control device is not within the normal or scheduled sequence of installations, the city council may require, as a condition of approval of a proposed PUD, such devices to be provided at the developer's cost. Any street improvement or construction whether in the PUD or adjacent to the PUD shall include improvements on both sides of the roadway.

(13) Off-street parking is conveniently accessible to all dwelling units and other uses in the PUD. Where appropriate, common driveways, parking areas, walks, and steps to parking and service areas are to be screened through ample use of trees, shrubs, hedges, land forms and walls.

(14) A pedestrian circulation network is provided.

(15) The PUD provides for underground installation of utilities (including electricity and telecommunications) in public ways and the associated private extensions. Provisions shall be made for acceptable design and construction of storm sewer facilities including grading, gutter, piping, and treatment of turf to handle stormwater, prevent erosion, and the formation of dust. Utilities and maintenance of facilities shall be per the requirements and regulations of this Code.

(16) The proposed PUD satisfies the applicable objectives as provided in section 110-432

(17) Existing ponds, creeks, rivers, lakes, wetlands, or fens on or adjacent to the PUD are enhanced and protected from development.

(Ord. No. 03-3195, § 17.48.040, 10-27-2003; Ord. No. 08-3676, § 2 (Exh. B), 5-12-2008)

Sec. 110-435. - TYPES OF PUDS.

All areas of the city subject to the PUD designation shall be assigned one of the following district classifications which shall be considered a separate zoning district and subject to the specific restrictions and limitations outlined in this section:

(1) Planned development-residential (PUD-R): Planned developments involving residential uses only.

(2) Planned development-commercial (PUD-C): Planned developments involving commercial uses only.

(3) Planned development-industrial (PUD-I): Planned developments involving industrial and limited commercial uses only.

(Ord. No. 03-3195, § 17.48.050, 10-27-2003)

Sec. 110-436. - PERMITTED USES AND DENSITY.

(a) Planned development-residential (PUD-R).

(1) *Permitted uses.* The following land uses and developments may be permitted in this district:

a. Permitted land uses and developments shall be established in the conditions of the ordinance adopted by the city council governing the particular PUD-R district. Specific uses may include those uses designated as permitted, accessory, or special uses in any of the residential districts.

b. In addition to those uses included in subsection (a)(1)a of this section, the following uses may be designated as permitted uses and established as such in the ordinance governing the particular PUD-R district:

1. Attached single-family dwellings/townhouses.
2. Condominiums.
3. Zero lot line residential developments.

c. Within the planned development-residential district, more than one principal building may be located on a zoning lot.

(2) Design standards; density.

a. *Consistency with comprehensive plan.* The density of PUD-R district shall be consistent with the intent of the comprehensive plan. While the comprehensive plan specifies upper limits to residential density, density of a PUD-R may be limited to that which is consistent and compatible with nearby existing developed areas. Conversely, the density limits indicated on the comprehensive plan may be exceeded on portions of the site within a PUD-R district as long as total site density is not exceeded. This is referred to as "density transfer." Additionally, in exchange for creative and extraordinary site design, the total site density may be exceeded up to a limit. This is referred to as "density bonus."

b. *Calculation of density.* The computation of density shall be based on dwelling units per net acre for the entire site. Net acreage is defined as the site area less all land allocated to street rights-of-way and preexisting wetlands and lakes, ponds, and waterways. In the case of private streets, the equivalent of public rights-of-way for these private streets shall be deducted from gross acreage. In the event that there is a question regarding the width and length of such equivalent rights-of-way, the director of public works shall render a determination. In situations where a proposed PUD-R district overlaps two or three residential land use density designations on the comprehensive plan, density shall be calculated separately for the portions of the PUD-R district in each of the different residential designations.

c. *Density bonus.* The planning and zoning commission may recommend and the city council may approve an increase in density within a PUD-R district up to ten percent which shall be based on the precept listed below:

Maximum
Percent

Incr ease	Design Element
10 per cent	A minimum of an additional five percent of the net development area devoted to common open space (above the minimum 15 percent requirement) and improved with public pedestrian ways, bike paths, park land, swimming pools, tennis courts, community centers, club buildings, etc.

If a density bonus is requested under this section, the applicant is expected to document all site amenities or improvements for the city's review and consideration.

d. *Development phasing.* If the sequence of construction of various portions of the development is to occur in stages, then the open space and recreational facilities shall be developed in reasonable proportion to the number of dwelling units intended to be developed during any given stage of construction as approved on a final plat by the city council. Furthermore, at no time during the construction of the project shall the number of constructed dwelling units per acre of developed land exceed the overall density per net acre established by the approved PUD-R district.

e. *Nonresidential development.* Nonresidential uses are limited to those specifically listed in the residential zoning districts. Churches, schools and other nonresidential uses permitted in the PUD-R district shall be subject to all requirements for lot area, width, height, yards and setbacks prescribed in the district in which they are first permitted.

(b) *Planned development-commercial (PUD-C).*

(1) *Permitted uses.* The following land uses and developments may be permitted in this district: Permitted land uses and developments shall be established in the conditions of the ordinance adopted by the city council governing the particular PUD-C district. Specific uses may only include those uses designated as permitted, accessory, or special uses in the B-1 or B-2 business districts, or other uses of a commercial nature.

(2) *Density.*

a. *Generally.* Density shall be determined by article IV of this chapter (lot and yard requirements).

b. *Lot coverage bonus.* The planning and zoning commission may recommend and the city council may approve a 20 percent reduction of lot setback requirements. In order to qualify for this bonus, the development plan must demonstrate compliance with four or more of the following performance criteria:

1. Provide storm drainage detention/retention facilities having a capacity significantly

and appreciably in excess of what is required and the ability to relieve current stormwater challenged areas of their excess stormwater.

2. Install storm drainage detention facilities underground.
3. Providing a release rate from a detention facility that is significantly and appreciably stricter than otherwise required.
4. Increase parking lot landscaping by 50 percent more than otherwise required.
5. Design of principal access to the development tract at an approved location that allows for shared access by an adjacent property.
6. Provide for sufficiently screened loading and unloading areas that are located in side or rear yards.
7. Provide for mixed-use developments that include community facilities that further the goals, objectives and policies of the comprehensive plan.
8. Demonstration of a development using highly innovative architectural, site planning and land use design of a caliber not previously used in the area and of such quality as to set an excellent example for subsequent developments.
9. Any other performance criteria that further the goals, objectives and policies of the comprehensive plan and that, in the opinion of the planning and zoning commission and city council, warrant the approval of a setback reduction.

(c) *Planned development-industrial (PUD-I).*

(1) *Permitted uses.* The following land uses and developments may be permitted in this district: Permitted land uses and developments shall be established in the conditions of the ordinance adopted by the city council governing the particular PUD-I district. Specific uses may only include those uses designated as permitted, accessory, or special uses in the I-1 or I-2 industrial district, and those uses in the B-1 or B-2 business districts, which are specifically related to the particular development.

(2) *Density.* Same as for the PUD-C district.

(Ord. No. 03-3195, § 17.48.060, 10-27-2003; Ord. No. 08-3676, § 2 (Exh. B), 5-12-2008)

Sec. 110-437. - SIGNS.

Signage shall be in compliance with article XIII of this chapter (signs), unless the applicant for a PUD district designation elects to submit a comprehensive sign plan in addition to the submission of other required development plan documents. The planning and zoning commission may recommend, and the city council may approve, a comprehensive sign plan and such plan shall be made part of the ordinance approving the PUD district. That ordinance may contain conditions, requirements or standards regarding signs that may be stipulated by the city council. Comprehensive sign plans approved under this section shall be evaluated based upon the following criteria:

- (1) *Placement.* All signs shall be placed where they are sufficiently visible and readable for their function. Factors to be considered shall include the purpose of the sign, its location relative to traffic movement and access points, site features, structures and sign orientation relative to viewing

distances and viewing angles.

(2) *Quantity.* The number of signs that may be approved within any development shall be no greater than that required to provide project identification and entry signs, internal circulation and directional information to destinations and development subareas and business identification. Factors to be considered shall include the size of the development, the number of development subareas, and the division or integration of sign functions.

(3) *Size.* All signs shall be no larger than necessary for visibility and readability. Factors to be considered in determining appropriate size shall include topography, volume of traffic, speed of traffic, visibility range, proximity to adjacent uses, amount of sign copy, placement of display (location and height), lettering style and the presence of distractive influences. In no event shall a plan contain a sign which exceeds by more than twice that of any maximum area standard contained in article XIII of this chapter (signs) unless otherwise waived by the city council.

(4) *Materials.* Sign materials shall be compatible with architectural and natural features of the project. This may be accomplished through similarity of materials for sign structures and faces, the use of complementary colors, similarity of architectural style or the use of consistent lettering style and typography.

(5) *Comprehensive sign plan.* A request for approval for a comprehensive sign plan shall accompany the request for PUD-C or PUD-I zoning classification and shall include, but is not limited to, the following:

- a. A site plan, depicting the proposed plan of development and illustration of proposed sign locations;
- b. Descriptions and drawings indicating size, qualities, materials and illumination; and
- c. A narrative description of the common theme for signage within the development, how it relates to architectural and landscaping elements of the development and how the comprehensive sign plan relates to each of the criteria set forth in this section.

(Ord. No. 03-3195, § 17.48.070, 10-27-2003; Ord. No. 08-3676, § 2 (Exh. B), 5-12-2008)

Sec. 110-438. - MINIMUM SITE SIZE.

The minimum site size for any of the planned development districts shall be 20 acres. This minimum site size may be waived by the city council upon recommendation by the planning and zoning commission if the parcel in question has certain unique characteristics such as, but not limited to, significant topographic change, significant trees or wooded areas, wetlands, floodplain areas, soil conditions, utility easements, or unusual shape or proportions; or, if it is determined that the use proposed is desirable or necessary in relationship to the surrounding neighborhood; or, if the city council should determine such waiver to be in the general public interest.

(Ord. No. 03-3195, § 17.48.080, 10-27-2003; Ord. No. 08-3676, § 2 (Exh. B), 5-12-2008)

Sec. 110-439. - COMMON OPEN SPACE.

Common open space shall comprise at least 15 percent of the gross area of a PUD-R development or be of a size equivalent to one acre for each 100 persons of expected population within the PUD-R development, whichever is more. For purposes of this section, the expected population shall be

determined by multiplying the total number of dwelling units times the average citywide household size as provided in the most recent census. This common open space shall be used for recreational, park or environmental amenity purposes for the collective enjoyment by the occupants of the development; however, consideration will be given to having the required open space remaining on privately owned properties dedicated by easement to assure that the common open space will be permanent. In addition to these general open space requirements, the following regulates the use of this common open space in terms of physical surface characteristics, size, location and physical improvements therein.

- (1) Of the required common open space, up to one-half of it may be covered by wetlands, stormwater management facilities, or left in a natural state.
- (2) The area of each parcel of open space shall not be less than 6,000 square feet in area nor less than 30 feet in its smallest dimension. Also, at least 50 percent of the common open space shall be contiguous or connected via pedestrian/bicycle paths.
- (3) Inasmuch as practical, common open spaces should be distributed equitably throughout the development in relation to the dwelling units in which such common open space is intended to serve. The open space must not be isolated in one corner of a development, but highly accessible (physically and visually) to the residents or employees within a development.
- (4) The use, operation, and maintenance of areas for common open space, common ground, and common buildings shall be guaranteed by the establishment of necessary open space covenants, such as a homeowners' association, and further that the applicant shall agree to establish a special service area that, at the sole discretion of the city, can be activated to ensure that these areas are properly maintained.

(Ord. No. 03-3195, § 17.48.090, 10-27-2003)

Sec. 110-440. - PERIMETER BUFFER REQUIREMENTS.

(a) Where a PUD-R district containing residential development along the perimeter of the site that is higher in density than that of an adjacent residentially zoned property, there shall be a minimum 30-foot buffer area. The buffer area must be kept free of buildings or structures and must be landscaped or protected by natural features so that all higher-density residential is effectively screened from the view of the abutting lower-density residential property.

(b) Where a PUD-C or a PUD-I abuts a residential district, there shall be a minimum 50-foot buffer area between any non-residential use and the adjacent residential district. This buffer area shall be landscaped per section 110-349

(Ord. No. 03-3195, § 17.48.100, 10-27-2003)

Sec. 110-441. - STREETS.

Public and private streets shall conform to section _____, "Streets, Sidewalks and Subdivision Design," except as provided herein. Upon recommendation by the planning and zoning commission and approval by the city council, the right-of-way width for local residential streets may be reduced to 60 feet and also the pavement width for the same street may be reduced to 28 feet wide (with no parking allowed on either side).

(Ord. No. 03-3195, § 17.48.110, 10-27-2003; Ord. No. 08-3676, § 2 (Exh. B), 5-12-2008)

Sec. 110-442. - OTHER DEVELOPMENT REGULATIONS.

Other development regulations for PUD districts are as follows:

- (1) The following parts of this chapter apply to development within a PUD district:
 - a. Sections 110-10 and 110-503 (accessory uses).
 - b. Screening requirements: Section 110-347, section 110-372(b)(3), section 110-373(2)e, division 2 of article VI, and section 110-635
 - c. Section 110-534 (home occupations).
 - d. Article XIV (antenna regulations).
 - e. Section 110-14 (vision clearance triangle).
 - f. Traffic access and impact studies: These requirements are to be promulgated, in the interim, by the city manager or his designee and will stipulate when a traffic access and impact study is required.
- (2) Utilities: Chapter 98
- (3) Stormwater management regulations: Chapter 22, article X.
- (4) Off-street loading and parking: Article XII of this chapter.
- (5) Signs: Article XIII of this chapter (except as may be modified through a comprehensive sign plan per this article).

(Ord. No. 03-3195, § 17.48.120, 10-27-2003)

Sec. 110-443. - APPLICATION PROCEDURES.

All PUDs shall be processed and reviewed in four steps leading to approval for recording and construction: preapplication conference, concept development plan, preliminary plat, and final plat. Prior to beginning the PUD review process, the applicant is encouraged to obtain a copy of this chapter and chapter 86, and application forms. Applications shall be made on forms supplied by the city.

- (1) *Preapplication conference.* Before submitting an application for a PUD, the applicant shall schedule a meeting with the director of public works informally discuss with the city staff the proposed PUD and to obtain information and guidance before entering into binding commitments or incurring substantial expense. There is not a formal application for this conference or any associated fee. At the preapplication meeting, the applicant shall submit a sketch plan for review and comment by city staff. City staff shall review and evaluate the sketch plan and shall report to the applicant at the meeting or as soon as practicable thereafter, staff's opinion as to the merits and feasibility of the planned development and its improvements contemplated by the sketch plan. Staff shall also inform the applicant of the required standards, documentation submittals and procedures to follow should the applicant decide to submit a formal petition. The information that should be included with the sketch plan is as follows:

- a. Name of the PUD and a key map showing its location.

- b. Name, address, and telephone number of the owner, subdivider, engineer, and any other contact person.
- c. Acreage and current zoning classification of the PUD and the proposed number of lots.
- d. The location of the tract in relation to the surrounding area, including names of adjacent property owners.
- e. The approximate location of all existing land uses, structures, facilities, and wooded areas within the tract proposed to be retained or demolished and within 100 feet of the tract.
- f. Arrangement and dimensioning of all proposed lots, parks, and common areas.
- g. Proposed location and width of street right-of-way, street pavement, alleys, and their relationship to the existing adjacent street system.
- h. Proposed location of private access drives.
- i. Proposed location and size of sanitary sewers, storm sewers, water mains, detention areas, and their relationship to existing public utilities.
- j. A generalized drainage scheme.
- k. A north arrow and scale (recommended scale is one inch equals 100 feet).
- l. Building outlines (footprints) of all structures except single-family detached dwellings proposed on subdivided lots.
- m. Internal private circulation drives and parking areas.
- n. Conceptual landscaping plan, open space/common areas and buffer areas between the proposed development and adjacent properties.
- o. If the sketch plan covers only a part of the developer's contiguous land holdings, the developer shall submit a drawing showing the probable future street and drainage system of the remaining portions of the developer's land.

(2) *Concept plan.*

- a. An applicant shall submit a concept plan per the provisions of this chapter to the city for tentative review and approval prior to incurring the expenses associated with formal site plan submission in order to discover whether the city will accept, or under what circumstances the city will accept, a PUD of the type proposed at the site. The following items shall be required:
 - 1. All of the information specified for the preapplication meeting as modified by the discussion of that meeting.
 - 2. The character and approximate density of dwellings.
 - 3. A written statement which shall contain a general explanation of the size and character of the PUD, including a statement of the present ownership of all the land within the PUD and expected schedule of construction.
- b. The planning and zoning commission shall review the concept plan within 45 days of its

submission to the city, and shall prepare a written report containing its recommendations to the city council and the applicant. Approval of the concept plan does not guarantee approval of the preliminary plat.

c. The city council shall accept, modify, or reject the planning and zoning commission recommendation within 30 days following the date of action by the planning and zoning commission.

(3) *Preliminary plat.*

a. The preliminary plat shall contain all items required for a preliminary subdivision plat as enumerated in this chapter. The following additional items shall also be required:

1. Net area of tract.
2. Maximum number of dwelling units allowed per the original zoning district and the comprehensive plan.
3. Number of dwelling units proposed.
4. Number of off-street parking space required and proposed.
5. The location, gross floor area of, and distance between building and structures. Floor area for nonresidential uses shall be identified by use type.
6. The proposed location and general use of common ground, including recreational areas, plazas, pedestrian ways and major landscaped areas including buffer areas. Landscaping information shall include location and approximate size (at time of planting) of all plant material by type (such as deciduous/coniferous trees, ornamental trees, shrub masses and ground cover including grassed areas, ivies, etc.). Landscaping within parking areas shall be included.
7. Quantification of site area by building coverage, parking, loading and driveways, and common open areas divided into usable open areas and areas to be dedicated to water detention, floodplain, and natural areas.
8. The location and details of all retaining walls, fences and earth berms.
9. The location of all refuse collection facilities including screening to be provided.
10. Illustrative site cross sections (two minimum) indicating edge conditions and internal grade changes in relation to principal variations of building elevations and site lines to adjacent properties/structures.
11. Typical building elevations of sufficient scale and detail to illustrate building mass, exterior construction materials and signage if applicable.
12. Project report to include an explanation of the character of the proposed development, verification of the applicant's ownership or contractual interest in the subject site and proposed development schedule.
13. An estimated development schedule indicating:

- i. The approximate date when construction of the project can be expected to begin;
 - ii. The stages in which the project will be built and the date when construction of each stage can be expected to begin;
 - iii. The date when the development of each of the stages will be completed; and
 - iv. The area and locations of planned open space that will be provided at each stage.
14. Proposed agreements, bylaws, provisions or covenants which govern the use, maintenance and continued protection of the PUD and any of its planned open space or other facilities.
15. A list of all departures from the district regulations and the subdivision design standards which will be necessary for the proposed PUD.
16. A statement by the applicant demonstrating how the PUD conforms to the purpose and the standards and criteria of this section.
17. A circulation diagram indicating the proposed movement of vehicles, goods and pedestrians within the development to and from existing city thoroughfares.
18. A comprehensive drainage plan with analysis of the impact that the development creates on the site and on the surrounding area.
19. The applicant may be required to provide, at the applicant's expense, additional clarification and further detail of the site plan as determined necessary by the director of public works or the planning and zoning commission.
20. In addition to meeting all of the preliminary plan submittal requirements in this section, the developer of each preliminary plan shall clearly show the location and general design of any collector and arterial streets, major stormwater drainage facilities, main utility lines and facilities, and other features deemed necessary by the planning and zoning commission and city council on all of the contiguous property holdings of such developer, their agents, trustees, beneficiaries, or owners, whether or not said contiguous land holdings are intended for immediate development. The planning and zoning commission and city council shall take steps to assure that the developer is not omitting any contiguous holdings from the preliminary plan submittal and to prevent the circumvention of the purpose and intent of this section.
- b. The planning and zoning commission shall review the preliminary plat and shall recommend whether it is in substantial compliance with the concept plan and whether it complies with all other standards in this chapter which were not considered when the concept was approved.
- c. Upon completion of a staff review, the planning and zoning commission shall, within 60 days of the city receiving a preliminary plat for a PUD, hold a public hearing after due public notice, consider the preliminary plat, and recommend to the city council the approval, modification, or denial of the proposed PUD. If the recommendation is to disapprove, the report shall set forth the findings of fact related to the specific proposal and shall set forth particularly

in what respects the proposal would or would not be in the public interest, including, but not limited to, findings of fact on the following:

1. In what respects the proposed plan is not consistent with the stated purpose of the PUD regulations.
 2. The extent to which the proposed PUD departs from the zoning and subdivision regulations otherwise applicable to the subject property, including, but not limited to, the density, dimension, area, bulk, use and the reasons why such departures are or are not in the public interest.
 3. The extent to which the proposed PUD does not meets the requirements and standards set forth in this section.
 4. The physical design of the proposed PUD and the manner in which said design does not make adequate control over vehicular traffic, provide for and protect designated planned open space and schools, and further the amenities of light and air, recreation, and visual enjoyment.
 5. The PUD's lack of conformity with the recommendations of the comprehensive plan.
- d. Within 30 days of the planning and zoning commission recommendation, the city council shall approve, modify, or disapprove the preliminary plat.
- e. No plats shall be recorded and no building permits issued until a final plat has been approved by the city council.
- f. If the preliminary development plan is approved by the city council, it shall adopt an ordinance approving the preliminary plat, with conditions as specified and authorizing the preparation of the final plat. Simultaneously with the approval of the preliminary plat, the city council shall adopt an ordinance rezoning the site to the appropriate PUD district and said ordinance shall include all conditions imposed on the development plan.
- g. All conditions imposed as a part of any PUD shall run with the land and shall not lapse or be waived as a result of a subsequent change in tenancy or ownership of any or all of said area, provided, however, that nothing herein shall be construed to limit the right of the developer, his successors or assigns to sell property in said planned development, except for such conditions imposed upon said common open space areas.
- h. Approval of the preliminary plat by the city council does not constitute final approval of the PUD, but is merely an authorization to proceed with the preparation of the final plat. Approval of the preliminary plat shall be valid for a period of two years from the date of city council approval. If an application for final plat approval for all or a geographic portion of the preliminary plat has not been filed within the two-year period, or if a developer has not requested and received approval of a one-year extension from the city council, then a resubmission of the preliminary plat shall be required if the applicant intends to pursue final plat approval. In no case shall a building permit be issued prior to final plat approval.
- (4) *Final plat.*
- a. Within two years following the approval of the preliminary plat, the applicant shall file with the city a final plat for the first phase of development, containing in final form the information

required in the preliminary plan. The final plat shall also include all items required for a final subdivision plat and final engineering as enumerated in this chapter. In addition, the following items shall be required:

1. A final land use plan, suitable for recording with the county recorder of deeds. The purpose of the final plat is to designate the land subdivided into lots as well as the division of other lands not so treated into planned open area and building areas, and to designate and limit the specific internal uses of each building or structures, as well as of the land in general.
 2. If subdivided lands are included in the PUD, a subdivision plat of all subdivided lands in the same form and meeting all the requirements of a subdivision plat.
 3. An accurate legal description of each separate unsubdivided use area, including planned open space.
 4. Designation of the location of all buildings to be constructed, and a designation of the uses for which each building is designated.
 5. Final agreements, bylaws, provisions or covenants which govern the use, maintenance and continued protection of the PUD and any of its planned open space or other facilities conveyed to a homeowners association or similar organization.
 6. Final development and construction schedule.
 7. Final architectural elevations for all structures and amenities, such as fences and walls, street furniture, and the like.
 8. The final landscape plan with specific location of all plant material, specifying size and species.
 9. A statement placed on the plat indicating that the operation and maintenance of designated common areas, common facilities, common buildings, and open spaces shall be under the control of a homeowners' association.
 10. An agreement with the city to establish a special service area (SSA) per state statutes (35 ILCS 200/27-35) to be activated should the city, in its sole discretion, determine that the common areas of the PUD, not conveyed to the city, are not being properly maintained.
- b. The final plat shall be approved as follows:
1. The planning and zoning commission shall, within 45 days of the city receiving a final plat application, recommend approval if it is in substantial compliance with the preliminary plat. The planning and zoning commission shall certify to the city council that the final plat is in conformity with the previously filed preliminary plat and meets all the requirements for a final plat.
 2. If the planning and zoning commission finds that the final plat does not substantially conform to the preliminary plat or that it does not meet the requirements for a final plat, it shall so notify the applicant and the city council in writing within seven days of such determination.

3. The city council shall approve the final plat if it is in conformance with the preliminary plat and meets all the requirements for a final plat. It shall pass an appropriate ordinance granting the conditional use permit.

4. Approval of a PUD does not constitute acceptance by the city of the offer of dedication of any streets, utilities, sidewalks, parks or other public facilities shown on the final plat. However, the city council may accept any such offer of dedication by resolution and may delay such acceptance until such time that the directors of utilities and public works determine that the public improvements have been completed in a satisfactory manner, and accepted or approved by the appropriate authority.

(5) *Combined preliminary and final plat.* The city may consider a combined application for preliminary and final plat approval. In such instance, the final plat shall include all of the information required of a preliminary plat and a final plat.

(Ord. No. 03-3195, § 17.48.130, 10-27-2003; Ord. No. 08-3676, § 2 (Exh. B), 5-12-2008)

Sec. 110-444. - ADMINISTRATION OF PUDS.

(a) *Failure to begin development.* If no substantial construction has begun or no use established in the PUD within the time stated in the approved final plat and construction schedule, the conditional use permit for the PUD shall lapse upon written notice to the applicant from the city manager or his designee and shall be of no further effect. The land use and development regulations applicable before the conditional use permit for PUD was approved shall then be in effect. In its discretion and for good cause, the city council may extend for a reasonable time, not to exceed one year, the period from the beginning of construction or the establishment of a use, provided such extension is granted during the original period.

(b) *Permits.*

(1) The city manager or his designee shall ensure the approval and issuance of permits for site or building construction for that part of the development plan that has been approved in the area covered by the approved final plat for work in conformity with the approved final plat and with all other applicable ordinances and regulations.

(2) A certificate of occupancy for any completed building or structure located in an area covered by the approved final plat shall be issued if the completed building or structure conforms to the requirements of the approved final plat and all other applicable regulations and ordinances of the city. The city reserves the right to deny approval of an occupancy permit for any building or structure shown on the final plat of any stage of the PUD if any planned open space or public facilities allocated to that stage of the development have not been conveyed by dedication, deed, or other means to the proper authorities.

(c) *Enforcement of development schedule.*

(1) The city manager or his designee shall ensure that periodic reviews of all permits issued for the PUD are conducted, all construction that has taken place on the PUD site has been examined, and actual development compared to the approved development schedule.

(2) If the city manager or his designee shall find that the owners of the property in the PUD area have failed to meet the approved development schedule, or that the rate of construction of dwelling

units is greater than the rate at which planned open space and public and recreational facilities have been constructed and provided, he shall notify the planning and zoning commission and city council in writing.

(3) Within 30 days of such notice, the city council shall either revoke the conditional use permit, and the land shall revert to its former classification, or, for good cause shown by the landowner, the limits of the development schedule shall be extended for a reasonable time.

(d) *Procedure for amending final plat.* No changes may be made to the approved final plat during the construction of the PUD except upon the application to the appropriate agency under the following procedures:

(1) *Minor changes.* Minor changes in the location, siting and height of buildings and structures may be authorized by the city manager or his designee without additional public hearings if required by engineering or other circumstances not foreseen at the time the final plan was approved. No change authorized by this subsection may cause any of the following:

- a. A change in the use or character of the development;
- b. An increase in overall coverage of structures;
- c. An increase in the intensity of use;
- d. An increase in the problems of traffic circulation and public utilities;
- e. A reduction in approved open space;
- f. A reduction of off-street parking and loading space;
- g. A reduction in required pavement widths.

(2) *Other changes.* All other changes in use, or rearrangement of lots, blocks and building tracts, or any changes in the provision of common open spaces and changes other than listed above, must be approved by the city council after report of the city staff and recommendation by the planning and zoning commission. Such amendments may be made only if they are shown to be required by changes in conditions that have occurred since the final plan was approved or by changes in city policy. Any changes to the approved final plat must be recorded as amendments per the procedures and requirements of article II, division 4 of this chapter (amendments). Additionally, the city council shall require the applicant to refile his application subject to the requirements of this section as if it were an entirely new application.

(3) *Recording of changes.* Any changes approved shall be recorded as amendments to the recorded copy of the final plat.

(e) *Post-completion regulations.*

(1) Upon completion of the PUD, and as a condition of the city's acceptance of the final public improvements, the city manager or his designee shall certify that the PUD has been completed per the approved final plat.

(2) After the city manager or his designee's certification has been issued, the uses of land and construction, modification or alteration of any buildings or structures within the PUD shall be governed by any other provision of this chapter.

(3) After said certification has been issued, no changes may be made in the approved final plat except upon application to the city under the procedures for seeking changes or amendments, conditional uses, and variations with respect to this Code.

(Ord. No. 03-3195, § 17.48.140, 10-27-2003; Ord. No. 08-3676, § 2 (Exh. B), 5-12-2008)

Sec. 110-445. - PREVIOUSLY APPROVED PUDS.

PUDs which have been authorized by special or conditional use permit procedures of the city's former zoning ordinance prior to the enactment date of the ordinance from which this chapter is derived are still considered PUDs and all approved characteristics of such developments, such as lot sizes and configurations, setbacks, easements, dimensional characteristics, roads, utilities and other improvements, are made a part of the PUD district zoning classification as herein defined, whether conforming or legal non-conforming in character.

(Ord. No. 03-3195, § 17.48.150, 10-27-2003)

Secs. 110-446—110-470. - RESERVED.

ARTICLE VIII. - MOBILE HOME PARKS

[Sec. 110-471. - Districts where permitted.](#)
[Sec. 110-472. - Minimum size.](#)
[Sec. 110-473. - Licensing.](#)
[Sec. 110-474. - Screening.](#)
[Sec. 110-475. - Minimum yard setback.](#)
[Sec. 110-476. - Minimum dimensions of mobile home sites.](#)
[Sec. 110-477. - Surfacing of drives, parking areas and walkways.](#)
[Sec. 110-478. - Maximum number of mobile homes per acre.](#)
[Sec. 110-479. - Penalty.](#)
[Secs. 110-480—110-500. - Reserved.](#)

Sec. 110-471. - DISTRICTS WHERE PERMITTED.

Mobile home parks are permitted as conditional uses in the districts specified in article III, division 2 of this chapter.

(Code 1996, § 17.52.010)

Sec. 110-472. - MINIMUM SIZE.

The minimum size of a mobile home park shall be five acres.

(Code 1996, § 17.52.020)

Sec. 110-473. - LICENSING.

Mobile home parks shall comply with the applicable regulations of this Code and the state and city building codes. All mobile home parks shall be licensed by the city and shall pay a fee of \$50.00 each

calendar year for said municipal license. In order to obtain a license and be licensed, the mobile home park must meet the requirements and provisions as contained in the applicable state laws, this Code and city building codes.

(Code 1996, § 17.52.030)

Sec. 110-474. - SCREENING.

Unless adequately screened by existing vegetative cover, the mobile home park shall be screened by a temporary planting of fast growth material, capable of reaching a height of 15 feet or more, such as hybrid poplar; and a permanent evergreen planting such as white or Norway pine, the individual trees to be of such number and so arranged that within ten years they will have formed a screen equivalent in opacity to a solid fence or wall. Such permanent planting shall be grown or maintained to a height of not less than 15 feet.

(Code 1996, § 17.52.040)

Sec. 110-475. - MINIMUM YARD SETBACK.

There shall be a minimum yard setback of 40 feet along all exterior boundaries of the mobile home park.

(Code 1996, § 17.52.050)

Sec. 110-476. - MINIMUM DIMENSIONS OF MOBILE HOME SITES.

Minimum dimensions of a mobile home site shall be 50 feet wide by 85 feet long.

(Code 1996, § 17.52.060)

Sec. 110-477. - SURFACING OF DRIVES, PARKING AREAS AND WALKWAYS.

All drives, parking areas and walkways shall be hard-surfaced.

(Code 1996, § 17.52.070)

Sec. 110-478. - MAXIMUM NUMBER OF MOBILE HOMES PER ACRE.

The maximum number of mobile homes per acre shall be not more than ten.

(Code 1996, § 17.52.080)

Sec. 110-479. - PENALTY.

The owner or manager of any mobile home park which violates any of the provisions of this Code shall be subject to punishment in accordance with section 1-15, together with other remedies as may be allowed by the circuit court including all remedies available at law and in equity, including restraining orders.

(Code 1996, § 17.52.090)

Secs. 110-480—110-500. - RESERVED.

ARTICLE IX. - SHORELANDS AND WATERCOURSES

Sec. 110-501. - Purpose.

Sec. 110-502. - Applicability.

Sec. 110-503. - Setbacks.

Sec. 110-504. - Conditional use permit required for dredging, channeling, filling or grading.

Sec. 110-505. - Additional conditions for filling or grading.

Secs. 110-506—110-530. - Reserved.

Sec. 110-501. - PURPOSE.

The purpose of this article is to prevent and control water pollution and to preserve shore cover and natural beauty.

(Code 1996, § 17.56.010)

Sec. 110-502. - APPLICABILITY.

The provisions of this article shall apply to the shorelands of Kyte River.

(Code 1996, § 17.56.020)

Sec. 110-503. - SETBACKS.

For lots that abut on Kyte River, all buildings and structures, except accessory uses which require a lesser setback as determined by the planning and zoning commission, shall be set back at least 100 feet from the high-water line and elevated at least two feet above the established high-water elevation, unless otherwise specified by a floodplain zoning ordinance.

(Code 1996, § 17.56.030; Ord. No. 08-3676, § 2 (Exh. B), 5-12-2008)

Sec. 110-504. - CONDITIONAL USE PERMIT REQUIRED FOR DREDGING, CHANNELING, FILLING OR GRADING.

Except for any drainage district, a conditional use permit shall be required for any dredging or channeling or for any filling or grading of more than 500 square feet of any wetland which is contiguous to the river, or more than 2,000 square feet on non-wetland soils located adjacent to the river. For purposes of this section, a wetland shall be defined as any area where groundwater is at or near the surface a substantial part of the year, as determined by the building inspector.

(Code 1996, § 17.56.040)

Sec. 110-505. - ADDITIONAL CONDITIONS FOR FILLING OR GRADING.

In granting a conditional use permit for filling or grading, the planning and zoning commission may attach the following conditions in addition to those specified elsewhere in this article:

- (1) The smallest amount of bare ground is exposed for the shortest time feasible;
- (2) Temporary ground cover such as mulch is used and permanent cover such as sod is planted;
- (3) Diversions, silting basins, terraces and other methods to trap sediment are used;

- (4) Fill is stabilized according to accepted engineering standards;
- (5) Fill will not restrict a floodway or destroy the storage capacity of a floodplain;
- (6) Walls of a channel or artificial watercourse are stabilized to prevent slumping;
- (7) Sides of channels or artificial watercourses are constructed with side slopes of two horizontal to one vertical or flatter, unless vertical bulkheading is provided.

(Code 1996, § 17.56.050; Ord. No. 08-3676, § 2 (Exh. B), 5-12-2008)

Secs. 110-506—110-530. - RESERVED.

ARTICLE X. - STANDARDS AND REQUIREMENTS FOR MISCELLANEOUS USES

- Sec. 110-531. - Gasoline (motor fuel) stations.
- Sec. 110-532. - Private swimming pools.
- Sec. 110-533. - Animal hospitals.
- Sec. 110-534. - Home occupations.
- Sec. 110-535. - Country clubs; golf courses.
- Sec. 110-536. - Joint residential and nonresidential use.
- Sec. 110-537. - Animal feed yards.
- Sec. 110-538. - Agricultural processing plants.
- Sec. 110-539. - Drive-in theaters.
- Sec. 110-540. - Amusement parks and golf driving ranges.
- Sec. 110-541. - Cemeteries.
- Sec. 110-542. - Airports.
- Sec. 110-543. - Community buildings, social halls, lodges, fraternal organizations and clubs.
- Sec. 110-544. - Private stables.
- Sec. 110-545. - Nursing homes.
- Sec. 110-546. - Retail sales for guests only.
- Sec. 110-547. - Hospitals and churches.
- Sec. 110-548. - Fertilizer plants.
- Sec. 110-549. - Inflammable liquid storage in I districts.
- Sec. 110-550. - Amusement centers.
- Sec. 110-551. - Day nursery school.
- Sec. 110-552. - Temporary tract offices.
- Sec. 110-553. - Excavations.
- Sec. 110-554. - Pawnshop.
- Secs. 110-555—110-580. - Reserved.

Sec. 110-531. - GASOLINE (MOTOR FUEL) STATIONS.

Motor fuel stations shall be subject to the following standards:

- (1) The setback of any overhead canopy or weather protection, freestanding or projecting from the station structure, shall be not less than ten feet from the street right-of-way nor less than 20 feet from an adjacent property line.
- (2) The total height of any overhead canopy or weather protection shall not exceed 20 feet.

- (3) Open dead storage of motor vehicles, other than motor vehicles for rent, shall not be permitted for a period of more than 48 hours.
- (4) No sales of motor vehicles or trailers or campers shall be permitted.
- (5) All goods for sale by a motor fuel station convenience store, other than those generally required for the operation and maintenance of motor vehicles, shall be displayed within the principal motor fuel station structure.
- (6) Each motor fuel station shall be architecturally designed so as to be as compatible as possible with the general architectural intent of the area in which it is located.
- (7) For the purpose of architectural appropriateness, each and every side of a motor fuel station shall be considered as a front face.
- (8) The entire motor fuel station site, other than that part devoted to landscaping and structures, shall be surfaced with concrete or bituminous surfacing to control dust and provide adequate drainage, and such surfaces shall be designed to meet the requirements of a minimum four-ton axle load.
- (9) Wherever a motor fuel station abuts an R district, a fence or compact evergreen hedge which is a minimum 25 percent opaque and not more than six feet high shall be erected and maintained along the side and rear property line that abuts the R district. Application of this provision shall not require a fence within 15 feet of any street right-of-way. A minimum yard abutting an R district shall be not less than 50 feet.
- (10) All trash, waste materials and obsolete automobile parts shall be stored with a separate enclosure behind the principal structure of the motor fuel station.
- (11) All interior curbs shall be constructed within the property lines to separate driving and parking areas from landscaped areas. Such curbing shall be constructed of concrete and shall be of six-inch nonsurmountable design.
- (12) All rental campers, trailers or motor vehicles shall be stored within the rear and/or side yard not adjacent to the street. Said rentals shall not be stored within the front yard setback or the side yard adjacent to the street.
- (13) All outside parking spaces shall be located to the side and/or rear of the principal structure.
- (14) All outdoor illumination shall be provided with lenses, reflectors or shades which will concentrate the light upon the premises so as to prevent any undue glare or rays of light therefrom being directly visible upon any adjacent street, roadway or private property occupied for residential purposes.
- (15) Notwithstanding anything of a more restrictive nature in other sections of this chapter, the following minimum requirements shall be observed for yards and setbacks for motor fuel stations:
 - a. Lot width, 150 feet;
 - b. Front yard, 60 feet;
 - c. Side yard adjacent to another lot, 30 feet;

- d. Side yard adjacent to a street, 60 feet;
- e. Rear yard, 30 feet;
- f. Pump setback, 25 feet.

(Code 1996, § 17.60.010)

Sec. 110-532. - PRIVATE SWIMMING POOLS.

A private swimming pool, as regulated in this section, shall be any pool, pond, lake or open tank not located within a completely enclosed building and containing or normally capable of containing water to a depth at any point greater than 1½ feet, but shall not include temporary swimming pools designed to be seasonably movable and removable in less than one hour. No such swimming pool shall be allowed in any residence or rural development district, except as an accessory use and unless it complies with the following conditions and requirements:

- (1) The pool is intended and is to be used solely for the enjoyment of the occupants of the principal use of the property on which it is located.
- (2) It may not be located, including accessory structures adjacent thereto, closer than ten feet to any property line of the property in which it is located.
- (3) The swimming pool or the entire property on which it is located shall be so walled or fenced as to prevent uncontrolled access by children from the streets or from adjacent properties; and where located closer than 50 feet to any property line, shall be screened by a wall, fence or compact hedge not less than four feet in height, maintained in good condition.
- (4) All swimming pools hereafter installed shall conform to all requirements of health, building, electrical and plumbing codes.
- (5) An annual inspection of all swimming pools shall be required to ensure continuing compliance with health, building, plumbing and electrical codes.

(Code 1996, § 17.60.020; Ord. No. 06-3443, 5-22-2006)

Sec. 110-533. - ANIMAL HOSPITALS.

Animal hospitals shall be located no closer than 100 feet to any residential district, restaurant, hotel or motel in any district, and shall show that adequate measures and controls shall be taken to prevent offensive noise and odor. No incineration of refuse shall be permitted on the premises.

(Code 1996, § 17.60.030)

Sec. 110-534. - HOME OCCUPATIONS.

A home occupation, as defined in this chapter, is permitted as a conditional use in all residential districts; provided, that:

- (1) It is conducted entirely within the dwelling;
- (2) It is incidental and secondary to the use of the dwelling for dwelling purposes, and not more than one-fourth of the floor area of any one story, including also a basement of a dwelling, is devoted

to such home occupation;

(3) It is not conducted from a detached or attached accessory building and does not require internal or external alteration, change the character of the dwelling, or involve construction features not customary in a dwelling;

(4) The entrance to the space devoted to such occupation is from within the dwelling;

(5) There is no sign, display or activity that will indicate from the exterior of the dwelling that it is being used in whole or in part for any use other than a dwelling;

(6) It is conducted by only a member of the family residing on the premises, and no person other than a member of the immediate family living on the premises is employed;

(7) No mechanical or electrical equipment is used other than such as is permissible for purely domestic or hobby purposes;

(8) No service is rendered or article is sold or offered for sale on the premises except such as is produced by such occupation on the premises;

(9) The home occupation shall not require the receipt or delivery of merchandise, goods or equipment by other than carrier mail service or the passenger automobile of the person conducting the home occupation;

(10) A professional person may use his residence for infrequent consultation, emergency treatment or performance of religious rites, but not for the general practice of his profession;

(11) Teaching of musical instruments and dancing shall be conducted only in a single-family dwelling, and then to not more than two pupils at one time, and academic or religious instructions may be given to not more than six pupils at one time in a single-family detached dwelling, and nor more than one pupil at one time in any other type dwelling unit;

(12) Offices, arts involving astrology, palmistry, fortunetelling, clinics, doctor's offices, hospitals, barbershops, beauty parlors, dress shops, millinery shops, insurance offices, real estate offices, tearooms, restaurants, tourist homes, animal hospitals and kennels, among others, shall not be deemed to be home occupations.

(Code 1996, § 17.60.040)

Sec. 110-535. - COUNTRY CLUBS; GOLF COURSES.

The following shall apply to county clubs and golf courses:

(1) No building shall be located within 100 feet of any property line.

(2) Facilities such as restaurants and bars may be permitted when conducted and entered from within the building.

(3) Swimming pools, tennis courts and the like shall be located not less than 25 feet from any property line, and adjoining property in any residence or commercial district shall be effectively protected by a wall, hedge and/or screen planting.

(Code 1996, § 17.60.050)

Sec. 110-536. - JOINT RESIDENTIAL AND NONRESIDENTIAL USE.

Joint use of a principal structure for both residential and nonresidential uses is prohibited except that such joint use in the case of home occupations B-1, B-3, R-O or RD districts shall be permitted as regulated in this chapter.

(Code 1996, § 17.60.060; Ord. No. 06-3388, 2-13-2006)

Sec. 110-537. - ANIMAL FEED YARDS.

Animal feed yards, animal sales yards, riding academies and public stables shall be located no closer than 200 feet from any property line; shall provide automobile and truck egress; and shall provide parking and loading spaces, so designed as to minimize traffic hazard and congestion. Proponents shall show that odor, dust, noise, drainage shall not constitute a nuisance or a hazard to adjoining property or uses.

(Code 1996, § 17.60.070)

Sec. 110-538. - Agricultural Processing Plants.

Agricultural processing plants in any district which process agricultural products produced on the premises or within a contiguous area shall be so located as to provide convenient trucking access with a minimum of interference to normal traffic; and shall provide parking and loading spaces. Proponents shall show that adequate measures shall be taken to control odor, dust, noise and water disposal so as not to constitute a nuisance, and shall show that the proposed source of water will not deprive others of normal supply.

(Code 1996, § 17.60.080)

Sec. 110-539. - DRIVE-IN THEATERS.

Drive-in theaters shall be located only on major thoroughfares; shall provide ingress and egress so designed as to minimize traffic congestion; shall be located sufficiently distant from any residence district, except the RD residence district, or existing dwelling, and so screened from such district or dwelling that any noise shall not disturb residents; and shall maintain lighted signs and other lights only in such a way as not to disturb neighboring residents.

(Code 1996, § 17.60.090)

Sec. 110-540. - AMUSEMENT PARKS AND GOLF DRIVING RANGES.

Golf driving ranges and amusement parks shall be located on major or secondary thoroughfares or nonresidential streets. Floodlights used to illuminate the premises shall be so directed and shielded as not to be an annoyance to any developed residential property. Golf driving platforms shall be not less than 200 feet from any adjacent residence district, except in the RD residence district, or existing dwelling. A temporary certificate may be renewed for a period of one year at the expiration of such certificate, provided that all requirements of this chapter have been and can continue to be complied with.

(Code 1996, § 17.60.100)

Sec. 110-541. - CEMETERIES.

Cemeteries, crematories and mausoleums shall provide entrance on a major street or road with ingress or egress so designed as to minimize traffic congestion; shall provide required off-street parking space;

and shall provide a minimum six-foot-high wall or minimum three-foot-thick, six-foot-high evergreen hedge, or provide a minimum 20 feet of permanently maintained planting strip on all property lines abutting any R district or residential street.

(Code 1996, § 17.60.110)

Sec. 110-542. - AIRPORTS.

Airports, heliports or landing strips for aircraft shall be located no closer than 600 feet from any dwelling; and shall be located so that air or land traffic shall not constitute a nuisance to neighboring uses. Proponents shall show that adequate controls or measures will be taken to prevent offensive dust, noise, vibrations or bright lights; proponents shall show that the field in question comes up to standards of the Federal Aviation Administration for the particular class of field.

(Code 1996, § 17.60.120)

Sec. 110-543. - COMMUNITY BUILDINGS, SOCIAL HALLS, LODGES, FRATERNAL ORGANIZATIONS AND CLUBS.

The following shall apply to community buildings, social halls, lodges, fraternal organizations and clubs:

- (1) All buildings must be a minimum of 20 feet from the side lot line, and 50 feet from the rear lot line.
- (2) There shall be no external evidence of any gainful activity, however incidental, nor any access to any space used for gainful activity other than from within the building.
- (3) Any such use must be located on a major or secondary thoroughfare or be able to provide access without causing heavy traffic on local residential streets.

(Code 1996, § 17.60.130)

Sec. 110-544. - PRIVATE STABLES.

Private stables and paddocks shall be allowed only in an RD zone and shall be located on the rear half of the lot and not closer than 20 feet to any property line, nor closer than 40 feet from any dwelling on the same or adjoining property. The minimum lot area upon which a horse may be kept is one acre, and two horses may be kept on such area. An additional horse may be kept for each 20,000 feet by which the parcel of land exceeds one acre.

(Code 1996, § 17.60.140)

Sec. 110-545. - NURSING HOMES.

Approval must be obtained from proper agencies concerning health and safety conditions, and said home must be licensed by such agencies. Said use must meet space requirements specified for the multifamily residential district within which it is located.

(Code 1996, § 17.60.150)

Sec. 110-546. - RETAIL SALES FOR GUESTS ONLY.

Community buildings, private clubs, lodges, social or recreational establishments may engage in retail

sales for guests, provided that:

- (1) There shall be no external evidence of any gainful activity, however incidental, nor any access to any space used for gainful activity other than from within the building.
- (2) There shall be no harm to adjacent existing or potential residential development due to excessive traffic generation, noise or other circumstances.

(Code 1996, § 17.60.160)

Sec. 110-547. - HOSPITALS AND CHURCHES.

Hospitals, churches or other religious or eleemosynary institutions shall be located on a major street on a minimum parcel of one-half acre; and shall maintain a ten-foot-wide minimum landscaped strip on all property lines abutting all residence districts, except the RD residential district, and on all residential streets.

(Code 1996, § 17.60.170)

Sec. 110-548. - FERTILIZER PLANTS.

Fertilizer plants and yards shall be no closer than 200 feet to any residence district, except the RD residence district; shall provide automobile parking and truck loading area together with ingress and egress so designed to minimize traffic hazard and congestion; and shall show that odor, dust, noise and drainage will not constitute a nuisance to surrounding properties.

(Code 1996, § 17.60.180)

Sec. 110-549. - INFLAMMABLE LIQUID STORAGE IN I DISTRICTS.

Aboveground storage of materials or products rated as fast burning, or which produce flammable or explosive vapors or gases, in quantities over 1,000 gallons will only be permitted in the I districts; provided that such storage area is not less than 300 feet distant from any nonindustrial district. Such storage area must be provided with adequate safety devices against the hazard of fire and explosion and adequate fire suppression and firefighting equipment and devices standard to the industry, and shall meet the requirements of other applicable city ordinances.

(Code 1996, § 17.60.190)

Sec. 110-550. - AMUSEMENT CENTERS.

Amusement centers, bowling alleys, dancehalls and similar places of amusement shall provide parking with ingress and egress designed so as to minimize traffic congestion; shall not be less than 20 feet from any property line; shall provide a solid board fence, masonry wall or dense hedge separating parking area from abutting residential property; and shall show that adequate controls or measures will be taken to prevent offensive noise and vibration.

(Code 1996, § 17.60.200)

Sec. 110-551. - DAY NURSERY SCHOOL.

Day nursery school having more than five children shall maintain a solid board, chainlink, or masonry fence no more than six feet high on any property line abutting a residential district. A day nursery school

shall be located only on a lot at least 10,000 square feet in area.

(Code 1996, § 17.60.210; Ord. No. 05-3330, § 4, 5-23-2005)

Sec. 110-552. - TEMPORARY TRACT OFFICES.

A temporary tract office in any district shall be located on the property to which it is appurtenant, shall be limited to a six-month period, at the expiration of which time the applicant may request a further extension of time; otherwise, the tract office shall be removed at the expense of the owner. The tract office shall meet all yard requirements of the district in which it is located.

(Code 1996, § 17.60.220)

Sec. 110-553. - EXCAVATIONS.

(a) The excavation from or deposit on the earth of rock, stone, gravel, sand, earth, minerals or building or construction materials shall not be construed to be a permitted use in any district established by this chapter unless and until a land use (building) permit shall first have been secured therefor, except for the following defined extractions and deposits:

- (1) Excavations for the foundation or basement of any building or for a swimming pool for which a land use permit or a building permit has been issued, or deposits on the earth where any building permit has been issued;
- (2) Grading of any parcel of land for a permitted use where no bank is left standing and exposed of more than ten feet in vertical height, or when less than 1,000 cubic yards of earth are removed from the premises;
- (3) Grading in a subdivision which has been approved by the city in accordance with the city subdivision regulations and any amendments thereto;
- (4) Excavations by any public agency or public utility for the installation, operation, inspection, repair or replacement of any of its facilities.

(b) Any quarry or gravel pit existing as such on the effective date of the ordinance from which this chapter is derived shall obtain a new use permit and conform with the provisions of this chapter within one year of the adoption of this chapter.

(c) The city council shall have the power to grant conditional land use permits, revocable and valid for specified periods of time, to permit extractions from or deposits on the earth or rock, stone or gravel, sand, earth, minerals or building or construction materials, as set forth in this section.

(d) The building official shall make such inspections as he deems necessary or as are required by the planning and zoning commission to ensure that all work is in accordance with the use permit.

(e) The conditions under which a use permit for excavation from or depositing on the earth of said materials may be issued may include, but are not limited to, any requirements deemed necessary to protect the public health, safety, comfort, convenience or general welfare, including insurance against liability arising from production or activities or operations incident thereto; completion of the work and cleaning up and planting in accordance with approved plans; designation of areas in which work may be done; designation of the slope to which excavation may be made or the grade of filling; provisions for controlling dust; hours during which operations may proceed; precautions which must be taken to guide

safe traffic movements in and around and by said operation; enclosure by fences of exterior boundaries of property to be used; posting of a good and sufficient bond to assure compliance with the use permit; and any other conditions deemed necessary by the plan commission.

(Code 1996, § 17.60.230; Ord. No. 08-3676, § 2 (Exh. B), 5-12-2008)

Sec. 110-554. - PAWNSHOP.

The following shall apply to pawnshops:

- (1) Pawnshops shall be allowed only in a B-1 central business district or a B-2 highway commercial district by the approval of a conditional (special use) permit.
- (2) There shall be no sale or pawning of firearms or weapons.
- (3) Hours of operation are limited from 8:00 a.m. to 7:00 p.m.

(Ord. No. 09-3879, § 3, 12-14-2009)

Secs. 110-555—110-580. - RESERVED.

ARTICLE XI. - NONCONFORMING LOTS, STRUCTURES, AND USES

[Sec. 110-581. - Purpose.](#)

[Sec. 110-582. - Exempt structures, uses and lots.](#)

[Sec. 110-583. - General standards.](#)

[Sec. 110-584. - Additional regulations, standards and criteria.](#)

[Sec. 110-585. - Eliminating nonconforming structures and uses.](#)

[Secs. 110-586—110-620. - Reserved.](#)

Sec. 110-581. - PURPOSE.

The purpose of this article is to provide for the regulation and shortterm maintenance of those nonconforming structures, uses and lots which substantially and adversely affect the orderly development and taxable value of other conforming property in each district. Further, this article provides for the gradual amortization of nonconforming commercial and industrial structures and uses by specifying the circumstances and conditions under which nonconforming structures, uses and lots shall be permitted or abated. Underlying these regulations is the goal to avoid placing an undue burden on any single property owner, in accordance with the authority granted by state statutes.

(Code 1996, § 17.64.010; Ord. No. 04-3284, § 1(17.64.010), 11-8-2004)

Sec. 110-582. - EXEMPT STRUCTURES, USES AND LOTS.

Whenever a lawfully existing structure otherwise conforms to the use regulations of the district in which it is located, but is nonconforming only in the manner hereinafter specified, the structure and use thereof shall be exempt from the requirements of sections 110-584(b) and (c)(1)—(4) and 110-585 as follows:

- (1) Any residential structure in any district used for single-family purposes that is nonconforming

as to use or any bulk, yard or area requirements, provided no such structure shall be altered in any way so as to increase the condition creating the nonconformity.

(2) In any business or manufacturing district, where the use is less distant from a residential district than that required in the regulations for the district in which it is located.

(3) In any district where a legally established structure, use or lot is nonconforming with respect to the parking, loading, or lot area required in the district in which it is located.

(4) In any residential district where an accessory structure is nonconforming with respect to the yard, lot area, lot width, or structure height required in the district in which it is located.

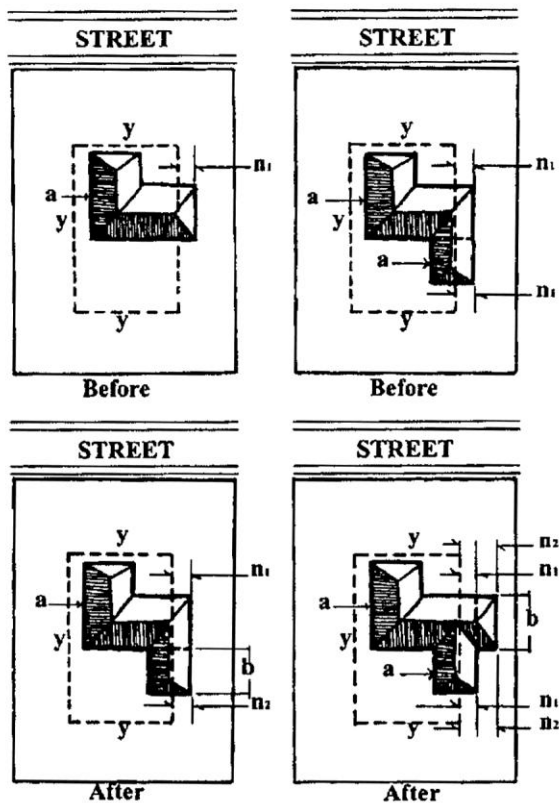
(Ord. No. 04-3284, § 1(17.64.020), 11-8-2004)

Sec. 110-583. - GENERAL STANDARDS.

(a) *Prohibition of unlawful uses and structures.* Nothing in this article shall be interpreted as authorization for the continuation of the use of a structure or land or the maintenance and reconstruction of a structure established unlawfully in violation of the zoning regulations in effect at the time of the establishment of such use or structure. The city shall establish a program designed to eliminate and discontinue such unlawful structures and uses.

(b) *Authority to continue nonconforming lots, structures and uses.* Any nonconforming lot, structure or use which was nonconforming at the time of the adoption of the ordinance from which this article is derived and which remains nonconforming, and any lot, structure or use which shall become nonconforming upon the adoption of the ordinance from which this article is derived or of any subsequent amendments thereto, may be continued, some for specified periods of time, subject to the regulations of this article. For the purpose of this article, the term "structure" means anything erected which requires location on the ground or is attached to something having location on the ground.

(c) *Enlargement or expansion of nonconforming structures and uses.* A nonconforming use of land or nonconforming structure or nonconforming use of a structure shall not be added to, enlarged or expanded in any manner that increases the degree of the nonconformity.



**Example of a Permitted
Enlargement (b) of a
Non-Conforming
Building (a)**

**Example of a Prohibited
Enlargement (b) of a
Non-Conforming
Building (a)**

Where $n_1 \geq n_2$, and
 y = required building
 setback,
 n_1 = the non-conformity
 n_2 = the increase in the
 non-conformity

Where $n_1 < n_2$, and
 y = required building
 setback,
 n_1 = the non-conformity
 n_2 = the increase in the
 non-conformity

(d) *Maintenance and repair of nonconforming structures.* Normal maintenance and incidental repair or replacement of fencing, nonbearing walls and partitions, fixtures, wiring, plumbing, parking, landscaping and mechanical equipment may be performed on any nonconforming lot or structure. Nothing in this article shall be deemed to prevent the strengthening or restoration of an unsafe structure in accordance with any order of a public official charged with protecting public safety who finds such structure is unsafe in its then-present condition and that repair or restoration is not in violation of the provisions of this article governing the restoration of partially damaged or destroyed structures and accessory structures.

(e) *Accessory structures and uses.* Except with respect to lots used for single-family residential purposes, no new accessory structures or uses may be added. For lots containing nonconforming single-family residential uses and/or structures, new accessory structures may be added so long as such structures shall not increase the degree of nonconformity or create a new nonconformity.

(f) *Previous nonconforming lots, structures and uses.* Any legally existing nonconforming lot, structure or use which existed prior to the effective date of the ordinance from which this article is derived which is

made lawful and conforming as a result of the provisions of this chapter shall be considered as conforming.

(Ord. No. 04-3284, § 1(17.64.030), 11-8-2004)

Sec. 110-584. - ADDITIONAL REGULATIONS, STANDARDS AND CRITERIA.

(a) *Nonconforming lots.*

(1) *Continuation of substandard lots of record.* In any district, notwithstanding the regulations imposed by any other provision of this chapter, a structure may be erected on a lot which complies with the restrictions in subsection (a)(2) of this section and;

- a. Has less than the required minimum lot area, width or depth, or all three;
- b. Consists entirely and singularly of one zoning parcel;
- c. Is shown by a recorded plan or deed to have been owned separately and individually from adjoining parcels of land at the time when its nonconforming characteristics would not have been prohibited by this chapter; and
- d. Has remained in separate and individual ownership from adjoining parcels of land continuously during the entire time since the creation of such lot became prohibited by this chapter.

(2) *Yard requirements for nonconforming lots.* Construction permitted by subsection (a)(1) of this section shall comply with all the regulations (except lot area, lot width and lot depth) applicable in the zoning district in which the lot is located; provided, however, that the a structure shall be placed on the lot so as to provide required yards, width, depth and open space that are within 75 percent of those required by the terms of this chapter.

(b) *Nonconforming structures.*

(1) *Alteration.* Any nonconforming structure may be altered or remodeled; provided, however, that no such alteration or remodeling shall either create any additional nonconformity or increase the degree of the existing nonconformity of all or part of the structure, except that, as to structures located on a nonconforming lot, the yard requirements shall be determined by subsection (a)(2) of this section. Nothing in this section shall permit the structural alteration of bearing walls and partitions of a nonconforming structure which is devoted in whole or in part to a nonconforming use, except those structural alterations required by law or those necessary to make the structure and use thereof conform to the regulations of the district in which it is located.

(2) *Restoration.* In the event a nonconforming structure is destroyed or damaged by fire or other casualty or act of God, such structure may be restored only if the cost of reconstruction to its condition prior to the casualty does not exceed 50 percent of the replacement cost of the entire structure, and provided no restoration or reconstruction shall be undertaken unless it is started within one year from the date of notice by the zoning administrator of this provision or the date of the casualty destruction, whichever is later, and completed within 24 months from the date of the casualty.

(3) *Relocation.* No nonconforming structure shall be moved in whole or in part to any other location on the same or any other lot unless every portion of said structure is made to conform to all of the

regulations of the district into which it is to be relocated.

(4) *Damage or destruction.* In the event any nonconforming structure is damaged or destroyed by any means to the extent of more than 50 percent of the cost of replacement of the structure new, such structure shall not be restored unless it and the use thereof shall thereafter conform to all regulations of the zoning district in which it is located.

(5) *Cost.* For the purposes of this article, the cost of replacement of a structure destroyed or damaged by a casualty shall be established by the presentation of a certified affidavit of a professional, licensed architect or an MAI (Member of the Appraisal Institute) appraiser.

(c) *Nonconforming uses.*

(1) *Change of use.* A nonconforming use of land or structure shall not be changed to any use other than a use permitted in the zoning district in which the use is located. When a nonconforming use of land or a structure has been changed to any permitted use, it shall not thereafter be changed back to a nonconforming use. For purposes of this section, a use shall be deemed to have been so changed when an existing nonconforming use shall have been terminated and a conforming use shall have commenced and continued for a period of seven days.

(2) *Alteration.* Alterations designed to increase the intensity of a nonconforming use, or to introduce new nonconforming uses, are prohibited.

(3) *Damage or destruction.* In the event that any structure that is devoted in whole or in part to a nonconforming use is damaged or destroyed by any means to the extent of more than 50 percent of the cost of replacement of the structure, such structure shall not be restored unless it and the use thereof shall thereafter conform to all regulations of the zoning district in which it is located. When such damage or destruction is 50 percent or less of the cost of replacement, no repairs or restoration shall be made unless a zoning certificate is obtained and restoration is actually begun within one year after the date of such partial destruction and is diligently pursued to completion.

(4) *Relocation.* No nonconforming use of land or structure shall be moved in whole or in part any distance whatsoever to another location on the same lot or any other lot unless such use shall thereafter conform to all regulations of the zoning district in which it is located after so moved.

(5) *Discontinuation or abandonment.*

a. *Nonconforming use of land.* When a nonconforming use of land not involving a structure or an accessory use to the nonconforming use of land is discontinued or abandoned for a period of 30 consecutive days, such use or accessory use shall not thereafter be reestablished or resumed. Any subsequent use or occupancy of such land or structures shall comply with the regulations of the zoning district in which such land is located.

b. *Nonconforming use of a structure.* The abandonment or discontinuation of any nonconforming use of a structure for a period of 12 months shall terminate any rights conferred by this article to continue such nonconforming use. Any subsequent use or occupancy of such structure shall comply with the regulations of the zoning district in which such land is located.

c. *Nonconforming accessory uses.* No use which is accessory to a principal nonconforming use shall continue after such principal nonconforming use shall have been ceased or terminated.

(Ord. No. 04-3284, § 1(17.64.040), 11-8-2004)

Sec. 110-585. - ELIMINATING NONCONFORMING STRUCTURES AND USES.

(a) *Procedures.* In accordance with authority granted to municipalities for the elimination of nonconforming uses and structures in 65 ILCS 5/11-13-1, it is hereby declared to be the policy of the city to eliminate said uses and structures.

(1) The zoning administrator shall inventory the nonconforming uses and structures in the city and shall determine the assessed valuation, normal useful life, and years in existence for each. Such inventory and determination shall be kept on file by the zoning administrator and be a matter of public record.

(2) Nothing in this section shall apply to nonconforming structures to which section 110-584(b) does not apply.

(b) *Elimination of nonconforming structures.*

(1) Any structure, all or substantially all of which is designed or intended for a use not permitted in the district in which it is located, shall be removed and its use thereafter cease or shall be converted to a structure designed or intended for a use permitted in the district in which it is located at the end of its useful life, as determined by the corporate authorities of the city. Nothing in this section shall apply to structures used for residential purposes.

(2) The city, at any time, and from time to time, by ordinance duly enacted, may:

- a. Acquire, by condemnation, any nonconforming lot or structure, all or substantially all of which is designed or intended for a use not permitted in the district in which it is located;
- b. Remove or demolish all such nonconforming structures so acquired; and
- c. Hold and use such property for public purposes.

No such acquisition by condemnation shall be made until such time as the planning and zoning commission, at the request of the city council or upon its own initiative, has made a study of the area within which such nonconforming structure is located and has filed a written report on such study with the city council.

(c) *Elimination of nonconforming uses of land.*

(1) The nonconforming use of land shall cease ten years from the effective date of the ordinance from which this article is derived in each of the following cases:

- a. Where no structures are employed in connection with such use;
- b. Where the only structures or other physical improvements employed are accessory or incidental to such use or have an assessed valuation of less than \$2,000.00; or
- c. Where such is maintained in connection with a conforming structure, except that inadequate off-street parking facilities used in connection with a structure whose use complies with the requirements of the district in which it is located, may be continued for so long as the benefited premises are used for a permitted use.

(2) A nonconforming use of land which is accessory to the nonconforming use of a structure shall be discontinued on the same date the nonconforming use of the structure is discontinued.

(3) Nothing in this article shall require the elimination of a nonconforming use of land for residential purposes.

(4) The lawful use of land for junkyards, storage purposes and for business and advertising signs which do not conform to the provisions of this chapter shall be discontinued within five years from the date of approval of the ordinance from which this article is derived.

(Ord. No. 04-3284, § 1(17.64.050), 11-8-2004; Ord. No. 08-3676, § 2 (Exh. B), 5-12-2008)

Secs. 110-586—110-620. - RESERVED.

ARTICLE XII. - OFF-STREET LOADING AND PARKING

Sec. 110-621. - Loading and unloading.

Sec. 110-622. - Off-street parking required.

Sec. 110-623. - Exemptions from off-street parking regulations.

Sec. 110-624. - Computations resulting in fractional parking spaces.

Sec. 110-625. - Location of off-street parking facilities.

Sec. 110-626. - Use of off-street parking facilities.

Sec. 110-627. - Reduction of existing off-street parking facilities.

Sec. 110-628. - Change in intensity of use.

Sec. 110-629. - Floor area defined.

Sec. 110-630. - Parking requirements for unlisted or mixed uses.

Sec. 110-631. - Off-site parking facilities.

Sec. 110-632. - Design standards for parking facilities.

Sec. 110-633. - Setbacks for parking area.

Sec. 110-634. - Surfacing of parking areas.

Sec. 110-635. - Screening and landscaping of parking areas; parking requirements for specific uses.

Sec. 110-636. - Parking space requirements for new developments.

Secs. 110-637—110-660. - Reserved.

Sec. 110-621. - LOADING AND UNLOADING.

In any commercial or industrial district and for all commercial, industrial and institutional uses, sufficient space for the loading or unloading of vehicles shall be provided on the lot in connection with any commercial or industrial use so that the public street shall at all times be free and unobstructed to the passage of vehicular and pedestrian traffic. Such space shall be provided as follows:

Gross Floor Area

(square feet)	Loading and Unloading Space Required in Terms of Square Feet of Gross Floor Area
0—1,500	None
1,501—9,999	1 space
10,000 and above	1 space plus 1 space for each 20,000 sq. ft. in excess of 10,000 sq. ft.

(Code 1996, § 17.68.010)

Sec. 110-622. - OFF-STREET PARKING REQUIRED.

After the adoption of the ordinance from which this chapter is derived, all new uses of main buildings or structures which are enlarged or increased in capacity or, in the case of residential buildings, enlarged by increasing the number of residential units therein, and every land initiated subsequently shall be provided with off-street automobile parking facilities, either within a private garage constructed on the lot or parcel of land occupied by the main building or use or within an open area properly located and improved in accordance with the requirements of sections 110-623 through 110-635.

(Code 1996, § 17.68.020)

Sec. 110-623. - EXEMPTIONS FROM OFF-STREET PARKING REGULATIONS.

(a) The off-street parking regulations set forth in section 110-622, this section and sections 110-624 through 110-635, except as required for residential use, may be exempted by the planning and zoning commission for new buildings or structures, or any existing principal building or structure which is enlarged or increased in capacity after the adoption of the ordinance from which this chapter is derived, when located within the area bounded as follows:

A tract of land situated in the City of Rochelle, County of Ogle, State of Illinois, said tract bounded as follows: Between the north side of the Chicago and Northwestern tracks on the south, the south side of Fifth Avenue on the north, the east side of North Seventh Street on the west, the alley between North Main Street and North Third Street on the east.

Editor's note— Zoning maps are on file for public inspection in the office of the city clerk.

(b) This provision in no way affects required off-street loading spaces.

(c) Individuals or corporations may apply for variation in this chapter according to procedures shown in article II, division 3 of this chapter.

(Code 1996, § 17.68.030; Ord. No. 08-3676, § 2 (Exh. B), 5-12-2008)

Sec. 110-624. - COMPUTATIONS RESULTING IN FRACTIONAL PARKING SPACES.

When units of measurement determining the number of required off-street parking and off-street loading spaces result in a requirement of a fractional space, any fraction up to and including one-half shall be disregarded, and fractions over one-half shall require one off-street parking or off-street loading space.

(Code 1996, § 17.68.040)

Sec. 110-625. - LOCATION OF OFF-STREET PARKING FACILITIES.

Off-street automobile parking facilities shall be located as specified in this article. 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 the parking area is required to serve:

(1) For residential uses, the required off-street parking spaces shall be on the same lot with the building they are required to serve.

(2) For roominghouses, lodginghouses, clubs, hospitals, sanitariums, asylums, orphanages, homes for the aged, convalescent homes, dormitories, sororities and fraternity houses, and for 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 within 300 feet of the main building or buildings being served; provided that they are adjacent to, or across the street or alley from, the main building they are intended to serve, measured between the nearest point of the off-street parking area and the nearest entrance to the main building or buildings.

(3) For uses other than those specified in subsections (1) and (2) of this section, the 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, and not over 300 feet from the entrance of the main building; provided that they are adjacent to, or across the street or alley from, the main building, measured from the nearest point of the parking area; provided that the separate lot or parcel of land intended for the parking facilities is located in the same district as the principal permitted uses or in a less restricted district.

(4) Nothing in this section shall be construed to prevent collective provision of off-street parking facilities for two or more buildings or uses; provided that the total of such collective off-street parking facilities shall not be less than the sum of the requirements for the various individual uses computed separately in accordance with the requirements contained in this article. The required parking facilities may be provided under municipal sponsorship, by private lease or purchase, or by any other means which will promote orderly development of space, diminish traffic hazards and relieve congestion in the streets.

(Code 1996, § 17.68.050)

Sec. 110-626. - USE OF OFF-STREET PARKING FACILITIES.

(a) A required off-street parking space, or a required off-street parking lot or facilities serving residential uses and in a residential district, including the driveway thereof, shall be used only for the parking of passenger automobiles of two axles or fewer, designed to carry nine or fewer passengers, trucks of less than six feet six inches in height, measured from the highest point to the ground with fully inflated tires, and recreational vehicles, the same being any vehicle originally designed or permanently converted and used for living quarters or for human habitation and not used as a commercial vehicle, including a house trailer, camper or private living coach. However, said recreational vehicle shall not be used for living quarters or for human habitation when parked in a residential district.

(b) Notwithstanding any other provision of this article, no motor vehicle shall be parked in the required front yard in any residential zoning district unless said vehicle is parked upon a driveway. Said driveway shall be paved as provided for in the definition of the term "off-street parking space" in section 110-9. No driveway shall be greater than 25 feet in width. For the purposes of this subsection, a driveway must have an appropriate curb cut if connected to a street.

(Code 1996, § 17.68.060)

Sec. 110-627. - REDUCTION OF EXISTING OFF-STREET PARKING FACILITIES.

Existing off-street parking facilities provided at the effective date of the ordinance from which this chapter is derived and actually being used for the parking of automobiles in connection with the operation of an

existing building or land use, shall not be reduced in space or facility to less than that hereinafter required under the provisions of this chapter for a similar new building or new land use, except as provided in sections 110-635 and 110-636.

(Code 1996, § 17.68.070)

Sec. 110-628. - CHANGE IN INTENSITY OF USE.

Wherever, in a building or structure erected prior to or after the effective date of the ordinance from which this chapter is derived, there is an increase in the intensity of use by increasing the number of dwelling units, guestrooms, floor area, seating capacity, number of employees, or in any other unit of measurement specified in this article, which creates a need for additional parking spaces or loading and unloading spaces as required hereinafter, off-street parking and loading facilities shall be provided on the basis of the increased units of measurement of the new use or of the altered or expanded existing use, and such parking and loading facilities shall be maintained thereafter in connection with such buildings or structures.

(Code 1996, § 17.68.080)

Sec. 110-629. - FLOOR AREA DEFINED.

The term "floor area," as employed in this article, in the case of office, merchandising or service types of use, shall mean the gross floor area of a building or structure intended to be used for service to the public as customers, patrons, clients, patients or tenants, including area occupied by fixtures and equipment used for display or sale of merchandise. The term "floor area," for the purpose of this article, shall not include area used for storage accessory to the principal use of a building.

(Code 1996, § 17.68.090)

Sec. 110-630. - PARKING REQUIREMENTS FOR UNLISTED OR MIXED USES.

(a) In the case of a use not specifically mentioned this article, the requirements for off-street parking facilities for a similar use which is so mentioned shall apply.

(b) In the case of mixed uses, the total requirements for off-street parking facilities shall be the sum total of the requirements of the various uses computed separately, in accordance with the requirements set forth in sections 110-635 and 110-636, and off-street parking facilities for any other use, except as specified in this article for joint use or when the same parking space can be used at different hours of the day or night.

(Code 1996, § 17.68.100)

Sec. 110-631. - OFF-SITE PARKING FACILITIES.

Where required parking facilities are provided off the site of the main building or structure generating the need for parking facilities, in accordance with the provisions of this section, the following additional regulations shall apply: The land upon which the parking facilities are located, or to be located, shall be in the same possession, either by deed or long-term lease, as the property occupies by the use to which the parking facilities are auxiliary, in which case the owner of the land shall be bound by covenants filed of record in the office of the county recorder of deeds requiring the owner, his heirs or assigns to maintain the required number of parking facilities through-out the existence of the principal use, or until such time as it is proved that the parking facilities are no longer needed in the interest of public convenience, safety

and general welfare.

(Code 1996, § 17.68.110)

Sec. 110-632. - DESIGN STANDARDS FOR PARKING FACILITIES.

All off-street automobile parking facilities shall be designed with appropriate means of vehicular access to a street or alley, in a manner which will least interfere with traffic movements. No driveway or curb cuts in any district shall exceed 20 feet in width. No signs shall be displayed in any parking area within any residential district, except such signs as may be necessary for the orderly use of such facilities. Each parking space shall be not less than nine feet in width and 20 feet in length. Aisles between parked vehicles shall be not less than 12 feet in width when serving automobiles parked in a 45 degree angle in one direction, nor less than 20 feet in width when serving automobiles parked at a 45-degree angle in both directions, nor less than 20 feet in width when serving automobiles parked perpendicular to the aisles and accommodating two-way traffic movements.

(Code 1996, § 17.68.120)

Sec. 110-633. - SETBACKS FOR PARKING AREA.

The parking area, if on the same lot with a main building, shall not be located within the front yard required for such building, except that in the B-2 and B-3 districts parking may be permitted in the front yards, provided it maintains not less than a 20-foot setback from the street right-of-way. If not on the same lot with the main building, the paved parking area shall not be closer to any street line than the established building line on adjacent properties, or less than the setback required for the district in which the parking area is located, whichever is closer, but never less than 20 feet. Further, any wall, fence, or hedge developed around the parking area shall observe the yard requirements of this article.

(Code 1996, § 17.68.130)

Sec. 110-634. - SURFACING OF PARKING AREAS.

All open off-street parking areas shall be improved with a compacted macadam base or equal, not less than eight inches in thickness, surfaced with either an asphalt or concrete surface.

(Code 1996, § 17.68.140)

Sec. 110-635. - SCREENING AND LANDSCAPING OF PARKING AREAS; PARKING REQUIREMENTS FOR SPECIFIC USES.

(a) *Screening.* All automobile parking areas shall be effectively screened on each side which adjoins or fronts property situated in any residence district, use or institutional premises, by a wall, solid fence or densely planted compact hedge. Such wall, fence or hedge shall be not more than six feet in height and shall be maintained in good condition.

(b) *Landscaping.* All open off-street automobile parking areas either created or redesigned and rebuilt subsequent to the adoption of the ordinance from which this chapter is derived, containing two or more rows of parking stalls and an area of 10,000 square feet or more, shall provide and maintain canopy-type shade trees along with other forms of vegetation hardy to this region, in tree islands and planting buffer strips totaling not less than three percent of the surfaced parking area. The minimum size of each tree island or planting strip shall be not less than 50 square feet. The size, type and location of the islands and planting strips and the plant material shall be indicated on the plans required for obtaining a land use

(building) permit. The provisions of this section shall be inapplicable to a railroad hub facility in an I-3 zoning district.

(c) *Table of parking requirements.*

Uses	Parking Requirements
Resorts	one space per two employees, plus spaces equal to 20 percent of capacity, or one space per rental unit, whichever is greater
Bowling alleys	five spaces per alley, plus one space per 300 gross square feet used for bars, restaurants, etc.
Travel trailer parks	1.5 spaces per travel trailer site
Campgrounds	one space per campsite
Pool halls, dancehalls, pools, skating rinks, etc.	Parking spaces equal to 30 percent of the capacity in persons
Medical and dental clinic	three spaces per staff member
Auto sales	two spaces per employee
Post office	one space per two employees, plus one space for 300 gross square feet in excess of 4,000 square feet
Commercial schools (music, dance, etc.)	one space per two employees plus one space per five students
Indoor theater	one space per six seats up to 400 seats, plus one space for each four seats over 400
Funeral parlors	eight spaces per chapel or parlor, plus one space per funeral vehicle
General commercial uses	one space per 300 gross square feet, or six spaces for each 1,000 gross square feet in integrated center
Animal hospitals and kennels	two spaces per employee
Car wash	one space per three employees, plus one space for manager, plus space equaling five times the capacity of the wash
Cartage/express facilities	one space per vehicle operated, plus one space per two employees
Contractor/construction office	one space per one employee
Laundries	one space per three employees
Printing and publishing	one space per three employees
Warehousing and wholesaling	one space per three employees
Hotels	one space per three rooms
Laboratories	one space per three rooms
Motels	one space per unit, plus one space for manager
Riding stables	one space per one employee and enough additional space for public (as determined by the building official)
General industry	one space per 1.3 employees (maximum number of employees at one time in plant)

(Code 1996, § 17.68.150)

Sec. 110-636. - PARKING SPACE REQUIREMENTS FOR NEW DEVELOPMENTS.

The following table of parking requirements for various uses shall be applied to all new developments. Allocation of said parking areas shall be indicated on the plans required for obtaining a land use (building) permit:

Uses	Parking Requirements
Single-family residential	two spaces per dwelling unit
Elementary schools	one space per two employees
Junior or senior high schools	one space per two employees, plus one space per ten students
Libraries	one space per 800 gross square feet
Auditoriums (school)	one space per eight seats
School gyms, stadiums, etc.	one space per eight seats
Institutions for care of aged	one space per four beds, plus one space per two employees, plus one space per doctor on staff
Hospitals	one space per two beds, plus one space per two employees plus one space per doctor on staff
Mobile home parks	two spaces per lot
Philanthropic and charitable	one space per two employees, plus adequate number to serve public (number to serve public as determined by building official)
Private clubs	one space per lodging room spaces equal to 30 percent of capacity in persons
Noncommercial community center	Parking spaces equal to 30 percent of capacity in persons
Radio and TV stations	one space per two employees
Churches, etc.	one space per six seats
Apartment hotels	one space per dwelling unit
Boardinghouses, etc.	one space per three rooming units, plus one space for manager
Multifamily residential	two spaces per dwelling unit except that in housing developments for the elderly, this ratio shall be one space per unit
Taverns and restaurants	Parking spaces equal to 30 percent of capacity in persons
Service stations	one space per two employees plus one space for manager
Railroad hub facility	one space per two employees (maximum number of employees on site at any one time)

(Code 1996, § 17.68.160)

Secs. 110-637—110-660. - RESERVED.

ARTICLE XIII. - SIGNS

Sec. 110-661. - Definitions.
Sec. 110-662. - Permits required.
Sec. 110-663. - Replacement of signs or sign structures.
Sec. 110-664. - Temporary signs.
Sec. 110-665. - Nonconforming signs.
Sec. 110-666. - Unsafe and unlawful signs.
Sec. 110-667. - Permit fee.
Sec. 110-668. - Denial of permit.
Sec. 110-669. - Inspection.
Sec. 110-670. - Revocation of permit.
Sec. 110-671. - Removal of certain signs.
Sec. 110-672. - Exceptions.
Sec. 110-673. - Signs not to constitute traffic hazard.
Sec. 110-674. - Prohibited signs.
Sec. 110-675. - General standards.
Sec. 110-676. - Maintenance.
Sec. 110-677. - Variances.
Sec. 110-678. - Off-premises signs.
Sec. 110-679. - Penalty.
Secs. 110-680—110-700. - Reserved.

Sec. 110-661. - DEFINITIONS.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alteration and *alter* mean to change size, shape, materials or painting. The change of copy shall be considered alteration. (Code No. 13-4283, 1/28/2013)

Area means the total exposed surface devoted to the sign's message (i.e., a ten-foot by ten-foot freestanding sign with copy on both sides would have a total area of 200 square feet). The area shall be measured by the smallest area which encloses the entire message, including any air space between portions of the sign. The supporting structure which does not contain a message shall not be used in determining a sign's area. The area of a sign composed of characters or words attached directly to a building surface shall be the smallest rectangle which encloses the whole group.

Building code means the building code as adopted by the city.

Canopy sign means a sign meant to be suspended beneath a canopy, or on the canopy material, over a public walkway.

Copy means any message or thought reduced to printed or visible form, including words, numbers, shapes, trademarks, names, symbols and pictures.

Enforcement official means the building official of the city, or his representative.

Erect means to build, construct, attach, hang, place, suspend or affix.

Existing sign means any permanently mounted, attached or painted sign in existence at the time of passage of this chapter, if said sign has been registered with the building division of the city.

Fixed canopy and *fixed awning* mean any hood, canopy or awning made of cloth, metal or wood,

attached to a building, and/or carried by a frame supported by the ground or sidewalk.

Flashing sign means any directly or indirectly illuminated sign, either stationary or animated, which exhibits changing natural or artificial light or color by any means whatsoever.

Frontage.

- (1) When referring to a building, the term "frontage" means the side of a building oriented toward an open space containing the entrance used by general public.
- (2) When referring to land, the term "frontage" means the length which the land shares a common border with a public highway or street.

Ground sign means any sign supported by uprights or braces placed in the ground and not attached to any building.

Holiday decorations means signs in the nature of decorations, customarily associated with any national, local or religious holiday. Such decorations shall be displayed for not more than 60 days in any calendar year and shall not be used for advertising purposes.

Illegal signs means signs installed, erected, painted or altered without permit, whether or not it is conforming to locations allowed in this chapter.

Illuminated sign means any sign which has characters, letters, figures, designs or outline illuminated by owner.

Information sign means any sign directing and guiding automotive or pedestrian traffic or parking. Including signs identifying restrooms, public telephones, walkways and similar features or facilities.

Interior sign means any sign located in the interior of any building, or within an enclosed mall or court, which are designed and located to be viewed exclusively by patrons of such use or uses.

Memorial signs means tablets, names of buildings and the date of erection, cut into any masonry surface or constructed of metal and affixed flat against a structure.

Moving or rotating sign means any sign or other advertising structure which physically moves in any manner whatsoever.

Nameplate means a sign which is affixed to the side of a building and contains the name, occupation, hour of business, address and/or telephone number of the occupant.

Nonconforming sign means any sign that does not conform to this article, but was in conformance with provisions of whichever ordinance existed at the time it was erected.

Off-premises sign means a sign, the copy thereon not necessarily related to activities, goods or services conducted or available on the premises whereon the sign is located.

On-premises sign means a sign, the copy thereon relating to activities, goods or services, conducted or available on the premises whereon the sign is located.

Person means any natural person, partnership, trust, corporation or association. The term "person," as applied to partnerships or associations, means the partners or members thereof, and as applied to trusts or corporations, shall mean the trustees or officers thereof.

Portable sign means any sign, upon which the copy can be changed by movable or removable letters, numbers or symbols, not permanently affixed to a building or the ground and designed to be moved from place to place.

Prohibited sign means any sign prohibited by this article.

Projecting sign means any sign supported by a building or other structure which projects over any street, sidewalk, alley, public way or public easement.

Public utility signs means signs indicating danger or which serve as an aid to public safety or which show the location of underground facilities.

Real estate signs means signs which advertise the sale or rental of the real property upon which said sign is located.

Roof sign means any sign erected, constructed, placed or maintained in whole or in part upon or over the roof of a building.

Sign means any display, device, notice, figure, painting, drawing, message, placard, poster, symbol, letter, word, numeral, emblem, trademark, banner, pennant or other thing which is designed, intended or used to advertise, inform or direct attention, which is visible to the general public from a street, highway, alley, sidewalk or other public way, whether such sign is placed out of doors or in windows.

Temporary sign means a sign which is not permanently affixed to the ground or a structure and which is designed to promote or advertise a particular event or purpose.

Wall signs means any flat signs mounted, attached to or painted, in a professional manner, on the exterior wall of a building or structure. Wall signs shall not project more than 12 inches from the wall to which they are affixed.

Window signs means any flat signs mounted, attached to or painted, in a professional manner, on the interior window surface of a building or structure. Window signs shall not project more than six inches from the window to which they are affixed. A window sign shall not cover more than 50 percent of the window area. The area of window signage shall be included in the total signage area allowed by this Code.

Zoning ordinance means this chapter.

(Code 1996, § 17.72.010; Code No. 13-4283, 1/28/2013))

Sec. 110-662. - PERMITS REQUIRED.

(a) It is unlawful for any person to erect, repair, alter or relocate within the city any sign as defined in this chapter without first obtaining a sign permit from the building official and making payment of the appropriate fee. All illuminated signs shall, in addition, be subject to all the applicable electrical codes of the city.

(b) Any permit issued shall become invalid if the authorized work is suspended or abandoned for a period of six months after the time of commencing the work.

(c) Upon the termination or revocation of the permits, the permittee shall remove the sign and supports without cost or expense of any kind to the city; provided that, in the event of failure, neglect or refusal on

the part of the permittee to do so, the city, in addition to other remedies provided in this article, may proceed to remove the sign and charge expenses to the permittee.

(d) In order for a permit to be issued to a tenant occupying the property of another, a written statement from the landowner permitting the installation of a sign on the property must be received by the enforcement official.

(Code 1996, § 17.72.020)

Sec. 110-663. - REPLACEMENT OF SIGNS OR SIGN STRUCTURES.

If existing conforming signs, or their structures, are damaged by an act of nature or vandalism, a permit is not necessary for replacement, so long as the size and style are not changed from the originals.

(Code 1996, § 17.72.025)

Sec. 110-664. - TEMPORARY SIGNS.

A permit is not necessary for temporary signs posted on property where construction will be taking place. A height of six feet shall be allowed, as measured from the ground to the center of the sign. Signs are allowed 32 square feet per side of sign and must meet all setback requirements as allowed by this Code. Temporary signs shall remain on the property for no longer than six months.

(Code 1996, § 17.72.026)

Sec. 110-665. - NONCONFORMING SIGNS.

Existing nonconforming signs may remain, subject to the provisions of this article, if, following any inspection, they are ruled safe and in good repair. They shall not be enlarged, altered, moved or structurally repaired, nor shall any such sign or any part thereof that is blown down, destroyed to greater than 50 percent of its current value, or removed, be reerected, reconstructed, repaired or relocated unless it is made to comply with all applicable ordinances of the city. Nonconforming unlighted roof signs in existence on April 15, 1998, may be altered by a change in copy. This section shall not apply to portable signs.

(Code 1996, § 17.72.030)

Sec. 110-666. - UNSAFE AND UNLAWFUL SIGNS.

When any sign is in danger of falling, or otherwise unsafe, or if any sign becomes unlawfully installed, erected or maintained in violation of any of the ordinances of the city, the owner thereof or the person maintaining the sign shall upon written notice of the enforcement official, within not more than ten days, make such sign conform to the ordinances of the city or remove it. If, following the ten days after notice, the order is not complied with, the enforcement official shall notify the city attorney for action as prescribed by this article. In case of immediate danger, the enforcement official shall take immediate action to prevent damage or injury. All costs incurred shall be paid by the owner of the premises.

(Code 1996, § 17.72.040)

Sec. 110-667. - PERMIT FEE.

Every applicant before being granted a permit hereunder shall pay to the enforcement official for each sign regulated by this article a fee as shall be established and modified from time to time by city council

resolution; provided, however, that no fee shall be required for an alteration which consists solely of a change of copy and does not otherwise violate any provision of this Article..

(Code 1996, § 17.72.050; Code No. 13-4283, 1/28/2013)

Sec. 110-668. - DENIAL OF PERMIT.

If an application for a sign permit is denied by the enforcement official, notice of the denial shall be given to the applicant, together with the reason for the denial. Appeal of said denial shall be made to the zoning board of appeals. Such appeal shall be made by filing a petition requesting a hearing. Said request for a hearing shall be made in writing to the enforcement official and accompanied with a non-refundable fee of \$75.00. The enforcement official may suspend or revoke an issued permit for any false statement or misrepresentation of fact in the application.

(Code 1996, § 17.72.060)

Sec. 110-669. - INSPECTION.

Any person installing, altering or relocating a sign for which a permit has been issued shall notify the enforcement official upon completion of the work. The enforcement official may require a final inspection, including an electrical inspection and inspection of footings on freestanding signs.

(Code 1996, § 17.72.070)

Sec. 110-670. - REVOCATION OF PERMIT.

All rights and privileges acquired under this article, or any amendment thereto, are mere licenses revocable at any time by the enforcement official upon failure of the holder thereof to comply with the provisions of this article.

(Code 1996, § 17.72.080)

Sec. 110-671. - REMOVAL OF CERTAIN SIGNS.

(a) Any sign now or hereafter existing which no longer advertises a bona fide business conducted or product sold shall be taken down and removed by the owner, agent or person having the beneficial use of the building or structure upon which such sign may be found within 20 days after written notification by the enforcement official. Upon failure to comply with such notice within the time specified in such order, in addition to any other remedies provided by this article, the enforcement official is authorized to cause removal of such sign, and any expense incident thereto shall be paid by the owner of the property, building or structure to which the sign is attached.

(b) The owner of the property upon which the sign is located shall be presumed to be the owner of all signs thereon unless facts to the contrary are brought to the attention of the enforcement official.

(c) For purposes of removal, the definition of sign shall include sign embellishments and structures designed specifically to support the sign.

(Code 1996, § 17.72.090)

Sec. 110-672. - EXCEPTIONS.

All signs are prohibited in all residential districts, except when a conditional use permit has been given in

a residential district, then signs are allowed having a display area not greater than 12 square feet per side as an accessory use to a permitted conditional use. The provisions and regulations of this article shall not apply to the following signs:

- (1) Signs advertising the sale of real or personal property located on the property being sold, or where the sale of personal property will take place. Only one sign shall be placed on the property and it shall not exceed six feet in height, as measured from the ground, or 15 square feet in total display area;
- (2) Professional name plates affixed to a building not exceeding two square feet in area;
- (3) Memorial signs or tablets, names of buildings and the date of erection when cut into any masonry surface or when constructed of metal and affixed to said building;
- (4) Traffic, public utility, legal notices, municipal signs, railroad signs and such emergency signs as may be warranted in a particular situation;
- (5) Holiday decorations which are incidental, customary and commonly associated with any national, religious or local holiday;
- (6) Signs located within the interior space of a building and not readily visible from a public way. This does not exempt such signs from the structural, electrical or materials specifications as set out in the codes of the city;
- (7) "No Trespassing" signs not exceeding 1½ square feet in area and not more than two of such signs on any one premises. For good cause shown, the enforcement official may allow larger signs and more than two to be placed on the property;
- (8) Signs warning the public of the existence of danger and containing no advertising matter;
- (9) Signs directing the public to an auction sale or other temporary sale; provided the sign is not erected or placed more than 24 hours before said sale and removed immediately following said sale;
- (10) Signs advertising a particular candidate running for a national, state or local election or political issues; provided, they are not affixed to utility poles or public signs, not placed in the public right-of-way, not larger than four feet by eight feet, and are not placed more than 30 days prior to the election and removed within seven days after the election;
- (11) Signs advertising a garage, porch, rummage or yard sale; provided they are not affixed to utility poles or public signs and are not placed more than one day prior to said sale and removed immediately after said sale, but in no event shall such signs be permitted to be displayed for more than four consecutive days;
- (12) Signs placed in a storefront or building, for no longer than four weeks, which inform the public of a dinner, sale or other event;
- (13) Signs relating to construction or remodeling shall be allowed on the property upon which the work is taking place for only the period of construction and for 30 days prior or after construction thereafter, but in no event longer than six months. The size of the sign shall conform to the applicable section of the city code.

(Code 1996, § 17.72.100)

Sec. 110-673. - SIGNS NOT TO CONSTITUTE TRAFFIC HAZARD.

No sign or other advertising structure as regulated by this article shall be erected within the right-of-way owned by the city, and shall not be placed in such a manner as to constitute a traffic hazard. No sign shall be designed in such a manner or contain such a message so as to be confused with any authorized traffic, railroad or municipal sign.

(Code 1996, § 17.72.110)

Sec. 110-674. - PROHIBITED SIGNS.

The following are prohibited signs and it shall be unlawful for any person to maintain any such sign as described below:

- (1) Any sign which extends over public property which is wholly or partially illuminated by floodlight or spotlight.
- (2) Any sign which displays any obscene, as defined in 720 ILCS 5/11-20(b), matter which is offensive to the average citizen in the community under contemporary community standards, or which displays any otherwise unlawful matter.
- (3) It shall be unlawful for any person to attach or maintain any sign to a tree, public building, private sign, utility pole, street light or street sign in the public right-of-way or on private property except as specifically authorized by this article.
- (4) It shall be unlawful for any person to erect or maintain any portable sign. Any portable sign located within the city prior to the effective date of the ordinance from which this article is derived must be removed on or before January 1, 1989. The building official may allow a portable sign to be erected and maintained, for a period not to exceed 30 days, by a new business or industry which has not formerly been located within the city, if there are no other signs located on the property. The fee for such a portable sign permit shall be \$25.00.
- (5) It shall be unlawful for any person to erect or maintain an off-premises sign without first having obtained a conditional use permit issued by the city council upon recommendation by the planning and zoning commission.
- (6) Any flashing sign, subject to the provisions relating to nonconforming signs.

(Code 1996, § 17.72.120; Ord. No. 08-3676, § 2 (Exh. B), 5-12-2008)

Sec. 110-675. - GENERAL STANDARDS.

The rules set forth in this section apply to each parcel or lot of real property as described on a recorded plat or subdivision, regardless of common ownership of more than one building or parcel.

- (1) *Setback.* Each sign shall be set back from the public right-of-way a distance of at least one-half the required minimum setback building line.
- (2) *Area of ground, projecting or roof signs.* The total sign area of any ground or projecting sign or roof sign shall be determined by the sign area table in subsection (3) of this section.

(3) *Sign area table.* The following table shall be used to determine the total surface area of any ground or projecting sign oriented to any street in any business, commercial or industrial area. In the event of property having frontage on more than one street, with "frontage" being defined per this Code, only the footage of one street may be used to calculate allowable sign area. Only one ground sign shall be allowed on each parcel of real property, excluding traffic control or directional signs.

Street Frontage	
Square Feet	
Allowable Area	
(All Sides)	
Up to 20 feet	67
25	75
30	82
35	89
40	95
50	106
60	116
70	126
80	134
90	143
100	150
125	168
150	198
175	198
200	212
250	237
300	260
400 and up	300

(4) *Wall signs.* In addition to any ground sign, a wall sign located on any exterior side of the building shall be allowed having a total sign area of two square feet for each foot of building frontage

(5) *Height of ground signs.* No part of any ground sign shall exceed 26 feet in height above the public roadway in front of the property.

(6) *Signs located along Highway 38.* Signs located along Highway 38 from Caron Road east to Dement Road may have a maximum sign height of not greater than 26 feet, as measured from the ground, and shall be located not closer than 25 feet from the highway right-of-way.

(7) *Roof signs.* A roof sign shall only be allowed by the granting of a conditional use permit by the city council upon a recommendation received by the plan commission. Application for a conditional use for a roof sign shall be accompanied by certificate of a licensed engineer or architect stating that the proposed roof sign and the roof of the building upon which the sign is to be located is engineered to safely accommodate the additional weight and stress from the proposed roof sign.

(Code 1996, § 17.72.130)

Sec. 110-676. - MAINTENANCE.

All signs shall be maintained by the owner and occupant of the property upon which they are located. If, in the opinion of the enforcement official, a sign has deteriorated to a point where repair of the sign would exceed the current value of the sign, then the sign must be removed by the property owner within 30 days of written notice given by the enforcement official.

(Code 1996, § 17.72.140)

Sec. 110-677. - VARIANCES.

(a) In obtaining a permit, the applicant may apply to the enforcement official for a variance from certain requirements of this article. A variance may be recommended by the zoning board of appeals and granted by the city council where a literal application of this article would create a particular hardship for the applicant. In such a case, the following criteria shall be followed:

- (1) The granting of the requested variance would not be materially detrimental to the property owners in the vicinity.
- (2) The hardship caused the applicant under a literal interpretation of this article is due to conditions unique to that property and does not apply generally to the city.
- (3) The granting of the variance would not be contrary to the general objectives of this article.

(b) In granting a variance, the enforcement official, zoning board of appeals or city council may attach additional requirements necessary to carry out the spirit and purpose of this article in the public interest.

(Code 1996, § 17.72.150)

Sec. 110-678. - OFF-PREMISES SIGNS.

(a) An off-premises sign is allowed only by the issuance of a conditional use permit by the city council upon recommendation by the planning and zoning commission. The following minimal requirements must be met before the submittal of an application for an off-premises sign conditional use permit:

- (1) The off-premises sign must be located in the same subdivision as the location of business advertised on the off-premises sign.
- (2) The total square footage of signage both at the location of the business and on the off-premises sign would not be greater than the total signage allowed at the business location.
- (3) Proof of an agreement between the owner of the business being advertised and the owner of the property upon which the off-premises sign is to be located.
- (4) The off-premises sign would strictly comply with the requirements of this article as to height.
- (5) Applicable setbacks from adjacent roadways would be complied with.

(b) The city council and planning and zoning commission on their recommendation may, in their sole discretion, deny a request for an off-premises sign even though the above minimum criteria have been met by the applicant, or they may add additional conditions or requirements to the issuance of a conditional use permit.

(Code 1996, § 17.72.155; Ord. No. 08-3676, § 2 (Exh. B), 5-12-2008)

Sec. 110-679. - PENALTY.

Any corporation, business, partnership, legal entity or person violating any of the provisions of this article shall be guilty of a violation of the this Code, and upon conviction thereof be subject to punishment in accordance with section 1-15. Each day such a violation is committed, or permitted to continue, shall constitute a separate offense.

(Code 1996, § 17.72.160)

Secs. 110-680—110-700. - RESERVED.

ARTICLE XIV. - ANTENNAS AND SATELLITE DISHES

Sec. 110-701. - Purpose; intent.

Sec. 110-702. - Definitions.

Sec. 110-703. - Permits.

Sec. 110-704. - General requirements.

Sec. 110-705. - Prohibited uses.

Sec. 110-706. - Permitted uses in commercial and industrial zones.

Sec. 110-707. - Special uses.

Sec. 110-708. - Application for special use permit for antenna.

Sec. 110-709. - Collocation protocol.

Sec. 110-710. - Abandoned facilities.

Secs. 110-711—110-730. - Reserved.

Sec. 110-701. - PURPOSE; INTENT.

It is the intent and purpose of this article to permit antennas and satellite dishes where they can be installed with minimal visual impact by encouraging collocation and other aesthetic measures, without creating adverse economic or safety impacts and promoting the health, safety and general welfare of the community. Furthermore, it is the intent of this article to ensure compliance with Federal Communications Commission (FCC) regulations as they relate to the promotion of universal service and competitive contracting by ensuring fairness through the creation of clear and objective approval criteria.

(Code 1996, § 17.74.010)

Sec. 110-702. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Antenna means a device in the form of a metal rod, wire panel or dish for transmitting or receiving radio, television, telephone or other telecommunication signals including any supporting tower, pole, mast or building to which it is affixed.

Collocation means the placement of two or more antenna systems or platforms by separate FCC license holders on the same structure, building, water tank, or utility pole.

Height. The height of an antenna or satellite dish shall be measured vertically from the highest point of the signal receiving/transmitting apparatus, when positioned for operation, to the bottom of the base, which supports the antenna.

Publicly owned property means property in any district owned, leased, or otherwise controlled by a governmental entity.

Satellite signal receiving antenna and satellite dish mean a device designed for the purpose of receiving and converting earth orbiting satellite communications signals. It may be a solid, open mesh or bar configured structure typically in the shape of a shallow dish or parabola. Said antennas of this type are hereinafter referred to as "satellite dishes."

Usable satellite signal means a satellite signal which, when converted and viewed on a conventional television set, is at least equal in picture quality to that received from local commercial television stations or by way of cable television.

(Code 1996, § 17.74.020)

Sec. 110-703. - PERMITS.

(a) *Required.* Building and electrical permits shall be required prior to the erection of an antenna or satellite dish, except as provided for in subsection (b) of this section. The plans and specifications shall meet or exceed the applicable requirements of chapter 22

(b) *Exceptions.*

(1) The private use of an antenna or satellite dish for the reception or transmission of radio or television signals, ham radio signals, or citizen band transmissions, of a height no greater than 45 feet, is exempt from the requirements of an engineering report or conditional use permit.

(2) The private use of an antennae or satellite dish for the reception or transmission of radio or television signals, ham radio signals, citizen band transmissions, cellular, microwave, or other electronic or light transmissions, of a height no greater than 150 feet, is exempt from the requirements of an engineering report or conditional use permit if located in an I-3 zoning district, provided said height is within the allowable airport protected airspace limitations.

(Code 1996, § 17.74.030)

Sec. 110-704. - GENERAL REQUIREMENTS.

(a) *Federal Communications Commission requirements.* All antennas, towers, and satellite dishes shall comply with all Federal Communications Commission (FCC) requirements.

(b) *Maximum number on lot.* Each business or residential lot shall have not more than one antenna, tower, or satellite dish, except for radio or television studios or amateur radio operators licensed by the FCC. Businesses selling satellite dishes shall be allowed a maximum of three satellite dishes located outdoors and only one of these shall be allowed in front of the building.

(c) *Location on lot.* An antenna, tower, or satellite dish shall be located in the side or rear yard. In the situation of a corner lot, the antenna, tower, or satellite dish shall not be closer to the adjoining side street than the principal building.

- (d) *Placement on roof.* In the event that a usable satellite signal cannot be obtained from the rear yard or side yard of the property, such antenna, tower, or satellite dish may be placed on the roof of a building subject to the other requirements of this section.
- (e) *Visibility; screening.* Satellite dishes shall not be visible between the ground level and ten feet above ground from any street adjoining the property. Screening used to achieve this requirement shall be in compliance with the building code and the provisions of this chapter.
- (f) *Maximum size; color.* Within residential zoning districts, the diameter of satellite dishes shall not exceed 12 feet. The dish and supporting structure shall be neutral in color and shall, as much as possible, blend with the character and appearance of the neighborhood.
- (g) *Advertisements.* No antenna or satellite dish shall be used or serve as a sign or bear an advertising emblem other than the name of the manufacturer in letters not to exceed two inches in height.
- (h) *Guy wires.* Guy wires, only where necessary, shall not be anchored within any front yard area but may be attached to the building.
- (i) *Safety wire.* Whenever an antenna is installed within a distance less than the height of the tower to power or telephone lines, or where damage would be caused by its falling, a separate safety wire must be attached to the antenna or mast or tower and secured in a direction away from the hazard.
- (j) *Installation and materials.* Antennas, towers, and satellite dishes shall meet and be installed according to all manufacturers' specifications. The mast or tower shall be constructed of noncombustible materials, unless otherwise approved by Underwriters' Laboratories (UL). Brackets, turnbuckles, clips, and similar type equipment shall be protected with materials approved by Underwriters' Laboratories (UL).
- (k) *Setbacks.* Antennas, towers, or satellite dishes shall meet the setback requirement for a primary structure for the zoning district in which the facilities are located.
- (l) *Exemption for residential use.* The residential use of an antenna or satellite dish for the reception of radio of television signals, ham radio signals, or citizen band transmissions in excess of 45 feet shall be considered a special use and shall meet the requirements of article II, division 2 of this chapter, but will be exempt from the requirements of section 110-708
- (m) *Exemptions for I-3 district.* Notwithstanding anything contained herein to the contrary, the provisions of subsections (b)—(f) of this section shall not be deemed to apply in I-3 zoning districts.

(Code 1996, § 17.74.040)

Sec. 110-705. - PROHIBITED USES.

The following uses are prohibited: Towers or antennas in residential districts: A tower or antenna used for any commercial or other non-residential purposes, including the placement of other support equipment or buildings, used in connection with the tower or antenna in any residential district, including the planned unit development district, except by conditional use as provided in section 110-707.

(Code 1996, § 17.74.050)

Sec. 110-706. - PERMITTED USES IN COMMERCIAL AND INDUSTRIAL ZONES.

- (a) Collocating antennas on existing towers in industrial or commercial zones, or on publicly owned

property, or antennas on an existing communication tower of any height, is permitted, provided that:

- (1) The additional antennas are cumulatively no more than 22 feet higher than the existing tower;
- (2) The antenna is neutral in color; and
- (3) A qualified engineer submits evidence that the existing structure can adequately support the proposed collocation apparatus.

(b) Collocating antennas on existing non-tower structures in industrial or commercial zones, or on publicly owned property, or antennas on an existing structure other than a tower (such as a building, water tank, sign, utility pole, power pole, or other structure), is permitted, provided that:

- (1) The additional antennas are cumulatively no more than 22 feet higher than the existing structure;
- (2) The antenna is neutral in color; and
- (3) A qualified engineer submits evidence that the existing structure can adequately support the proposed collocation apparatus.

(c) Notwithstanding anything contained herein to the contrary, in I-3 zoning districts, collocating antennas on existing towers and collocating antennas on existing non-tower structures shall be a permitted use unless otherwise prohibited by Federal Aviation Administration (FAA) airspace limitations, the cumulative height of the additional antennas on the existing towers or non-tower structures shall not exceed 22 feet more than the maximum allowable height requirements in section 110-321

(Code 1996, § 17.74.060)

Sec. 110-707. - SPECIAL USES.

The following uses may be permitted under the conditions and requirements specified in article II, division 2 of this chapter (conditional use permits) in addition to those outlined below:

(1) Collocating antennas on existing non-tower structures or existing commercial towers in residential districts: Antennas on an existing structure (such as a building (excluding dwelling units), water tank, sign, utility pole, or other structure), provided that:

- a. The additional antennas are cumulatively no more than 22 feet higher than the existing structure;
- b. The antenna is neutral in color; and
- c. A qualified engineer submits evidence that the existing structure can adequately support the proposed collocation apparatus.

(2) Towers or antennas in commercial or industrial zones or on publicly owned property: Antennas or towers of any height, including the placement of other supporting equipment and accessory buildings. Any equipment shelter shall comply with development standards (i.e., setbacks, height limitations, bulk, etc.) of the property's zoning district classification.

(Code 1996, § 17.74.070)

Sec. 110-708. - APPLICATION FOR SPECIAL USE PERMIT FOR ANTENNA.

In addition to the requirements of article II, division 2 of this chapter (conditional use permits), the applicant shall be required to submit information that includes, but is not necessarily limited to, how the proposed conditional use will satisfy the following conditions:

(1) *Points of visual interest to be protected.* Views from residential structures located within 250 feet of the proposed antenna or tower to the following points of visual interest shall be protected to the greatest practical extent:

- a. Public open spaces.
- b. Natural areas as defined on the development plan.
- c. Landmark structures.

(2) *Methods for protecting points of visual interest.* The following standards shall be used to protect the above identified points of visual interest to the greatest practical extent if views from a residential structure located within 250 feet from a proposed antenna or tower to a point of visual interest specifically identified above, are significantly impacted. The applicant shall:

- a. Examine locations within the same area where such visual impacts can be minimized.
- b. Investigate alternative tower designs that can be used to minimize the interruptions of views from the residence to the point of visual interest.
- c. Minimize visual impacts to the point of visual interest referred to above, by demonstrating that collocation or the use of other structures within the service area is not feasible at this time.
- d. Minimize visual impacts by varying the setbacks or landscape standards that would otherwise be applicable, so long as the overall impact of the proposed development is as good as or better than that which would otherwise be required without said variations.

(3) *Color.* Antennas or towers and their support structures shall be a neutral color that is the same or similar in color as the supporting structure to make the antenna and equipment as visually unobtrusive as possible, unless otherwise specified under Federal Aviation Administration (FAA) standards.

(4) *Height.* Antennas or towers shall not exceed the maximum building height plus 15 feet, in the zoning district in which it is located, applicants who wish to exceed this height shall provide evidence demonstrating the need for exceeding this maximum standard.

(5) *Preapplication requirement.*

- a. *Purpose.* The purpose of this requirement is to create a process that will allow providers to equitably share publicly available, nonproprietary information among themselves, with interested persons and agencies, and with the city, at the time the provider schedules a preapplication conference with the city. This collocation protocol is designed to increase the likelihood that all reasonable opportunities for collocation have been investigated and that the appropriate information has been shared among the providers. The city recognizes that collocation is preferable, where technologically feasible and visually desirable, as a matter of public policy, but that collocation of antennas by providers is not always feasible for technical

or business reasons. However, if all licensed providers are made aware of any pending tower or antenna permit requests, such disclosure will allow providers to have the maximum amount of time to consider possible collocation opportunities, and will also assure the city that all reasonable accommodations for collocation have been investigated.

b. *Collocation request letter requirement.* At the time of preapplication conference, the applicant shall demonstrate that the following notice was mailed to all other providers rendering service within the city:

Pursuant to the requirements of section 110-708, (applicant) is hereby providing you with notice of our intent to meet with the City of Rochelle in a pre-application conference to discuss the location of a wireless communication facility that would be located at _____. In general, we plan to construct a support structure of _____ feet in height for the purpose of providing (Cellular, PCS, etc.) service.

Please inform us whether you have any existing or pending antenna or tower facilities located within _____ feet of the proposed facility that may be available for possible collocation opportunities. Please provide us with this information within ten business days after the date of this letter. Your cooperation is appreciated.

Sincerely, (applicant)

c. *Setback from adjacent residential property.* Antennas or towers shall be set back from any existing adjacent residential property line by a distance equal to the height of the tower, unless building plans are submitted demonstrating that the tower will collapse within itself. Such building plans shall be affixed with the seal of a certified structural engineer.

d. *Lighting.* None allowed except as required by the Federal Aviation Administration (FAA).

e. *Fencing and security.* For security, antennas or towers and ancillary facilities shall be enclosed by a fence not less than six feet in height.

f. *Landscaping and screening.* Landscaping shall be placed outside the required fence area on side facing public rights-of-way or residential areas and shall consist of a fast growing vegetation with a minimum planted height of four feet, spaced evenly at intervals equal to twice the expected width of the plant material. Any landscaping standards of the property's zoning district shall also apply.

g. *Noise.* Noise generating equipment shall be sound buffered by means of baffling, barriers, or other suitable means to reduce sound level measured at the property line to 30 dB(A) when adjacent to residential areas and 45 dB(A) in other areas.

h. *Tower design.* Towers shall generally be designed without the use of guy wires or external supports. In instances where such a requirement may not be feasible, appropriate documentation shall be provided by the petitioner, demonstrating why such a tower is not feasible. The applicant will offer alternatives to the design so as to minimize the visual impact of the tower.

i. *Collocation protocol.* Any special use request for the erection of a new tower shall complete the collocation protocol as outlined in section 110-709

(Code 1996, § 17.74.080)

Sec. 110-709. - COLLOCATION PROTOCOL.

If a response to a collocation request letter is received by an applicant indicating an opportunity for collocation, the applicant shall analyze the feasibility of collocation. This analysis shall be submitted with an application for any support structure.

(1) *Required information.* The investigation of the feasibility of collocation shall be deemed to have occurred if the applicant submits all of the following information:

- a. A statement from a qualified engineer indicating whether the necessary service can or cannot be provided by collocation at the possible location site;
- b. Evidence that the lessor of the possible collocation site either agrees or disagrees to collocation on his property;
- c. Evidence that adequate access does or does not exist at the possible collocation site to accommodate needed equipment and meet all of the site development standards.
- d. Evidence that adequate access does or does not exist at the possible collocation site.

(2) *Result of analysis.* If the applicant has provided information addressing each of the criteria in subsection (1) of this section, the collocation protocol shall be deemed complete.

(Code 1996, § 17.74.090)

Sec. 110-710. - ABANDONED FACILITIES.

An antenna or satellite dish that has been discontinued for a period of six consecutive months or longer is hereby declared abandoned. Abandoned facilities shall be removed by the property owner within 90 days of abandonment. Failure to remove an abandoned facility is declared a public nuisance and is subject to penalties as outlined in this Code.

(Code 1996, § 17.74.100)

Secs. 110-711—110-730. - RESERVED.

ARTICLE XV. - EXCEPTIONS AND MODIFICATIONS

Sec. 110-731. - Height.
Sec. 110-732. - Yards.
Sec. 110-733. - Residential fences.
Sec. 110-734. - Security fences.
Sec. 110-735. - Farm fences.
Sec. 110-736. - Accessory buildings.
Sec. 110-737. - Stables and kennels.
Sec. 110-738. - Essential services.
Sec. 110-739. - Landscaping and vegetation.
Sec. 110-740. - Outdoor storage lots.

Sec. 110-731. - HEIGHT.

The district height limitations stipulated elsewhere in this chapter may be exceeded, but such modification shall be in accordance with the following:

- (1) Architectural projections, such as spires, belfries, parapet walls, cupolas, domes, flues and chimneys, are exempt from the height limitations of this chapter.
- (2) Special structures, such as elevator penthouses, gas tanks, grain elevators, barns, silos or other farm buildings, scenery lofts, radio and television receiving antennas, manufacturing equipment and necessary mechanical appurtenances, cooling towers, fire towers, substations, smokestacks, flagpoles, and outdoor theater screens (provided said screens contain no advertising matter), are exempt from the height limitations of this chapter.
- (3) Essential services, utilities, water towers, electric power and communication transmission lines are exempt from the height limitations of this chapter.
- (4) Communication structures, such as radio and television transmission and relay towers, aerials, and observation towers, shall not exceed in height three times their distance from the nearest lot line.
- (5) Public or semipublic facilities, such as schools, churches, hospitals, monuments, sanitariums, libraries, governmental offices and stations, may be erected to a height of 60 feet; provided that all required yards are increased not less than one foot for each foot the structure exceeds the district's maximum height requirement.

(Code 1996, § 17.76.010)

Sec. 110-732. - YARDS.

The yard requirements stipulated elsewhere in this chapter may be modified as follows:

- (1) Uncovered stairs, landings and fire escapes may project into any yard, but not to exceed six feet and not closer than three feet to any lot line.

- (2) Architectural projections, such as chimneys, flues, sills, eaves, belt courses, and ornaments may project into any required yard; but such projection shall not exceed four feet, subject to the limitation that in no event shall the projection ever be closer than three feet from the applicable lot line.

(Code 1996, § 17.76.020)

Sec. 110-733. - RESIDENTIAL FENCES.

Fences or walls not over six feet in height are permitted, except that:

- (1) On corner lots, no fence or wall will extend beyond the street setback requirements, or building line, whichever is greater.
- (2) On interior lots, fences or walls will be permitted on the rear lot only, or where:
 - a. Adjacent to a corner lot where the fence is established by an existing fence or wall of the corner lot.
 - b. Building line at the front of the adjacent corner lot where there is no fence or wall existing.
 - c. Fences or walls may be extended along the side lot line to include an egress door which is located within the rear 20 feet of a building, or which is established by an existing adjacent fence or wall.
- (3) No fences or walls will be permitted in areas established as utility easements unless provision is made for removal when required for maintenance, installation or replacement of utilities.

(Code 1996, § 17.76.030)

Sec. 110-734. - SECURITY FENCES.

Fences are permitted on the property lines in all districts except residential districts, but shall not exceed ten feet in height and shall be of an open type similar to woven wire or wrought iron fencing.

(Code 1996, § 17.76.040)

Sec. 110-735. - Farm fences.

Fences of any height shall be permitted in connection with any farm use; except that the requirement of traffic visibility at intersections shall be observed.

(Code 1996, § 17.76.050)

Sec. 110-736. - ACCESSORY BUILDINGS.

No accessory building shall be erected in any required court, or in any yard other than a rear yard, except as provided in this section. Accessory buildings shall be a distance of at least ten feet from alley lines and from any other separate building or other structure on the same lot, and at least five feet from lot lines of adjoining lots which are in any residential district; and on a corner lot they shall conform to the setback regulations of the side street. Accessory buildings, except stables, may be erected as part of the principal building or, if at least six feet therefrom, may be connected thereto by a breezeway or similar structure; provided, that all yard requirements for a principal building are complied with. An accessory building

which is not a part of the main building shall not occupy more than 33 percent of total lot coverage and shall not exceed 12 feet in height. No accessory building shall be constructed upon a lot until the construction of the main building has been actually commenced, and no accessory building shall be used unless the main building on the lot also is being used. Notwithstanding the foregoing, the provisions of this section shall not apply to a railroad hub facility located in an I-3 zoning district. A railroad hub facility located in an I-3 zoning district may have more than one principal building on a lot, as well as multiple accessory buildings, regardless of total lot coverage.

(Code 1996, § 17.76.060)

Sec. 110-737. - STABLES AND KENNELS.

Stables and kennels shall not be permitted on property situated in districts of any classification; except that a permit, valid for one year only and renewable at the option of the council, may be granted by the council for the temporary erection and maintenance of a stable or kennel when the council is advised by the planning and zoning commission that each would not be inconsistent with the purposes of this chapter.

(Code 1996, § 17.76.070; Ord. No. 08-3676, § 2 (Exh. B), 5-12-2008)

Sec. 110-738. - ESSENTIAL SERVICES.

Essential services, city-owned utilities, electric power and communication transmission lines are exempt from the requirements of this chapter.

(Code 1996, § 17.76.080)

Sec. 110-739. - LANDSCAPING AND VEGETATION.

Landscaping and vegetation are exempt from the yard requirements of this chapter, except vision triangle requirements.

(Code 1996, § 17.76.090)

Sec. 110-740. - OUTDOOR STORAGE LOTS.

If allowed by this chapter, outdoor storage lots shall be constructed of an all-weather dustfree surface. The foregoing requirement shall not be applicable to a railroad hub facility in an I-3 zoning district.

(Code 1996, § 17.76.100)

CODE COMPARATIVE TABLE

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