OFFICIALS

OF THE

CITY OF McHenry, Illinois

SUSAN E. LOW
MAYOR

DERIK MOREFIELD
CITY ADMINISTRATOR

ALDERMEN

VICTOR A. SANTI, WARD 1
ANDREW A. GLAB, WARD 2
JEFFREY A. SCHAEFER, WARD 3
SCOTT L. CURRY, WARD 4
RICHARD W. WIMMER, WARD 5
ROBERT J. PETERSON, WARD 6
GERI A. CONDON, WARD 7

DAVID W. McARDLE
CORPORATE ATTORNEY

PATRICK McANDREWS
TRAFFIC ATTORNEY

JANICE C. JONES
CITY CLERK
This Code is a codification of the ordinances of McHenry, Illinois of a general and permanent nature. As expressed in the Adopting Ordinance, the Code supersedes all such ordinances not included therein or recognized as continuing in force by reference thereto.

The Chapters, for the most part, are in alphabetical order and the Sections within each Chapter are catchlined to facilitate usage. Footnotes which tie related Sections of the Code together have been included. The source of each new Section added after adoption of this codification is indicated by the history note appearing in parentheses at the end thereof.

The numbering system used in this Code is the same system used in many state and municipal codes. Each section number consists of two component parts separated by a dash, the figure before the dash representing the Chapter number and the figure after the dash indicating the position of the Section within the Chapter. Thus, the first Section of Chapter 1 is numbered 1-1 and the fourteenth Section of Chapter 20 is 20-14. Under this system each Section is identified with its Chapter and, at the same time, new Sections or even whole Chapters can be inserted in their proper places, simply by using the decimal system for amendments. By way of illustration: If new material consisting of three Sections that would logically come between Sections 4-4 and 4-5 is desired to be added, such new Sections would be numbered 4-1.1, 4-4.2, 4-4.3 respectively. New Chapters may be included by the addition of a fraction after the Chapter number; e.g., if the new material is to be included between Chapters 12 and 13 it will be designated Chapter 12 1/2. New Articles and new Divisions 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 being assigned to the Article or Division.

Each particular item of the index has been placed under several headings, some of the headings being couched in lay phraseology, others in legal terminology, and still others in language generally used by municipal officials and employees. There are numerous cross references within the index itself which stand as guideposts to direct the user to the particular item in which he is interested.
ADOPTING ORDINANCE

An Ordinance Adopting and Enacting a New Code of Ordinances of the City of McHenry, Illinois; Establishing the Same; Providing for the Repeal of Certain Ordinances not Included Therein, Except as Herein Expressly Provided; Providing for the Manner of Amending Such Code of Ordinances; And Providing When This Ordinance Shall Become Effective.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF McHENRY, ILLINOIS, as follows:

Section 1: That this Ordinance, consisting of Chapters 1 through 28, inclusive, is hereby adopted and enacted as the "McHenry Municipal Code," and shall be treated and considered as a new and original comprehensive ordinance which shall supercede all other general and permanent ordinances passed by the City Council, except such as by reference thereto are expressly saved from repeal or continued in force and effect for any purpose.

Section 2: That all provisions of such Code shall be in full force and effect from and after December 4, 1987, and all ordinances of a general and permanent nature of the City of McHenry, adopted on or before November 24, 1987, and not in such Code or recognized and continued in force by reference therein are hereby repealed from and after the effective date of such Code, except as hereinafter provided.

Section 3: That the repeal provided for in Section 2 hereof 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 such Code;

(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 obligations assumed by the City;

(3) The administrative ordinances or resolutions of the City Council not in conflict or inconsistent with the provisions of such Code;

(4) Any right or franchise granted by any ordinances of the City;

(5) Any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., or otherwise affecting any specific street or public way in the City;

(6) Any appropriation ordinances;

(7) Any ordinance levying or imposing taxes;
Any ordinance establishing employment grades in the City;

Any ordinance providing for local improvements and making assessments therefore;

Any ordinance dedicating or accepting any plat or subdivision in the City;

Any ordinance changing the boundaries of the City;

Any ordinance prescribing the number, classification of compensation of any City officers or employees, not inconsistent herewith.

Such repeal shall not be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance which is repealed by this ordinance.

Section 4: That any and all additions or amendments to such Code when passed in such form as to indicate the intention of the City Council to make the same a part thereof, shall be deemed to be incorporated in such Code so that reference to the "McHenry Municipal Code" shall be understood as intended to include such additions and amendments.

Section 5: That a copy of such Code shall be kept on file in the office of the City Clerk, preserved in loose leaf form. It shall be the express duty of the City Clerk, or someone authorized by the Clerk, to insert in their designated places all amendments or ordinances which indicate the intention of the City Council to make the same a part of such Code when the same have been printed or reprinted in page form, and to extract from such Code all provisions which may from time to time be repealed by the City Council. This copy of such Code shall be available for all persons desiring to examine the same and shall be considered the official Code of Ordinances of McHenry, Illinois.

Section 6: Whenever in such Code or in any ordinance of the City any act is prohibited or is made or declared to be unlawful or a misdemeanor, or whenever in such Code or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful or a misdemeanor, where no specific penalty is provided therefore, the violation of any such provision of this Code or any ordinance shall be punished by a fine of not less than Twenty-Five Dollars ($25.00) nor more than Five Hundred Dollars ($500.00). Each day any violation of any provisions of this Code or of any ordinance shall continue shall constitute a separate offense.

Section 7: That in case of the amendment of any section of such Code for which a penalty is not provided, the general penalty as provided in Section 6 of this ordinance and Section 1-8 of such Code shall apply to the section as amended. In case such amendment contains provisions for which a penalty, other than the aforementioned general penalty, is provided, in another section in the same chapter, the penalty so provided in such other section shall be held to relate to the section so amended, unless such penalty is specifically repealed therein.
Section 8: That all ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

Section 9: That this ordinance shall be in full force and effect from and after December 4, 1987.

Section 10: That this ordinance and the Code adopted hereby shall be printed and published in book or pamphlet form by the authority of the Mayor and City Council of the City of McHenry, Illinois.

PASSED and APPROVED this 24th day of November, 1987.

AYES: Bolger, Lieder, McClatchey, Patterson, Serritella, Smith, Teta.

NAYS: None.

ABSENT: None.

NOT VOTING: None.

ABSTAINED: None.

/signed/ William J. Busse
Mayor

ATTEST:

/signed/Barbara E. Gilpin
City Clerk
TABLE OF CONTENTS

Officials of City at Time of This Codification .................. ii
Preface .................................................................. iii
Ordinance Adopting Code ........................................ iv

CODE OF ORDINANCES

Chapter

1. General Provisions ................................................. 1

2. Administration ...................................................... 20
   Art. I. In General ............................................. 20
   Art. II. Mayor ................................................. 20
   Art. III. City Council ......................................... 22
   Code of Ethics .................................................. 24
   Art. IV. Officers and Employees ......................... 34
   Div. 1. Generally ............................................. 34
   Div. 2. City Clerk ............................................ 36
   Div. 3. City Treasurer ........................................ 38
   Div. 4. City Attorney ......................................... 39
   Div. 5. Finance Director .................................... 39
   Div. 6. Director of Public Works ......................... 41
   Div. 7. City Administrator .................................. 42
   Art. V. Emergency Services and Disaster Agency .... 43
   Art. VI. Reimbursement to City for Expenses Incurred in
   Annexation Proceedings ..................................... 46
   Art. VII. McHenry Historic Preservation Ordinance .. 48
   Art. VIII. Planning and Zoning Commission .......... 48
   Art. IX. Economic Development Commission .......... 51

2.25 Administrative Adjudication .................................. 60

2.50 Adult Uses ..................................................... 85
   Art. I. Definitions ........................................... 85
   Art. II. Adult Business License ......................... 90
   Art. III. Massage Establishments and Massage Therapists 95
   Art. IV. Public Nudity ....................................... 105

3. Advertising ........................................................ 106
   Art. I. In General ........................................... 106
   Art. II. Handbills ............................................. 107
4. Alcoholic Beverages
   110
5. Amusements
   135
6. Animals and Fowl
   Art. I. In General
   150
   Art. II. Dogs
   152
7. Buildings and Building Regulations
   Art. I. In General
   165
   Art. II. Illinois Plumbing Code
   175
   Art. III. International Building Code
   176
   Art. IV. International Energy Conservation Code
   177
   Art. V. International Fire Code
   178
   Art. VI. International Fuel Gas Code
   179
   Art. VII. International Mechanical Code
   179
   Art. VIII. International Property Maintenance Code
   180
   Art. IX. International Residential Code
   182
   Art. X. National Electric Code
   185
   Art. XI. Fences
   189
   Art. XII. Moving
   191
   Art. XIII. Parabolic-Dish Type Antennas
   192
   Art. XIV. Residential Teardown Sites and Infill Properties
   194
   Art. XV. Solar Energy
   202
   Art. XVI. Storm Sewers
   205
   Art. XVII. Substandard and Dangerous Buildings
   206
   Art. XVIII. Wind Energy Conversion Systems (WECS)
   208

7.50 Signs
   230
7.75 Community Antenna Television Systems
   270
8. Development in Special Flood Hazard Areas
   280
9. Devices, Coin-Operated
   335
10. Fire Protection and Prevention
    Art. I. Open Fires
    350
    Art. II. Fireworks and Explosives
    351
10.50 Garage Sales
    360
11. Health and Sanitation
    Art. I. Reserved
    370
    Art. II. Food and Food Handlers
    370
    Div. 1. Generally
    370
    Div. 2. Restaurants
    372
    Div. 3. Milk and Milk Products
    374
    Div. 4. Food Deliveries
    376
<table>
<thead>
<tr>
<th>Article</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Art. III</td>
<td>Garbage and Refuse Generally</td>
<td>377</td>
</tr>
<tr>
<td>Art. IV</td>
<td>Scavengers</td>
<td>379</td>
</tr>
<tr>
<td></td>
<td>Div. 1. Generally</td>
<td>379</td>
</tr>
<tr>
<td></td>
<td>Div. 2. License</td>
<td>379</td>
</tr>
<tr>
<td>Art. V</td>
<td>No Smoking</td>
<td>380</td>
</tr>
<tr>
<td>Art. VI</td>
<td>Housing Maintenance and Occupancy Code</td>
<td>381</td>
</tr>
<tr>
<td></td>
<td>Div. 1. General Provisions</td>
<td>381</td>
</tr>
<tr>
<td></td>
<td>Div. 2. Definitions</td>
<td>381</td>
</tr>
<tr>
<td></td>
<td>Div. 3. Responsibilities of Owners and Occupants</td>
<td>385</td>
</tr>
<tr>
<td></td>
<td>Div. 4. Minimum Standards for Basic Equipment and Facilities</td>
<td>386</td>
</tr>
<tr>
<td></td>
<td>Div. 5. General Requirements Relating to the Safe and Sanitary</td>
<td>387</td>
</tr>
<tr>
<td></td>
<td>Maintenance of Parts of Dwellings/Dwelling Units</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Div. 6. Enforcement</td>
<td>389</td>
</tr>
<tr>
<td></td>
<td>Div. 7. Emergencies</td>
<td>389</td>
</tr>
<tr>
<td>Art. VII</td>
<td>Leaf Pick-Up Service</td>
<td>390</td>
</tr>
<tr>
<td>12.</td>
<td>Licenses and Permits Generally</td>
<td>400</td>
</tr>
<tr>
<td></td>
<td>Art. I. Pawnbrokers and Secondhand Dealers</td>
<td>402</td>
</tr>
<tr>
<td></td>
<td>Div. 1. Generally</td>
<td>402</td>
</tr>
<tr>
<td></td>
<td>Div. 2. License</td>
<td>407</td>
</tr>
<tr>
<td></td>
<td>Div. 3. Penalties</td>
<td>408</td>
</tr>
<tr>
<td></td>
<td>Art. II. Flea Markets</td>
<td>409</td>
</tr>
<tr>
<td></td>
<td>Art. III. Raffles</td>
<td>411</td>
</tr>
<tr>
<td>13.</td>
<td>Motor Vehicles and Traffic</td>
<td>420</td>
</tr>
<tr>
<td></td>
<td>Article I. In General</td>
<td>420</td>
</tr>
<tr>
<td></td>
<td>Article II. Vehicle Impoundment</td>
<td>420</td>
</tr>
<tr>
<td>14.</td>
<td>Offenses – Miscellaneous</td>
<td>430</td>
</tr>
<tr>
<td></td>
<td>Art. I. In General</td>
<td>430</td>
</tr>
<tr>
<td></td>
<td>Art. II. Immorality</td>
<td>448</td>
</tr>
<tr>
<td></td>
<td>Art. III. Weapons</td>
<td>449</td>
</tr>
<tr>
<td></td>
<td>Art. IV. Drug Paraphernalia; Possession of Cannabis</td>
<td>449</td>
</tr>
<tr>
<td>15.</td>
<td>Parades, Processions and Public Gatherings</td>
<td>470</td>
</tr>
<tr>
<td>16.</td>
<td>Parks and Recreation</td>
<td>500</td>
</tr>
<tr>
<td>17.</td>
<td>Planning and Zoning</td>
<td>540</td>
</tr>
<tr>
<td></td>
<td>Art I. Planning and Zoning Generally</td>
<td>540</td>
</tr>
<tr>
<td></td>
<td>Art II. Storm Water Management</td>
<td>542</td>
</tr>
<tr>
<td>18.</td>
<td>Police</td>
<td>570</td>
</tr>
<tr>
<td></td>
<td>Art. I. In General</td>
<td>570</td>
</tr>
<tr>
<td></td>
<td>Art. II. Administration</td>
<td>572</td>
</tr>
<tr>
<td></td>
<td>Art. III. Applications</td>
<td>573</td>
</tr>
<tr>
<td></td>
<td>Art. IV. Original Appointments</td>
<td>574</td>
</tr>
<tr>
<td></td>
<td>Art. V. Promotional Examinations</td>
<td>579</td>
</tr>
<tr>
<td></td>
<td>Art. VI. Police Officer Lateral Entry Program</td>
<td>580</td>
</tr>
</tbody>
</table>
Art. VII  Order of Rank, Classification and Oath of Office 584
Art. VIII  Hearing of Charges, Removal to Lower Rank, Suspension & Discharge 585
Art. IX.  Police Alarm Systems 589

18.50. Soil Erosion and Sedimentation Control 596

19. Solicitors and Transient Merchants 615

20. Special Sales (Fire, Going Out of Business Sales) 630

21. Streets and Sidewalks 660
   Art. I.  In General 660
   Art. II. Excavations and Tunneling 664
   Art. III. Reserved 666
   Art. IV. Encroachments 667

22. Swimming Pools Deleted in its Entirety and Reserved 700

23. Taxation 730
   Art. I.  Hotel/Motel Tax 730
   Art. II. Retailer's Occupation Tax 732
   Art. III. Service Occupation Tax 732
   Art. IV. Home Rule Municipal Retailer’s Occupation and Service Tax 733
   Art. V  Tax Abatment 734
   Art. VI  Simplified Municipal Telecommunications Tax 735

24. Trees, Shrubs and Noxious Growths 770
   Art. I.  In General 770
   Art. II. Weeds and Noxious Growths 774
   Art. III  Tree Preservation Ordinance 775

25. Vehicles for Hire 800
   Art. I.  Reserved 800
   Art. II. Taxicabs 800

26. Water and Sewers 820
   Art. I.  Water 820
      Div. 1. Generally 820
      Div. 2. Service Pipes 825
      Div. 3. Meters and Charges 826
      Div. 4. Private Water Wells & Supplies 830
      Div. 5. Reserved 830
      Div. 6. Cross-Connection Control 831
   Art. II.  Sewers 832
      Div. 1. Generally 832
      Div. 2. Private Sewage Disposal 839
      Div. 3. Building Sewers and Connections 840
      Div. 4. Use of Public Sewers 842
      Div. 5. Rates and Charges 846
      Div. 6  Fats, Grease and Oil Control 852
   Art. III  Illicit Discharge and Connection to Stormwater Sewer System 856
Art. IV. Water and Sewer Capital Development Fee

27. Wrecked, Junked and Abandoned Vehicles

Code Index
The ordinances embraced in the following chapters and sections shall constitute and be designated the "Municipal Code, City of McHenry, Illinois," and may be so cited.

In the construction of this Code, and of all ordinances, the rules and definitions set out in this section shall be observed, unless such construction would be inconsistent with the manifest intent of the City Council. The rules of construction and definitions set out herein shall not be applied to any section of this Code which shall contain any express provision excluding such construction, or where the subject matter of context of such section may be repugnant thereto.

Generally. All general provisions, terms, phrases and expressions contained in this Code shall be liberally construed in order that the true intent and meaning of the City Council may be fully carried out.

In the interpretation and application of any provisions of this Code, they shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision of the Code imposes greater restrictions upon the subject matter than the general provision imposed by the Code, the provision imposing the greater restriction or regulation shall be deemed to be controlling. For clarification:

City shall be the City of McHenry, Illinois.

City Council, Council. Whenever the words "Council" or "City Council" are used, they shall be construed to mean the City Council of the City of McHenry.

Computation of time. Whenever a notice is required to be given or an act to be done a certain length of time before any proceeding shall be had, the day on which such notice is given, or such act is done, shall be counted in computing the time, but the day on which such proceeding is to be held shall not be counted.

Corporate or City limits. The term "corporate limits" or "City limits" shall mean the legal boundaries of the City of McHenry.

County. The words "the County" or "this County" shall mean the County of McHenry in the State of Illinois.

Delegation of authority. Whenever a provision appears requiring the head of a department or some other City officer to do some act or perform some duty, it is to be construed to authorize the head of the department or other officer to designate, delegate and authorize subordinates to perform the required act or perform the duty unless the terms of the provision or section specify otherwise.

Electrical Contractor. Person engaged in the business of installing or altering by contract electrical equipment for the utilization of electricity for light, heat, or power. But the term 'electrical contractor' shall not include the installing or alteration of (1) radio apparatus or equipment for wireless reception of sounds or signals, or (2) apparatus, conductors, or other equipment installed for or by public utilities,
including common carriers, which are under the jurisdiction of the Illinois Commerce Commission for the use in the operation as public utilities. Nor shall the term include the employees employed by an electrical contractor to do or supervise his work. (MC-13-1068)

**Gender.** A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as to males.

**Joint authority.** All words giving a joint authority to 3 or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

**Mayor** shall mean the Mayor of the City.

**Month.** The word "month" shall mean a calendar month.

**Non-technical and technical words.** Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

**Number.** A word importing the singular number only may extend and be applied to several persons and things as well as to one person and thing.

**Oath.** The word "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

**Officers generally.** Whenever any officer is referred to by title, such as "Clerk," "Comptroller," "Chief of Police," etc., such reference shall be construed as if followed by the words "of the City of McHenry."

**Owner.** The word "owner," applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant, or tenant by the entirety, of the whole or of part of such building or land.

**Person.** The word "person" shall extend and be applied to associations, clubs, societies, firms, partnerships and bodies politic and corporate as well as to individuals.

**Personal property** includes every species of property except real property, as herein described.

**Property.** The word "property" shall include real and personal property.

**Real property** shall include lands, tenements and hereditaments.

** Shall, may.** The word "shall" is mandatory. The word "may" is permissive.

**Sidewalk.** The word "sidewalk" shall mean any portion of a street between the curb line and the adjacent property line, intended for the use of pedestrians, excluding parkways.

**Signature or subscription** includes a mark when the person cannot write.

**State.** The words "the State" or "this State" shall be construed to mean the State of Illinois.
Street. The word "street" shall be construed to embrace streets, avenues, boulevards, roads, alleys, lanes, viaducts and all other public ways in the City, and shall include all areas thereof embraced between the property lines and dedicated to the public use.

Tenant or occupant. The words "tenant" or "occupant," applied to a building or land, shall include any person holding a written or oral lease or who occupies the whole or a part of such buildings or land, either alone or with others.

Tense. Words used in the past or present tense include the future as well as the past and present.

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

"Written," or "in writing" shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.

Year. The word "year" shall mean calendar year.

Sec. 1-3. Catchlines of Sections. 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 re-enacted.

Sec. 1-4. Amendments to Code. All ordinances passed subsequent to this Code which amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion herein, or in the case of repealed chapters, sections and subsections or any part thereof, by subsequent ordinances, such repealed portions may be excluded from the Code by omission from reprinted pages affected thereby and the subsequent ordinances as numbered and printed or omitted, in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time as this Code or Ordinances and subsequent ordinances numbered or omitted are re-adopted as a new Code of Ordinances by the City Council.

Sec. 1-5. Unauthorized alteration or tampering with Code. It shall be unlawful for any person in the City to change or amend, by additions or deletions, any part or portions of this Code, or to insert or delete pages, or portions thereof, or to alter or temper with such Code in any manner whatsoever which will cause the law of the City to be misrepresented thereby.

Sec. 1-6. Effect of repeal of ordinances. When any ordinance repealing a former ordinance, clause or provision shall be itself repealed, such repeal shall not be construed to revive such former ordinance, clause or provision unless it shall be therein so expressly provided.

The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal, for an offense committed or cause of action arising under the ordinance repealed.
Sec. 1-7. Severability of parts of Code.
The sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional, invalid or unenforceable by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality, invalidity or unenforceability shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.

(a) Whenever in this Code or in any ordinance of the City any act is prohibited or is made or declared to be unlawful or a misdemeanor, or whenever in such Code or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful or a misdemeanor, where no specific penalty is provided therefore, the violation of any such provision of this Code or any ordinance shall be punished by a fine of not less than $25.00 nor more than $750.00. Each day any violation of any provisions of this Code or of any ordinance shall continue shall constitute a separate offense. (MC-96-654)

(b) Enforcement and Collection. In the event that the City brings an action in either its Office of Administrative Adjudication or in the Circuit Court to enforce any provision in this Code or prosecute a violation of any ordinance in the City and the offender is adjudicated liable or found guilty of the charge or violation, then the city is entitled to a judgment against the offender for the amount of attorney fees and costs expended in the enforcement. In the event any charge, fee or judgment, including, but not limited to those relating to water and sewer service charges, recording, retained personnel, fines, penalties, repair, abatement that is due the City and is not paid, the cost of collecting said fee shall be added to the charge, fee or judgment. Collection costs shall include, but not be limited to, attorney fees and/or collection agency fees. (MC-97-698; MC-11-1034)

(c) Fee for Returned Check. A fee of $25.00 shall be due and payable to the City for each check written or endorsed to the City which is dishonored and returned by the payor bank for any reason. (MC-92-583.1; MC-96-660; MC-04-855)

Sec. 1-9. Records of amendments. (MC-07-913)
It shall be the duty of the City Clerk to keep at least one printed copy of this Code which includes notation of any and all amendments thereto.

Whenever an ordinance which amends or makes an addition, correction or deletion to the Code is passed and approved she shall include the City ordinance number for reference in the text of this Code. The amended page of the Code shall be replaced with the revised pager and the original page shall be retained for future reference.

The above mentioned records shall be kept in addition to the record of ordinances which the City Clerk is required to keep by statute.

Sec. 1-10. Distribution of Code.
The City Clerk shall make available for public view one printed copy of the current Code. The Code shall also be made available on the City’s website.

A reasonable charge to defer the cost of printing and handling may be made to any person who shall desire copies of this Code, and such sum shall be collected by the City.
Sec. 1-12. Settlement of Offenses (MC-94-608; MC-07-906; MC-07-920; MC-12-1048)

A. **Payments.** Any of the following described offenses arising under the ordinances of the City may be settled and compromised by the offender in the following manner: when settlement payment is made within seven days of the time a notice is delivered to the offender, settlement payment shall be those figures listed in Column A; when settlement payment is made between the eighth and fourteenth day of the time a notice is delivered to the offender, settlement payment shall be those figures listed in Column B.

<table>
<thead>
<tr>
<th>SECTION</th>
<th>OFFENSE</th>
<th>COLUMN A</th>
<th>COLUMN B</th>
</tr>
</thead>
<tbody>
<tr>
<td>3-1</td>
<td>Posting signs, ROW</td>
<td>$ 50.00</td>
<td>$ 100.00</td>
</tr>
<tr>
<td>6-2</td>
<td>Keeping animals</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>6-5</td>
<td>Noisy animals</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>6-9</td>
<td>Removal of animal excrement</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>7-2</td>
<td>No building permit</td>
<td>100.00</td>
<td>200.00</td>
</tr>
<tr>
<td>7-5</td>
<td>Duration of permit</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>7-7</td>
<td>Occupancy certificate required</td>
<td>100.00</td>
<td>200.00</td>
</tr>
<tr>
<td>7-8</td>
<td>Compliance with regulations</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>7-14</td>
<td>Street use restricted</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>7-16</td>
<td>Construction safeguards</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>7-24</td>
<td>Burning construction waste</td>
<td>100.00</td>
<td>200.00</td>
</tr>
<tr>
<td>7-25</td>
<td>Waste material storage</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>7-28</td>
<td>Residential Rental Registration</td>
<td>100.00</td>
<td>200.00</td>
</tr>
<tr>
<td>7-101</td>
<td>International Property Maint. Code</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>7-128</td>
<td>Rough-In inspection</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>7-141</td>
<td>Fence permit required</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>7-143</td>
<td>Fence standards</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>7-144</td>
<td>Residential fences</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>7-145</td>
<td>Non-residential fences</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>7-146</td>
<td>Dangerous, encroaching fences</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>7-182</td>
<td>Parabolic dish – residential</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>7-183</td>
<td>Parabolic dish – non-residential</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>7-253</td>
<td>Substandard structures</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>10-18</td>
<td>Burning rubbish</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>10-19</td>
<td>Burning leaves</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>10-20</td>
<td>Burning at night</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>10-21</td>
<td>Paper fire conditions</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>11-79</td>
<td>Refuse containers</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>11-85</td>
<td>Refuse disposal in streams</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>11-86</td>
<td>Refuse collection, frequency</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>11-89</td>
<td>Storage of garbage containers</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>11-90</td>
<td>Accumulation of garbage</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>11-179</td>
<td>Storage/disposal of rubbish</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>11-181</td>
<td>Refuse containers capacity</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>11-182</td>
<td>Landlord provide refuse container</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>11-183</td>
<td>Extermination required</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>11-184</td>
<td>Accumulation of rubbish, etc.</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>SECTION</td>
<td>OFFENSE</td>
<td>COLUMN A</td>
<td>COLUMN B</td>
</tr>
<tr>
<td>---------</td>
<td>----------------------------------------</td>
<td>----------</td>
<td>----------</td>
</tr>
<tr>
<td>11-185</td>
<td>Rodent harborage</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>11-187</td>
<td>Minimum heat requirements</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>11-191</td>
<td>Kitchen required</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>11-192</td>
<td>Water closet required</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>11-193</td>
<td>Lavatory sink required</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>11-194</td>
<td>Bathtub required</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>11-201</td>
<td>Dwelling unit, keep/good repair</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>11-202</td>
<td>Gutters, good condition</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>11-203</td>
<td>Units, premises rodent-free</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>11-205</td>
<td>Accessory structure, good repair</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>11-206</td>
<td>Plumbing pipes/fixtures, good repair</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>11-207</td>
<td>Bathroom floors impervious/water</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>11-208</td>
<td>Utility services maintained</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>11-209</td>
<td>Negligent housing management</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>14-8(G)</td>
<td>Construction hours</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>14-22</td>
<td>Abandoned refrigerators; air-tight</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td></td>
<td>Containers</td>
<td></td>
<td></td>
</tr>
<tr>
<td>14-32(C)</td>
<td>Failure to remove graffiti (MC-09-996)</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>21-7</td>
<td>Obstruction of street</td>
<td>100.00</td>
<td>200.00</td>
</tr>
<tr>
<td>21-8</td>
<td>Street repair barricades</td>
<td>100.00</td>
<td>200.00</td>
</tr>
<tr>
<td>21-10</td>
<td>Public land use</td>
<td>100.00</td>
<td>200.00</td>
</tr>
<tr>
<td>21-11</td>
<td>Obstruct open ditches, drains</td>
<td>100.00</td>
<td>200.00</td>
</tr>
<tr>
<td>21-16</td>
<td>Deposits on streets</td>
<td>100.00</td>
<td>200.00</td>
</tr>
<tr>
<td>21-17</td>
<td>Deposits on sidewalks</td>
<td>100.00</td>
<td>200.00</td>
</tr>
<tr>
<td>21-18</td>
<td>Removal of sidewalk deposits</td>
<td>100.00</td>
<td>200.00</td>
</tr>
<tr>
<td>21-19</td>
<td>Burning on public streets</td>
<td>100.00</td>
<td>200.00</td>
</tr>
<tr>
<td>21-23</td>
<td>Unlawful curb cut</td>
<td>100.00</td>
<td>200.00</td>
</tr>
<tr>
<td>21-32</td>
<td>Permit, street excavation</td>
<td>100.00</td>
<td>200.00</td>
</tr>
<tr>
<td>21-39</td>
<td>Restore street surface</td>
<td>100.00</td>
<td>200.00</td>
</tr>
<tr>
<td>22-3</td>
<td>Swimming pool permit</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>22-8</td>
<td>Swimming pool location</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>22-15</td>
<td>Swimming pool electric req’ments</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>22-20</td>
<td>Swimming pool fence req’ments</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>24-26</td>
<td>Weeds, nuisance</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>24-27</td>
<td>Parkway maintenance</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>26-20</td>
<td>Water meter required</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>26-35</td>
<td>Private water wells prohibited</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>26-36</td>
<td>Water connection required</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>26-73</td>
<td>Sewer connection required</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>26-89</td>
<td>Septic system approval</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>26-161</td>
<td>Fats, oils, grease violation</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>27-2</td>
<td>Inoperable vehicle</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>28-5</td>
<td>Site development permit</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>SECTION</td>
<td>OFFENSE</td>
<td>COLUMN A</td>
<td>COLUMN B</td>
</tr>
<tr>
<td>---------</td>
<td>---------</td>
<td>----------</td>
<td>----------</td>
</tr>
<tr>
<td>IV.A(1)</td>
<td>Home occupations</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>VII.A(7)</td>
<td>Motor vehicle storage/repair28-5</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>VII.A(10)</td>
<td>Parking area maintenance</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>VII.B(4)</td>
<td>Parking area surfacing</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>VII.B(8)</td>
<td>Parking, RV</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>VII.B(9)</td>
<td>Parking, commercial vehicle</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>IX.B(4)</td>
<td>Sign, prohibited</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>IX.B(5)</td>
<td>Sign, non-conforming</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>IX.B(6)</td>
<td>Sign, maintenance &amp; repair</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>IX.C(1)(d)</td>
<td>Sign, removal abandoned</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>IX.D</td>
<td>Sign, standards</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>X</td>
<td>Table 19, yard obstructions</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>X</td>
<td>Table 20, accessory structures</td>
<td>50.00</td>
<td>100.00</td>
</tr>
<tr>
<td>III</td>
<td>General District Regulations</td>
<td>50.00</td>
<td>100.00</td>
</tr>
</tbody>
</table>

**B. Settlements:** Settlement payments shall be made to the City Office of Adjudication, who shall provide the alleged offender with a receipt in the amount of such payment. As a condition precedent to the right of an offender to settle under this section, the offender shall be required to first correct the violating offence (i.e., nuisance removed, appropriate license or permit purchased, etc.).

**C. Disposition of Payments:** The amounts paid to the Office of Adjudication in settlement of the foregoing claims shall be promptly deposited by the Office of Adjudication with the Finance Department and credited to the General Fund.

**D. Prosecution:** If settlement payment is not received and the offense is not corrected pursuant to Section 1-12-B, the City may have a sworn complaint issued and prosecute the matter in the Office of Adjudication through the Administrative Adjudication process.

**Sec. 1-13. Home Rule Authority. (MC-09-997)**
The McHenry Municipal Code and any amendments thereto constitute an exercise of the City’s home rule powers and functions as granted under Article VII, Section 6, of the Constitution of the State of Illinois.
Sec. 2-1. Seal described.
The corporate seal of the City shall be as follows: A circular disc with the words "Incorporated May 15, 1923" inscribed in the inner circle and "City of McHenry, Illinois" inscribed in the outer circle thereof.

Sec. 2-2. Fiscal year.
The fiscal year of the City shall begin on the first day of May of each year and end on the thirtieth day of April of the year following.

Sec. 2-3. Election procedure, time.
Elections for municipal offices shall be held as is provided by statute and at the times prescribed by statute.

Sec. 2-4. Calling special elections.
Special elections shall be called when deemed necessary by the Council, as provided by statute.

Sec. 2-5. Wards.
The wards of the City shall be as described by ordinance, and nothing contained in this Code or the ordinance adopting this Code shall be construed to repeal or otherwise affect any ordinance prescribing ward boundaries.

Sec. 2-6. Board of Local Improvements.
There is hereby established a permanent Board of Local Improvements of the City, which Board shall consist of the Mayor and the City Council.

Sec. 2-7. Term of elected officials.
The term of elected City officials shall begin at the first regular meeting held after the receipt of election results from the Local Election Authority. (MC-91-555; MC-07-912)

Sec. 2-8 Meeting attendance by audio or video conferencing. (MC-06-899)
In addition to holding meetings pursuant to the Open Meetings Act, meetings held by any board or commission of the City shall be subject to the following rules:

1. A quorum of the board/commission shall be physically present at the location of an open or closed meeting.

2. Provided a quorum is physically present, a member may be allowed to attend the meeting by audio or video conferencing.

3. Any member who wished to be considered present at a meeting via audio or video conference may make such a request to the board/commission by notifying the City Administrator prior to the meeting, unless advance notice is impractical, that the member cannot physically attend the meeting for one of the following reasons:
a. Personal illness or disability;
b. Employment purposes or City business; or
c. A family or other emergency.

4. An affirmative vote by a majority of the board/commission physically present may allow a member to attend a meeting as provided herein.

5. The secretary shall record in the minutes of every meeting the members physically present, absent, and present by audio or video conference.

Secs. 2-9-2-17. Reserved

ARTICLE II. MAYOR

Sec. 2-18. Election, term.
The mayor shall be elected for a four-year term and shall serve until his successor is elected and qualified as is provided by statute.

Before entering upon the duties of his office, the Mayor shall execute a bond in such amount and with such sureties as may be required by the Council, conditioned by faithful performance of the duties of his office, provided the amount of such bond shall not be less than the amount specified by statute.

The Mayor of the City of McHenry shall receive $15,000.00 as an annual salary. The Mayor of the City of McHenry herein designated as the City’s Liquor Control Commissioner (reference Section 4-2 of this Code) shall receive compensation in that capacity as follows:

$1,500 per year annual flat fee; plus
$200 stipend per Liquor License Ordinance Violation Hearing held.

The aforesaid salary, fee and stipend shall be payable to said municipal officer who is elected in the 2005 and subsequent municipal elections. (MC-92-587; MC-96-662; MC-04-860)

Sec. 2-20. General administrative duties.
The Mayor shall be the chief executive of the City, shall preside over the meetings of the Council, and shall perform such duties as may be required of him by statute or ordinance. He shall have supervision over all of the executive officers and employees of the City, and shall have the power and authority to inspect all books and records pertaining to City affairs and kept by any officer and employee of the City at any reasonable time.

Sec. 2-21. Appointment of officers.
The Mayor shall appoint, by and with the advice and consent of the City Council, all officers of the City whose election or appointment is not otherwise provided for herein. Any vacancies occurring in an appointed office shall be filled in the same manner.
Sec. 2-22. Designation of officers' duties.
Whenever there is a dispute as to the respective duties or powers of any appointed officer of the City, this dispute shall be settled by the Mayor after consultation with the City Attorney; and the Mayor shall have the power to delegate to any appointed officer any duty which is to be performed when no specific officer has been directed to perform that duty.

Sec. 2-23. Ceremonial duties.
The Mayor shall act for and on behalf of the City on formal occasions and receptions; but in his absence or inability to attend any such function the Council may select any other City officer to so act.

Sec. 2-24. Mayor pro tem.
During a temporary absence or disability of the Mayor, the City Council shall elect one of its number to act as Mayor pro tem, and during such absence or disability he shall possess the powers of Mayor, as is provided by statute.

Sec. 2-25. Acting Mayor.
In the event of a vacancy in the office of Mayor the Council may appoint one of its members as acting Mayor to serve until the vacancy is filled at a regular or special election as provided by law.

Secs. 2-26 Duty to turn over monies received.
Every officer or employee, other than the City Treasurer and City Clerk, shall at least one each day turn over all monies received by him in his official capacity to the Finance Director with statements showing the source from which the same was received.

Sec. 2-27 -36. Reserved.

ARTICLE III. CITY COUNCIL

Sec. 2-37. Election, term, general powers and duties.
The members of the City Council shall be elected and serve for four-year terms. The Council shall be the legislative division of the City government and shall perform such duties and have such powers as may be authorized by statute.

Sec. 2-37.1. Compensation.
Effective May 1, 2015, each Alderman shall be compensated the sum of $350.00 per month, payable monthly, inclusive of attendance at all regular and special meetings of the City Council, City Council Committee of the Whole meetings, as well as for attendance at any committee to which they have been formally appointed.(MC-00-761; MC-12-1055)

Sec. 2-38. Time, place for regular meetings.
The regular meetings of the Council shall be held at such date and hour as the Council may, from time to time, determine. Generally, the meetings will occur in the Council Chambers on the first and third Mondays of each month. In addition, a regular annual meeting shall be held in the Council Chambers on the last Monday in April of each year, or other date scheduled by Council, at which any and all business may be conducted. If a regular meeting date falls on a legal holiday, the meeting shall not take place but shall be rescheduled by Council. (MC-88-434; MC-06-901; MC-12-1056)
Sec. 2-39. Adjourned meetings.
Adjourned meetings may be held at such times as the Council may determine.

Sec. 2-40. Special meetings.
Special meetings of the Council may be called by the Mayor or three Aldermen provided that a written notice of such meeting shall be delivered to each member of the Council at least 24 hours before the time set for the meeting or mailed to each member of the Council at least 72 hours before the time set for the meeting. Provided, further, that in case all the members of the Council are present at any special meeting then the requirement of notice shall be unnecessary and shall be deemed waived. Provided, further, that if the call of any special meeting is announced at any regular or special meeting of the Council, written notice thereof shall be given in the above manner only to such members of the Council who are absent from the meeting at which such call was made.

Sec. 2-41. Meetings to be public.
A. Members of the public are invited and permitted to speak at any public, open meeting of the City Council and any other commission, committee, board or other public entity created by or subject to the City’s ordinances (collectively, “Subcommittee”), subject to the following rules:

1. Individuals wishing to be heard shall be recognized by the Mayor, or chairman of the Subcommittee, during the public comment portion of each meeting which will generally be held as one of the initial items of business on the agenda but may be moved to a different point on the agenda for that meeting. Further public comment will not be allowed during specific meeting agenda items unless allowed by the Mayor or chairman of the Subcommittee.

2. Public comment may be restricted to no more than three minutes for each individual speaker. The Mayor or Chairman of the Subcommittee may permit additional comment in his or her discretion taking into account the number of persons wishing to be heard on a matter and the amount of business requiring attention.

3. Members of the public may be asked to avoid repeating comments that have already been made, although they may be given the opportunity to indicate that they agree or disagree with an earlier speaker.

4. Members of the public will be required to step forward to the podium and to identify themselves for the record. Members may be asked but are not required to provide an address for the record.

5. Order and decorum shall be maintained at public meetings. This includes prohibiting outbursts from the public or other behavior that is threatening, disorderly or disruptive to the public business. The Mayor or chairman of the Subcommittee may eject from a public meeting any person who, in the sole opinion of the Mayor or chairman, disrupts the order and decorum of the meeting or otherwise violates the rules of this Section.

6. Public comment shall be restricted to the portions of meetings which are required to be open to the public under the Open Meetings Act. Nothing in this Section shall be construed to allow public access to or public comment at closed sessions or any other meeting of public officials which is not required to be open to the public under the Open Meetings Act. (MC-15-1099)
Sec. 2-42. **Presiding officer.**
The Mayor shall be the presiding officer of the Council at all regular or special meetings and at such times as the Council meets as a Committee of the Whole.

Sec. 2-43. **Standing committees.**
The following shall be the standing committees of the City Council: Finance and Personnel; Community Development; Public Works; Parks and Recreation. (MC-90-530.A)

Sec. 2-44. **Special committees.**
The Mayor shall appoint such special committees or commissions as he may deem necessary or as may be directed by the Council.

Sec. 2-45. **Membership on committees; chairman.**
The Mayor shall appoint the members of all standing and special committees, in the absence of specific direction by the Council, and shall designate the Chairman thereof.

Every committee of the Council shall consist of three members, including the Chairman, unless the City Council shall provide otherwise.

Sec. 2-46. **Records of proceedings.**
The City Clerk shall keep the minutes and records of the Council proceedings.

Sec. 2-47. **Quorum.**
A majority of the elected members of the Council shall constitute a quorum thereof, but no ordinance or measure for the expenditure of money shall be passed except upon the favorable vote of the majority of the elected members as provided by statute.

Sec. 2-48. **Order of business.**
The order of business for the Council shall be as prescribed from time to time by the Council.

The Finance and Personnel Committee shall review all applications submitted to the City for Revolving Loan Funds and make a recommendation to the City Council on each application submitted. (MC-17-1156)

Sec. 2-48.1. **Council vote.**
The vote of the City Council upon any question shall be taken and entered in the minute book. Every Council member who shall be present when a question is stated from the chair shall vote thereon unless precluded from doing so by a conflict of interest, in which case the member shall request the Clerk to record him as "Not Voting." Except in the case where a member has been recorded as "Not Voting" for reasons of conflict of interest, the failure of a member to vote either "Yea" or "Nay" shall be interpreted to have the same legal effect as the vote cast by those members of the majority who did vote "Yea" or "Nay" on the question involved.

Sec. 2-49. **Rescinding action.**
No vote or action of the City Council shall be rescinded at any special meeting unless there is present at such special meeting as many members of the Council as were present at the meeting when such vote or action was taken, as provided by statute.

Sec. 2-50. **When resolutions to be written.**
Any resolution submitted to the City Council shall be reduced to writing before being voted upon, at the request of any three members of the Council.

Sec. 2-51. **Reserved.** (MC-15-1099)
Sec. 2-52. Robert's Rules adopted.
Except when in conflict with the foregoing provisions, Robert's Rules of Order shall govern the deliberations of the City Council.

Sec. 2-53. Suspension of rules.
The rules of order as herein set forth may be suspended at any time by the consent of a majority of members present at any meeting, except where such suspension shall conflict with the rules of order prescribed by statute.

Sec. 2-54. Reserved. (MC-15-1099)

Sec. 2-55 Code of Ethics (MC-04-849)
A. **Declaration Of Policy:**
1. The proper operation of democratic government requires that Officers and Employees be independent, impartial and responsible to the people; that government decisions and policy be made in proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these goals, a Code of Ethics for all City Officers and Employees is adopted. The purpose of this Code of Ethics is to establish guidelines for ethical standards of conduct for all City Officers and Employees by setting forth those acts or actions that are incompatible with the best interest of the City and by directing disclosure by such Officers and Employees of private financial or other interests in matters affecting City life.

2. This section does not repeal or otherwise amend or modify existing provisions of the City of McHenry Municipal Code or any other Departmental rule or regulation which regulates the conduct of City officials and employees. To the extent that the City of McHenry Municipal Code or any Departmental rule or regulation is less restrictive or conflicts with this Section, then the provisions of this Section shall prevail, but to the extent those provisions are more restrictive, they shall prevail.

B. **Code Of Ethics:** The requirements set forth herein shall constitute a Code of Ethics establishing reasonable standards and guidelines for the ethical conduct of Officers and Employees of the City.

C. **Definitions:** For purposes of this Section, the following terms shall be given these definitions:

   **“Campaign for elective office”** means any activity in furtherance of an effort to influence the selection, nomination, election, or appointment of any individual to any federal, State, or local public office or office in a Political Organization, or the selection, nomination, or election of Presidential or Vice-Presidential electors, but does not include activities: (i) relating to the support or opposition of any executive, legislative, or administrative action; (ii) relating to collective bargaining; or (iii) that are otherwise in furtherance of the person’s official duties.

   **“Candidate”** means a person who has filed nominating papers or petitions for nomination or election to an elected office, or who has been appointed to fill a vacancy in nomination, and who remains eligible for placement on the ballot at a regular election, as defined in Section 1-3 of the Election Code (10 Ill. Comp. Stat. 5/1-3).

   **“Collective Bargaining”** has the same meaning as that term is defined in Section 3 of the Illinois Public Labor Relations Act (5 Ill. Comp. Stat. 315/3).
“Compensated Time” means, with respect to an Employee, any time worked by or credited to the Employee that counts toward any minimum work time requirement imposed as a condition of his or her employment, but for purposes of this Section, does not include any designated holidays, vacation periods, personal time, compensatory time off or any period when the Employee is on a Leave of Absence. With respect to Officers or Employees whose hours are not fixed, “compensated time” includes any period of time when the Officer or Employee is on premises under the control of the Employer and any other time when the Officer or Employee is executing his or her official duties, regardless of location.

“Compensatory Time Off” means authorized time off earned by or awarded to an Employee to compensate in whole or in part for time worked in excess of the minimum work time required of that Employee as a condition of his or her employment.

“Contribution” has the same meaning as that term is defined in Section 9-1.4 of the Election Code (10 Ill. Comp. Stat. 5/9-1.4).

“Employee” means a person employed by the City of McHenry, whether on a full-time or part-time basis or pursuant to a contract, whose duties are subject to the direction and control of an Employer with regard to the material details of how the work is to be performed, but does not include an independent contractor.

“Employer” means the City of McHenry.

“Gift” means any gratuity, discount, entertainment, hospitality, loan, forbearance, or other tangible or intangible item having monetary value including, but not limited to, cash, food and drink, and honoraria for speaking engagements related to or attributable to government employment or the official position of an Officer or Employee.

“Intra-Governmental Gift” means any gift given to an Officer or Employee of the City from another Officer or Employee of the City.

“Inter-Governmental Gift” means any gift given to an Officer or Employee of the City from a member or employee of the legislative branch of the government of the State of Illinois, a judge or employee of the judicial branch of the government of the State of Illinois, an officer or employee of the executive branch of the government of the State of Illinois, an officer or employee of a unit of local government, home rule unit, or school district, or an officer or employee of any other governmental entity.

“Leave of Absence” means any period during which an Employee does not receive (i) compensation for employment, (ii) service credit towards pension benefits, and (iii) health insurance benefits paid for by the Employer.

“Officer” means a person who holds, by election or appointment, an office created by statute or ordinance, regardless of whether the officer is compensated for service in his or her official capacity.

“Political Activity” means any activity in support of or in connection with any campaign for elective office or any Political Organization, but does not include activities (i) relating to the support or opposition of any executive, legislative, or administrative action, (ii) relating to collective bargaining, or (iii) that are otherwise in furtherance of the person’s official duties.
“Political Organization” means a party, committee, association, fund, or other organization (whether or not incorporated) that is required to file a statement of organization with the State Board of Elections or a county clerk under Section 9-3 of the Election Code (10 Ill. Comp. Stat. 5/9-3), but only with regard to those activities that require filing with the State Board of Elections or a county clerk.

“Prohibited Political Activity” means:

1. Preparing for, organizing, or participating in any political meeting, political rally, political demonstration, or other political event.

2. Soliciting contributions, including but not limited to the purchase of, selling, distributing, or receiving payment for tickets for any political fund-raiser, political meeting, or other political event.

3. Soliciting, planning the solicitation of, or preparing any document or report regarding anything of value intended as a campaign contribution.

4. Planning, conducting, or participating in a public opinion poll in connection with a campaign for elective office or on behalf of a Political Organization for political purposes or for or against any referendum question.

5. Surveying or gathering information from potential or actual voters in an election to determine probable vote outcome in connection with a campaign for elective officer or on behalf of a Political Organization for political purposes or for or against any referendum question.

6. Assisting at the polls on election day on behalf of any Political Organization or candidate for elective office or for or against any referendum question.

7. Soliciting votes on behalf of a candidate for elective office or a Political Organization or for or against any referendum question or helping in an effort to get voters to the polls.

8. Initiating for circulation, preparing, circulating, reviewing, or filing any petition on behalf of a candidate for elective office or for or against any referendum question.

9. Making contributions on behalf of any candidate for elective office in that capacity or in connection with a campaign for elective office.

10. Preparing or reviewing responses to candidate questionnaires.

11. Distributing, preparing for distribution, or mailing campaign literature, campaign signs, or other campaign material on behalf of any candidate for elective office or for or against any referendum question.

12. Campaigning for any elective office or for or against any referendum question.

13. Managing or working on a campaign for elective office or for or against any referendum question.

14. Serving as a delegate, alternate, or proxy to a political party convention.
15. Participating in any recount or challenge to the outcome of any election.

“Prohibited Source” means any person or entity who:

1. is seeking official action (i) by an Officer or (ii) by an Employee, or by the Officer or another Employee directing that Employee;

2. does business or seeks to do business (i) with the Officer or (ii) with an Employee, or with the Officer or another Employee directing that Employee;

3. conducts activities regulated (i) by the Officer or (ii) by an Employee, or by the Officer or another Employee directing that Employee; or

4. has interests that may be substantially affected by the performance or non-performance of the official duties of the Officer or Employee.

“Relative” means those people related to the Officer or Employee as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepsone, stepdaughter, stepsister, half brother, half sister, and including the father, mother, grandfather, or grandmother of the Officer’s or Employee’s spouse and the Officer’s or Employee’s fiancé or fiancee.

D. Prohibited Political Activities:

1. No Officer or Employee shall intentionally perform any prohibited Political Activity during any Compensated Time, as defined herein. No Officer or Employee shall intentionally use any property or resources of the City in connection with any Prohibited Political Activity.

2. At no time shall any Officer or Employee intentionally require any other Officer or Employee to perform any Prohibited Political Activity (i) as part of that Officer or Employee’s duties, (ii) as a condition of employment, or (iii) during any Compensated Time off (such as holidays, vacation or personal time off).

3. No Officer or Employee shall be required at any time to participate in any Prohibited Political Activity in consideration for that Officer or Employee being awarded additional compensation or any benefit, whether in the form of a salary adjustment, bonus, compensatory time off, continued employment or otherwise, nor shall any Officer or Employee be awarded additional compensation or any benefit in consideration for his or her participation in any Prohibited Political Activity.

4. Nothing in this Section prohibits activities that are permissible for an Officer or Employee to engage in as part of his or her official duties, or activities that are undertaken by an Officer or Employee on a voluntary basis which are not prohibited by this Section.
5. No person either: (i) in a position that is subject to recognized merit principles of public employment; or (ii) in a position the salary for which is paid in whole or in part by federal funds and that is subject to the Federal Standards for a Merit System of Personnel Administration applicable to grant-in-aid programs, shall be denied or deprived of employment or tenure solely because he or she is a member or an officer of a political committee, of a political party, or of a Political Organization or club.

E. **Gift Ban:**

Except as permitted by this Section, no Officer or Employee, and no spouse of or immediate family member living with any Officer or Employee (collectively referred to herein as “recipients”), shall intentionally solicit or accept any gift from any Prohibited Source, as defined herein, or which is otherwise prohibited by law or ordinance. No Prohibited Source shall intentionally offer or make a gift that violates this Section.

**Exceptions:** Section 2-55-E.1 is not applicable to the following:

- Opportunities, benefits, and services that are available on the same conditions as for the general public.
- Anything for which the Officer or Employee, or his or her spouse or immediate family member, pays the fair market value.
- Any (a) contribution that is lawfully made under the Election Code; or (b) activities associated with a fund-raising event in support of a Political Organization or candidate.
- Educational materials and missions.
- Travel expenses for a meeting to discuss business.
- A gift from a Relative.

Anything provided by an individual on the basis of a personal friendship unless the recipient has reason to believe that, under the circumstances, the gift was provided because of the official position or employment of the recipient or his or her spouse or immediate family member and not because of the personal friendship. In determining whether a gift is provided on the basis of personal friendship, the recipient shall consider the circumstances under which the gift was offered, such as: (a) the history of the relationship between the individual giving the gift and the recipient of the gift, including any previous exchange of gifts between those individuals; (b) whether to the actual knowledge of the recipient the individual who gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and (c) whether to the actual knowledge of the recipient the individual who gave the gift also at the same time gave the same or similar gifts to other Officers or Employees, or their spouses or immediate family members.

Food or refreshments not exceeding $75 per person in value on a single calendar day; provided that the food or refreshments are (i) consumed on the premises from which they were purchased or prepared or (ii) catered. For the purposes of this Section, “catered” means food or refreshments that are purchased ready to consume which are delivered by any means.
Food, refreshments, lodging, transportation, and other benefits resulting from outside business or employment activities (or outside activities that are not connected to the official duties of an Officer or Employee), if the benefits have not been offered or enhanced because of the official position or employment of the Officer or Employee, and are customarily provided to others in similar circumstances.

Intra-Governmental and Inter-Governmental gifts.

Bequests, inheritances, and other transfers at death.

Any item or items from any one Prohibited Source during any calendar year having a cumulative total value of less than $100.

Each of the exceptions listed in this Section is mutually exclusive and independent of every other.

**Disposition Of Gifts:** An Officer or Employee, his or her spouse or an immediate family member living with the Officer or Employee, does not violate this Section if the recipient promptly takes reasonable action to return a gift from a Prohibited Source to its source or gives the gift or an amount equal to its value to an appropriate charity that is exempt from income taxation under Section 501 (c)(3) of the Internal Revenue Code of 1986, as now or hereafter amended, renumbered or succeeded.

F. **Ethics Advisor:**

1. The Mayor, with the advice and consent of the City Council shall designate an Ethics Advisor for the City.

2. The Ethics Advisor shall provide guidance to the Officers and Employees of the City concerning the interpretation of and compliance with the provisions of this Section and State ethics laws. The Ethics Advisor shall perform such other duties as may be delegated by the City Council.

G. **Ethics Commission:**

1. There is hereby created a commission to be known as the Ethics Commission of the City of McHenry. The Commission shall be comprised of three members appointed by the Mayor with the advice and consent of the City Council. No person shall be appointed as a member of the Commission who is related, either by blood or marriage up to the degree of first cousin, to any elected Officer of the City.

2. At the first meeting of the Commission, the initial appointees shall draw lots to determine their initial terms. Two commissioners shall serve two-year terms, and the third commissioner shall serve a one-year term. Thereafter, all commissioners shall be appointed to two-year terms. Commissioners may be re-appointed to serve subsequent terms.

3. At the first meeting of the Commission, the commissioners shall choose a chairperson from their number. Meetings shall be held at the call of the chairperson or any two commissioners. A quorum shall consist of two commissioners, and official action by the Commission shall require the affirmative vote of two members.
4. The Mayor, with the advice and consent of the City Council, may remove a commissioner in case of incompetency, neglect of duty or malfeasance in office after service on the commissioner by certified mail, return receipt requested, of a copy of the written charges against the commissioner and after providing an opportunity to be heard in person or by counsel upon not less than ten days’ notice. Vacancies shall be filled in the same manner as original appointments.

5. The Commission shall have the following powers and duties:

To promulgate procedures and rules governing the performance of its duties and the exercise of its powers.

Upon receipt of a signed, notarized, written complaint, to investigate, conduct hearings and deliberations, issue recommendations for disciplinary actions, impose fines in accordance with this Section and refer violations of Sections 2-55-D and E to the City Attorney for prosecution. The Commission shall, however, act only upon the receipt of a written complaint alleging a violation of this Section and not upon its own prerogative.

To receive information from the public pertaining to its investigations and to require additional information and documents from persons who may have violated the provisions of this Section.

To compel the attendance of witnesses and to compel the production of books and papers pertinent to an investigation. It is the obligation of all Officers and Employees of the City to cooperate with the Commission during the course of its investigations. Failure or refusal to cooperate with requests by the Commission shall constitute grounds for discipline or discharge.

To prepare and publish such manuals and guides as the Commission deems appropriate to facilitate compliance with the terms of this Section.

The powers and duties of the Commission are limited to matters clearly within the purview of this Section.

6. Complaints:

i. Complaints alleging a violation of this Section shall be filed with the Ethics Commission.

ii. Within three business days after the receipt of a complaint, the Commission shall send by certified mail, return receipt requested, a notice to the respondent that a complaint has been filed against him or her and a copy of the complaint. The Commission shall send by certified mail, return receipt requested, a confirmation of the receipt of the complaint to the complainant within three business days after receipt by the Commission. The notices to the respondent and the complainant shall also advise them of the date, time, and place of the meeting to determine the sufficiency of the complaint and to establish whether probable cause exists to proceed.

iii. Upon not less than 48 hours’ public notice, the Commission shall meet to review the sufficiency of the complaint and, if the complaint is deemed sufficient to allege a violation of this Section, to determine whether there is probable cause, based on the evidence presented by the complainant, to proceed. The meeting may be closed to the public to the extent authorized by the Open Meetings Act. Within seven business days
after receiving the complaint, the Commission shall issue notice to the complainant and
the respondent of the Commission’s ruling on the sufficiency of the complaint and, if
necessary, on probable cause to proceed. If the complaint is deemed not sufficient to
allege a violation or if there is no determination of probable cause, then the Commission
shall send by certified mail, return receipt requested, a notice to the parties of the decision
to dismiss the complaint, and that notice shall be made public.

iv. If the complaint is deemed sufficient to allege a violation of Section 2-55-E and there is a
determination of probable cause, then the Commission’s notice to the parties shall include a hearing date scheduled within four weeks after the complaint’s receipt. Alternatively, the Commission may elect to notify in writing the City Attorney to prosecute such actions and request that the complaint be adjudicated judicially and the
Commission’s notice to the parties shall indicate this fact.

v. If the complaint is deemed sufficient to allege a violation of Section 2-55-D, then the
Commission shall notify in writing the City Attorney to prosecute such actions and shall transmit to the City Attorney the complaint and all additional documents in the custody of the Commission concerning the alleged violation. The Commission’s notice to the
parties shall indicate these facts.

vi. If the Commission elects to hear a case brought under Section 2-55-E, on the scheduled
date and upon at least 48 hours’ public notice of the meeting, the Commission shall
conduct a hearing on the complaint and shall allow both parties the opportunity to present testimony and evidence. The hearing may be closed to the public only if authorized by the Open Meetings Act.

vii. Within thirty days after the date the hearing or any recessed hearing of a case brought under Section 2-55-E is concluded, the Commission shall either: (i) dismiss the complaint; or (ii) issue a recommendation for discipline to the alleged violator and to the City Administrator or other Officer having authority to discipline the Officer or Employee, or impose a fine upon the violator, or both. The particular findings in the case, any recommendation for discipline, and any fine imposed shall be a matter of public information.

viii. If the hearing on a case brought under Section 2-55-E was closed to the public, the respondent may file a written demand for a public hearing on the complaint within seven business days after the issuance of the recommendation for discipline or imposition of a fine, or both. The filing of the demand shall stay the enforcement of the recommendation or fine. Within fourteen days after receiving the demand, the Commission shall conduct a public hearing on the complaint upon at least 48 hours’ public notice of the hearing and allow both parties the opportunity to present testimony and evidence. Within seven days thereafter, the Commission shall publicly issue a final recommendation to the alleged violator and to the City Administrator or other Officer having authority to discipline the Officer or Employee or impose a fine upon the violator, or both.

ix. If a complaint is filed during the sixty days preceding the date of any election at which
the respondent is a Candidate, the Commission shall render its decision as required under
subsection (vii) within seven days after the complaint is filed, and during the seven days preceding that election, the Commission shall render such decision before the date of that election, if possible.
x. A complaint alleging the violation of this Section must be filed within one year after the alleged violation.

xi. In the event a member of the Commission is the subject of an alleged violation of this Section, such commissioner shall immediately recuse himself or herself from the investigation of such alleged violation, and shall take no part in the final action of the Commission regarding such alleged violation. A substitute Commissioner shall be appointed pursuant to the terms of Section 2-55-G.1 above for purposes relating to this matter only.

H. Penalties:

1. A person who intentionally violates any provision of Section 2-55-D may be punished by a term of incarceration in a penal institution other than a penitentiary for a period of not more than 364 days, and may be fined in an amount not to exceed $2,500.

2. A person who intentionally violates any provision of Section 2-55-E is subject to a fine in an amount on not less than $1,001 and not more than $5,000.

3. The Commission may levy an administrative fine of up to $5,000 against any person who violates this Code of Ethics or who intentionally makes a false, frivolous, or bad faith allegation.

4. In addition to any administrative fines imposed pursuant to Section 2-55-H.3 above, any person who intentionally makes a false report alleging a violation of any provision of Section 2-55 to the Ethics Commission, the State’s Attorney or any other law enforcement official may be punished by a term of incarceration in a penal institution other than a penitentiary for a period of not more than 364 days, and may be fined in an amount not to exceed $2,500.

5. A violation of Section 2-55-D shall be prosecuted as a criminal offense by the City Attorney by filing in the circuit court an information, or sworn complaint, charging such offense. The prosecution shall be under and conform to the rules of criminal procedure. Conviction shall require the establishment of the guilt of the defendant beyond a reasonable doubt.

6. A violation of Section 2-55-E may be prosecuted as a quasi-criminal offense by an attorney for the City, or the Ethics Commission, through the designated administrative procedure.

7. In addition to any other penalty that may be applicable, whether criminal or civil, an Officer or Employee who intentionally violates any provision of this Section is subject to discipline or discharge.

I. Distribution Of Code Of Ethics: The City Administrator shall cause a copy of this Code of Ethics to be distributed to every Officer and Employee of the City within thirty days after enactment of this Code of Ethics. Each Officer and Employee elected, appointed or engaged hereafter shall be furnished a copy before entering upon the duties of his or her office or employment.”

Sec. 2-56 Rules for Meeting Attendance. (MC-06-899)
In addition to holding meetings pursuant to the Open Meetings Act, City Council meetings shall be subject to the following rules:
1. A quorum of the City Council shall be physically present at the location of an open or closed meeting.

2. Provided a quorum is physically present, a member may be allowed to attend the meeting by audio or video conferencing.

3. Any member who wished to be considered present at a meeting via audio or video conference may make such a request to the City Council by notifying the Clerk prior to the meeting, unless advance notice is impractical, that the member cannot physically attend the meeting for one of the following reasons:
   a. Personal illness or disability;
   b. Employment purposes or City business; or
   c. A family or other emergency.

4. An affirmative vote by a majority of the City Council physically present may allow a member to attend a meeting as provided herein.

5. The Clerk shall record in the minutes of every meeting the members physically present, absent, and present by audio or video conference.

ARTICLE IV. OFFICERS AND EMPLOYEES
DIVISION 1. Generally

Sec. 2-65. Applicability to future personnel.
Any officer whose office and duties shall be created subsequent to adoption, passage and promulgation of this Code, shall be subject to the same rules, regulations, obligations, liabilities, and tenure as are established in this article, unless a deviation from the provisions as are stated herein shall be authorized by the Mayor and City Council.

Sec. 2-66. Term.
All officers appointed by the Mayor and City Council listed in this Chapter, and such other officers as may from time to time be appointed by the Mayor, by and with the consent of the City Council, shall serve for a term of one year, and such one year term shall coincide with the fiscal year of the City.

Sec. 2-67. Removal.
Except where otherwise provided by statute, the Mayor may remove any officer appointed by him, on any formal charge, whenever he is of the opinion that the interests of the City demand removal, but he shall report the reasons for removal to the City Council at a meeting to be held not less than five nor more than ten days after such removal. If the Mayor fails or refuses to report to the City Council the reasons for the removal, or if the Council by a two-thirds (2/3) vote of all of its members authorized by law to be elected, disapproves of the removal, the officer thereupon shall be restored to the office from which he was removed. Upon restoration, the officer shall give a new bond and take a new oath of office. No officer shall be removed a second time for the same offense.

Sec. 2-68. Vacancies.
Any officer appointed hereunder may resign from his office provided that, he shall continue in office until his successor has been chosen and is qualified. If there is a failure to appoint a City officer, or a person appointed fails to qualify, the person filling the office shall continue in office until his successor has been chosen and is qualified. If an officer ceases to perform the duties of, or to hold his office by reason of death, permanent
2/15
physical or mental disability, conviction of a disqualifying crime or dismissal from or abandonment of office, the Mayor may appoint a temporary successor to the office.

Sec. 2-69. Oath required.
Every officer of the City shall, before entering upon his duties, make such oaths or affirmations as shall be prescribed by the law of the State of Illinois, at the time of his taking such office.

Sec. 2-70. Bond required.
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.

Sec. 2-71. Work tours and overtime provisions for law enforcement personnel
Pursuant to the authority of the Fair Labor Standards Act and regulations of the United States Department of Labor, there is hereby established effective May 1, 1985 a 28 consecutive day work period with regard to overtime compensation of law enforcement personnel of the City (not covered by this term are dispatchers, community service officers, health inspectors, clerical employees, etc.); overtime compensation will be only paid for those hours worked by such law enforcement personnel in excess of 171 hours during any 28 day work period.

Sec. 2-72. Duty to turn over monies received.
Every officer or employee shall at least once each day turn over all monies received by him in his official capacity to the Finance Director with statements showing the source from which the same was received.

Sec. 2-73. Availability of records for inspection.
All records kept by any officer of the City in the course of his duty shall be open to inspection by the Mayor or any member of the Council at all reasonable times, whether or not such records are required to be kept by statute or ordinance.

Secs. 2-74 - 2-85. Reserved.

DIVISION 2. CITY CLERK

Sec. 2-86. Election, term.
The City Clerk shall be elected and serve for a four-year term and until her successor is appointed and qualified as provided by statute.

Sec. 2-87. Bond.
Before entering upon the duties of her office the City Clerk shall execute a bond in such amount and with such sureties as may be required by the City Council, conditioned upon the faithful performance of her duties, provided that such bond shall be in an amount not less than $10,000.00.

Sec. 2-87.1. Salary.
The City Clerk shall receive $400 per month as salary plus $75.00 per meeting attended. (MC-88-469; MC-04-860). The aforesaid salary shall be payable to said municipal officer elected in the 2005 and subsequent municipal elections.

Sec. 2-88. Duties.
(a) The City Clerk shall be the keeper of the City seal and shall affix its impression on documents whenever required, and shall sign and attest all contracts of the City, licenses, permits, and such other documents
as shall be required by this formality and for which no provisions are made in this Code for the signature of approval of others in specific instances.

(b) The City Clerk shall perform such other duties as shall be required by the Council.

(c) The City Clerk shall be responsible for recording, filing, and safekeeping as required of all proceedings of the Council.

(d) The City Clerk shall record in full, uniformly and permanently, all ordinances and shall authenticate same.

(e) The City Clerk shall publish all adopted ordinances and resolutions as required by the statutes of the State of Illinois, and all legal notices as shall be required by the statutes or ordinances.

(f) The City Clerk shall keep and maintain all election records and have custody of all property used in connection with the elections, as required by law.

(g) The City Clerk shall prepare, attest and keep reports on the vital statistics of the City.

(h) The City Clerk shall notify the appointive authority and the City Council of the pending expiration of a term of office of a member of any Board or Commission or of any employee and said notices are to be given at least 30 days before such expiration.

Sec. 2-89. Reserved

Sec. 2-90. Duty to turn over money collected; accounts.
The City Clerk shall turn over all money received on behalf of the City, to the Finance Director promptly upon receipt of same, and with such money she shall give a statement as to the source thereof. Further, she shall keep complete accounts showing all monies received by her, the source and disposition thereof, and such other accounts as may by statute or ordinance be required.

Sec. 2-91. To index records, allow access.
The City Clerk shall keep and maintain a proper index to all documents or records kept by her and shall allow ready access to such documents or records during regular business hours, to any qualified person.

Sec. 2-92. Additional duties.
In addition to the duties herein provided, the City Clerk shall perform such other duties and functions as may be required by statute or ordinance.

Sec. 2-93. Deputy Clerk.
The City Clerk be and she is hereby authorized to appoint one Deputy Clerk from among the existing City Clerk's staff for such term as the City Clerk may, from time to time, determine, provided however, that no compensation shall be paid to the person filling the position of Deputy Clerk in excess of the compensation that is paid to such person for the staff position for which she was hired by the City Clerk. The City Clerk shall notify, in writing, the Mayor and City Council of any and all such appointments to the position of Deputy Clerk.

Secs. 2-94 - 2-98 Reserved.
DIVISION 3. CITY TREASURER.

Sec. 2-99. Creation of Office.
There is hereby created the office of the City Treasurer, an executive office of the City, who shall be appointed by the Mayor, by and with the consent of the City Council. (MC-12-1055)

Sec. 2-100. Bond.
The City Treasurer shall give bond in such sum as may be required by the City Council, with sureties to be approved by the City Council. This bond shall be conditioned upon the faithful performance of the Treasurer of his duties of office and to indemnify the City of any loss due to neglect of duty or wrongful act on the part of the Treasurer; provided that such bond shall be in an amount not less than $25,000.00.

Sec. 2-100.1. Salary.
The salary for the City Treasurer shall be determined from time to time by the Mayor and City Council. (MC-12-1055)

Sec. 2-101. General duties.
The City Treasurer shall be under the supervision of the City Administrator and perform such duties as may be prescribed by statute or ordinance and shall receive money paid in to the City, either from the person paying it or from such other officer as may receive it on behalf of the City in addition to such monies as may be turned over to him directly by County, State or Federal agencies as by statute provided.

The City Treasurer shall pay out money only on vouchers or purchase orders properly signed by the City Administrator and/or the Mayor as appropriate. (MC-12-1055)

Sec. 2-102. Deposit of funds; intermingling.
The City Treasurer shall deposit the City funds in such depositories as may be selected from time to time as provided by law, and shall keep City money separate and distinct from his own, shall not intermingle City funds with his own money or make private or personal use thereof.

Sec. 2-103. Records, monthly reports.
The City Treasurer shall keep records showing all monies received by him, the source from which it was received, and the purpose for which it was paid out, and shall keep a record showing at all times the financial status of the City. He shall keep such books and accounts as may be required by the City Council and in a manner as required by the City Council, and shall make monthly reports showing the state of finance together with records substantiating same.

Sec. 2-104. Annual report.
The City Treasurer shall make an annual report to the Council prior to the first day of September, which report shall show the total amount of all receipts and expenditures of the City and shall reflect all transactions of the Treasurer during the preceding year.

Sec. 2-105. Register of payments.
The City Treasurer shall keep a register of all warrants, bonds, or orders filed with him or paid by him, and all vouchers and purchase orders, as is required by statute.

Secs. 2-106 - 2-111. Reserved
DIVISION 4. CITY ATTORNEY

Sec. 2-112. Annual Retention (MC-09-985)
The City Attorney shall not hold an office of the City but shall be subject to annual retention by the Mayor with the advice and consent of the City Council.

Sec. 2-113. Reserved. (MC-93-603)

Sec. 2-114. Duty to give advice.
The Attorney shall be the legal advisor the City, and shall render advice on all legal questions affecting the City, whenever requested to do so by any City official. Such opinion shall be reduced to writing upon the request of the Mayor or the Council.

Sec. 2-115. Drafting of documents.
It shall be the duty of the Attorney to draft, supervise, or approve the phraseology of any contract, document or instrument to which the City may be a party; upon request of the Council he shall draft ordinances covering any subject within the power of the City.

Secs. 2-116 - 2-120. Reserved.

DIVISION 5. FINANCE DIRECTOR
(MC-04-860)

Sec. 2-121. Department established.
There is hereby established the Finance Department for the City, consisting of the Finance Director and such other employees as may be provided for by the City Council.

Sec. 2-122. Finance Director.
There is hereby created the position of Finance Director, who shall be the head of the Finance Department and who shall have the management, control and supervision over all employees assigned to the Finance Department subject to the supervision of the City Administrator. The Finance Director shall have full authority to develop policies and procedures for the Finance Department to ensure adequate internal controls are in place and in compliance with applicable laws and City ordinances. The Finance Director shall be an at-will employee, hired by the City Administrator and be under the direct supervision of the City Administrator.

Secs. 2-123. Duties and functions, generally.
The Finance Director shall perform all such duties as enumerated in the McHenry Municipal Code and other City ordinances, and such other duties as may be assigned or required by the City Council and the City Administrator from time to time. In addition, the Finance Director shall:

(1) Be charged with preparing and safety keeping all financial records of the City.

(2) Subject to the supervision of the Administrator, shall be the purchasing agent of the City and shall make or cause to be made all purchases of materials, supplies, or equipment for the City in the manner provided by law, ordinance, and rules and regulations of the City. The Finance Director shall develop appropriate purchasing procedures for the proper functioning of the purchasing system.
(3) Assist the Treasurer in the receipt, collection, accounting, disbursement and financial reporting of City revenues and all funds required to be in the custody of the City treasury, and shall exercise general supervision over all officers and employees of the City charged in any manner with the receipt, collection, accounting, disbursement and financial reporting of City revenues and all funds required to be in the custody of the City treasury.

(4) Keep accounts showing at all times the fiscal condition of the City, including the current and anticipated revenues and expenses of all municipal funds and accounts.

(5) Prepare and keep for the Treasurer all records required by law to be kept by the Treasurer and shall prepare for signature and publication the Annual Treasurer’s Report and any other report required by law.

(6) Prepare each month warrants of the Treasurer for the payment of all sums due from the City, listing each invoice and the account number out of which it is payable; which warrant when properly approved by the City Council, shall authorize the issuance of a voucher or check as provided by law or ordinance for the payment of each item. Approval of such list of invoices to be paid by the City Council on a roll call vote shall constitute the City Council’s approval of the payment of all expenses listed thereon; provided that the City Council may, in a motion to approve payment, except specific invoices from such approval, in which case such invoices shall not be paid.

(7) Receive and collect all license fees, permit fees, charges for municipal utility service, or special services rendered by the City, sums due the City on any contracts, and all other sums due the City other than those which are by law paid directly to the Treasurer and to provide the appropriate receipts and accounting therefore.

(8) Keep the City Council and the Administrator informed as to all sums due on taxes and all other revenues to which the City is entitled.

(9) In cooperation with other City department heads, prepare preliminary budget drafts for each fiscal year and submit them to the Administrator and the City Council for review and further action.

(10) Prepare the annual budget, appropriation ordinance and tax levy ordinance for the City.

(11) Supervise the annual audit of all City funds and fully cooperate with the City auditors so designated as prescribed by law and City ordinances.

(12) Collect all special assessments due and payable to the City and keep proper and appropriate books and records wherein the records of such special assessments may be transcribed for preservation and reference.

(13) Make such other and further reports concerning the office and business transactions as may be required by the City Council from time to time.
Sec. 2-124. Attendance at Council meetings; reports.
The Finance Director shall attend all regular meetings of, and shall report to the City Council at each meeting, in relation to his work as Director of Finance.

Sec. 2-125. Bond.
Before entering the duties of the office, the Finance Director shall execute a bond in such amount and with such sureties as may be required by law and by ordinance, conditioned upon the faithful performance of the duties of the office, and to indemnify the City against any loss due to any neglect of duty or wrongful act on the part of the Finance Director. The bond premium shall be paid by the City.

Sec. 2-126-128. Reserved.

DIVISION 6. DIRECTOR OF PUBLIC WORKS

Sec. 2-129. Office created; appointment.
There is hereby created the office of Director of Public Works, an executive office of the City, who shall be appointed by the Mayor, by and with the consent of the City Council.

Sec. 2-130. Supervision of sewer, water systems.
(a) The Director of Public Works shall be the operating head of the sewer system and water works and water distribution system of the City, and shall be responsible for the efficient management thereof. He shall have the care and custody of the sewer plants and all mechanical lifts and sewage removal pipes and tiles connected therewith and shall be responsible for the care and maintenance of all the component units of the sewage system.

(b) The Director of Public Works shall be the head of the water department and shall have in his care, custody and control, the water towers, pumping stations, hydrants, and all other and component units of the water pumping and distribution system of the City and shall be responsible for the care and maintenance of all such components of the system.

Sec. 2-131. Authority over streets, sidewalks, storm sewers, public property.
The Director of Public Works shall be charged with the duty of superintending the care of the streets generally, to assist the engineer in laying out, widening and repair of streets, and to keep all streets and alleys clean and free from obstructions; he shall be charged with the duty of supervising the maintenance and repair of all storm sewer installations and to assist in the laying out of new storm sewer installations; it shall be his duty to maintain and repair all sidewalks in the City and to inspect same regularly as to condition; he shall supervise installation of new sidewalks and shall be responsible for securing engineering data relative to all such new installations; he shall be charged with the duty of maintaining all public property of the City and of making such repairs to said property as shall be directed from time to time by the Mayor and the City Council; he shall be the administrative official who is charged with the enforcement of the Subdivision Control and Development Ordinance.

Sec. 2-132. Attendance at Council meetings; reports.
The Director of Public Works shall attend all regular meetings of, and shall report to the City Council at each meeting, in relation to his work as Director of Public Works.
DIVISION 7. CITY ADMINISTRATOR

Sec. 2-133. Office created; appointment. (MC-90-534)
There is hereby created the Office of City Administrator, an executive office of the City, who shall be appointed by the Mayor, by and with the advice and consent of the City Council.

Sec. 2-134. Powers, duties, and responsibilities.
The City Administrator is the chief administrative official of the municipal government and accountable for the overall planning, organizing, assembling resources, supervising and control activities necessary to implement the policies and programs established by the City Council. The City Administrator shall supervise the department heads on a daily basis and coordinate the activities of City departments, advisory boards, and other public and private agencies. The City Administrator is accountable directly to the Mayor and City Council for implementing the policies, programs and budgets as enacted by the City Council.

Subject to the foregoing, the City Administrator has the following duties and responsibilities:

1. Attend all City Council and Council Committee meetings.

2. Develop policies and procedures necessary for the operation of the City and present them to the Mayor and City Council for approval. Provide the City Council with adequate information to help it reach sound decisions and establish policies.

3. Review all City services, assess the City’s needs and provide on a regularly scheduled basis, a report of the current needs and recommendations to the Mayor and City Council.

4. Management of the department heads in their daily assignments and duties. Recommend to the Mayor and City Council the creating, combining or consolidation of offices, positions, and departments, as needed.

5. Preparation of the annual budget in conjunction with the Finance Committee and submit to City Council for approval, and responsibility for compliance with all statutes and ordinances pertaining to finances, appropriations, and levies.

6. Establish and coordinate a system of purchasing within the approved budgets, policies and procedures established by the City Council.

7. Evaluate all department heads and conduct performance reviews with the Mayor, and responsibility for all personnel matters and employee benefits, including recommendations for hiring, promotions, demotions, discipline, and suspensions of all employees pursuant to the personnel policy.

8. Participate with City Council in the development and establishment of short and long range goals and objectives.
(9) Report regularly to the City Council about progress toward organizational objectives, financial status of
the organization, and other issues of concern to the City Council.

(10) Such other and further duties and assignments as may be specified from time to time by the Mayor and
City council.

Sec. 2-135 – 139. Reserved

DIVISION 8. CITY ENGINEER

Sec. 2-140. Annual Retention (MC-09-984)
The City Engineer shall not hold an office of the City but shall be subject to annual retention by the Mayor with
the advice and consent of the City Council

Sec. 2-141-142. Reserved

ARTICLE V. EMERGENCY SERVICES AND DISASTER AGENCY

Sec. 2-143. Definition.
As used in this Article, the term "City ESDA" or "ESDA" shall mean the City of McHenry Emergency Services
and Disaster Agency created by this Article, unless clearly indicated to the contrary.

Sec. 2-144. Created; purpose; composition.
(a) There is hereby created the City of McHenry Emergency Services and Disaster Agency to prevent,
minimize, repair and alleviate injury or damage resulting from disaster caused by enemy attack,
sabotage or other hostile action, or from natural or man-made disaster, in accordance with the Illinois
Emergency Services and Disaster Act of 1975.
(b) The ESDA shall consist of the coordinator and such additional members as may be selected by the
coordinator.

Sec. 2-145. Appointment, term and general responsibility of coordinator; acting coordinator.
(a) The coordinator of the ESDA shall be appointed by the Mayor and shall serve until removed by same.
(b) The coordinator shall have direct responsibility for the organization, administration, training and
operation of the ESDA, subject to the direction and control of the Mayor as provided by statute.
(c) In the event of the absence, resignation, death or inability to serve of the coordinator, the Mayor or any
person designated by him shall be and act as coordinator until a new appointment is made as provided in
this Section.

Sec. 2-146. General functions and duties.
The City ESDA shall perform such ESDA functions within the City as shall be prescribed in and by the State
ESDA plan and program prepared by the Governor, and such orders, rules and regulations as may be
promulgated by the Governor, 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, municipality or
quasi-municipality entered into as provided by the State ESDA Act of 1975.

Sec. 2-147. Oath of members.
Every person appointed to serve in any capacity in the ESDA organization shall, before entering upon his
duties, prescribe to the following oath, which shall be filed with the coordinator:
"I, _______________, do solemnly swear (or affirm) that I will support and defend and bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of Illinois, and the territory, institutions, and facilities thereof, both public and private, against all enemies, foreign and domestic; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter. And I do further swear (or affirm) that I do not advocate, nor am I nor have I been a member of any political party or organization that advocates the overthrow of the government of the United States or of this State by force or violence; and that during such time as I am affiliated with the City of McHenry ESDA organization, I will not advocate nor become a member of any political party or organization that advocates the overthrow of the government of the United States or of this State by force or violence."

Sec. 2-148. Office space.  
The Mayor is authorized to designate space in a City building, or elsewhere, as may be provided for by the Mayor for the City ESDA as its office.

Sec. 2-149. Service as mobile support team.  
(a) All or any members of the City ESDA organization may be designated as members of a mobile support team created by the director of the State ESDA as provided by law.

(b) The leader of such mobile support team shall be designated by the coordinator of the City ESDA organization.

(c) Any member of a mobile support team, who is a City employee or officer while serving on call to duty by the Governor or the State Director of ESDA, shall receive the compensation and have the powers, duties, rights and immunities incident to such employment or office. Any such member who is not a paid officer or employee of the City, while so serving, shall receive from the State reasonable compensation as provided by law.

Sec. 2-150. Agreements with other political subdivisions.  
The coordinator of the ESDA may negotiate mutual aid agreements with other cities or political subdivisions of the State, but no such agreement shall be effective until it has been approved by the Mayor and by the State Director of ESDA.

Sec. 2-151. Cooperation with State in exercise of emergency powers.  
If the Governor proclaims that a disaster emergency exists in the event of actual enemy attack upon the United States, or the occurrence within the State of Illinois of a major disaster resulting from enemy sabotage or other hostile action, or from man-made or natural disaster, it shall be the duty of the City ESDA to cooperate fully with the State ESDA and with the Governor in the exercise of emergency powers as provided by law.

Sec. 2-152. Compensation of members during training time.  
Members of the ESDA who are paid employees or officers of the City, if called for training by the State Director of ESDA, 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 such City employees or officers shall receive for such training time, such compensation as may be established by the Mayor.

43
Sec. 2-153. Purchases and expenditures.
(a) The Mayor, on recommendation of the coordinator of the ESDA, may authorize any purchase or contracts necessary to place the City in a position to combat effectively any disaster resulting from the explosion of any nuclear or other bomb or missile, and to protect the public health and safety, protect property and provide emergency assistance to victims in the case of such disaster, or from man-made or natural disaster.

(b) In the event of enemy caused or other disaster, the coordinator of ESDA is authorized, on behalf of the City, to procure such services, supplies, equipment or material as may be necessary for such purposes, in view of the exigency, without regard to the statutory procedures or formalities normally prescribed by law pertaining to City contracts or obligations, as authorized by the State ESDA Act of 1975, provided that, if the City Council meets at such time, he shall act subject to the directions and restrictions imposed by that body.

Sec. 2-154. Reimbursements by State.
The State Treasurer may receive and allocate to the appropriate fund any reimbursement by the State to the City for expenses incident to training members of the ESDA as prescribed by the State Director of ESDA, compensation for services and expenses of members of a mobile support team while serving outside the City in response to a call by the Governor or State Director of ESDA, as provided by law, and any other reimbursement made by the State incident to ESDA activities as provided by law.

Sec. 2-155. Appropriations and tax levy for ESDA purposes.
The City may make appropriations for ESDA purposes in the manner provided by law and may levy, in addition for ESDA purposes only, a tax not to exceed five cents ($0.05) per one hundred dollars ($100.00) of the assessed value of all taxable property in addition to all other taxes, as provided by the State ESDA Act of 1975; however, that amount collectable under such levy shall in no event exceed twenty-five cents ($0.25) per capita.

Sec. 2-156. Declaration of local emergency.
(a) A local disaster emergency may be declared only by the Mayor. It shall not be continued or renewed for a period in excess of seven days, except by or with the consent of the City Council. Any order or proclamation shall be given prompt and general publicity and shall be filed promptly with the City Clerk.

(b) The effect of a declaration of a local disaster emergency is to activate the response and recovery aspects of any and all applicable local or interjurisdictional disaster emergency plans and to authorize the furnishing of aid and assistance thereunder.

Secs. 2-157 - 2-165. Reserved
ARTICLE VI. REIMBURSEMENTS TO CITY FOR EXPENSES INCURRED IN ANNEXATION PROCEEDINGS

Sec. 2-166. Property owner to reimburse City for expenses incurred in connection with proposed annexation of land.
Property owners shall pay and reimburse the City for any and all Council and administrative expenses and costs and for any and all fees, salaries or compensations incurred and charged to the City by the retained personnel of the City in connection with the proposed annexation of any land to the City as hereafter set forth.

Sec. 2-167. "Retained personnel" defined.
"Retained personnel" shall be defined as any engineer, attorney, planner, economist, or other technical, professional or other expert paid or retained by the City to assist or advise the City, directly or indirectly, in connection with any aspect of a proposed annexation of territory to the City.

Sec. 2-168. Deposit to be made by property owner.
The property owner shall deposit with the City a sum to be calculated, as hereinafter set forth, on the basis of the amount of territory to be annexed to be used toward defraying the aforesaid expenses, costs, fees, salaries and compensations:

(1) For single family residential territory up to one (1) acre:
   (a) Where the owner of record is a land trust - $400.00.
   (b) Where the owner of record is not a land trust - $200.00.

(2) For territory up to five (5) acres - $1,000.00.

(3) For territory of five (5) acres or more - $1,000.00 plus $100.00 per acre for each acre in excess of five acres.

This deposit shall be paid to the City at the time that a petition for annexation is filed or a proposed annexation agreement is presented by the property owner, or at any time prior thereto that either the Mayor, the City Council or Finance Director may request.

Sec. 2-169. "Acre" defined.
An "acre" for the purposes of Section 2-168 shall be defined as that measurement of land that is the dimensions of an acre not withstanding any roads, buildings or other physical structures or obstacles located on, within or adjacent to said measurement.

Sec. 2-170. Annexation proceedings to be stayed until deposit made.
All proceedings in connection with such annexation shall be stayed until said sum so designated is deposited with the City Clerk as aforesaid.
Sec. 2-171. Statements, bills submitted by retained personnel to segregate and identify charges and fees; copy of statement or bills to be forwarded to property owner.
Any statement or bill submitted to the City by the retained personnel shall segregate and identify the charges and fees incurred directly or indirectly connected with said annexation; a copy of said statement or bill shall be forwarded to said property owner at the time an amount to equal said charges and fees are withdrawn from said specified account.

Sec. 2-172. Subsequent demands for additional deposits.
At any time the balance in the property owner's account reaches one-fourth (1/4) of the original amount deposited, the Mayor or the City Council may demand from the property owner a sum of money that, in addition to the balance in said specified account, shall equal the amount originally deposited hereunder or such lesser fraction thereof that the City Council might, in such case determine.

All proceedings with regard to such annexation shall be stayed until said subsequent demands for additional deposits shall be paid by the property owner.

The Mayor or the City Council shall give notice of said demand for payment to said property owner and a duplicate copy of said notice shall be furnished to the Planning and Zoning Commission.

Any demand or subsequent demand of the City Council, not deposited by the property owner within six (6) months of the date of said demand, shall, at the discretion of the City Council and upon written notice to the property owner, terminate the proposed annexation proceedings.

Sec. 2-173. Funds to be deposited in special account.
All funds required to be deposited by the property owner shall be deposited by the City into a special account and shall be held in the name of the City for the uses and purposes set forth in this Article.

Sec. 2-174. Continuance for deposits.
The City Council may, for good cause shown by the property owner in writing to said Council, grant continuances in writing to said property owner for said deposits.

Sec. 2-175. Waiver of Article requirements.
The City Council may, in its discretion and upon written resolution, waive the requirements of this Article.

Sec. 2-176. Return of unused deposits to property owners.
Upon the presentment of the final statement of the retained personnel and within sixty days of the disposition of the annexation proceedings, including the approval and recording of any final plat, any balance of the deposit remaining in the account, excluding interest, shall be returned and repaid to the property owner. Any interest that may be earned in connection with said deposit shall be retained by the City.

Secs. 2-177 - 2-185. Reserved.
ARTICLE VII. McHENRY HISTORIC LANDMARK COMMISSION

Sec. 2-186. Historic Preservation Ordinance in effect. (MC-98-709; MC-09-977)
There is hereby created a McHenry Historic Preservation Ordinance which shall continue to be that ordinance adopted on the third day of June, 1998, amended on January 5, 2009, and as amended or revised by subsequent ordinances. Nothing contained in this code, or in the ordinance revising this code, shall be construed to amend, alter, or otherwise affect the provisions of the said Historic Preservation Ordinance.

Sec. 2-187. Reserved.

ARTICLE VIII. PLANNING AND ZONING COMMISSION (MC-02-793)

2-200 Organization
2-201 Plan Commission, Zoning Board of Appeals References
2-202 Duties of the Commission
2-203 Special Zoning Commission
2-204 Meetings

Sec. 2-200. Organization

a) Creation. There is hereby created a Planning and Zoning Commission for the City to carry out the duties of a plan commission and zoning board of appeals. When used in this Article “Commission” shall be construed to mean the Planning and Zoning Commission and “Commissioners” shall be construed to mean the members of the Commission.

b) Membership. The Commission shall consist of seven Commissioners to be appointed by the Mayor with the advice and consent of the City Council. A Chairman and Vice Chairman shall be appointed on an annual basis by the Mayor with the advice and consent of the City Council. (MC-13-1067)

c) Terms of Office. Deleted in its entirety. (MC-13-1067)

d) Chairman. Deleted in its entirety. (MC-13-1067)

e) Vacancy. Any vacancy on the Commission shall be filled in the same manner as the original appointment.
Compensation. Commissioners shall receive compensation quarterly for each meeting attended at the rate of $50 per meeting for the Chairman and $40 for all other Commissioners or at such other rates as the City Council may hereafter establish.

Sec. 2-201. Plan Commission, Zoning Board of Appeals References.
Any ordinance, code, regulation, etc., of the City or state statute that references the Plan Commission and/or Zoning Board of Appeals shall mean the Planning and Zoning Commission.

Sec. 2-202. Duties of the Commission.
The duties of the Commission are as follows:

(1) To prepare and recommend to the City Council a comprehensive plan for the present and future development or redevelopment of the City. After its adoption by the City Council, this plan shall be known as the City of McHenry Comprehensive Plan (“Comprehensive Plan”). Thereafter, from time to time, the Commission may recommend changes in the Comprehensive Plan. This Comprehensive Plan may include reasonable requirements with reference to the streets, alleys, public grounds, and other improvements in unsubdivided land situated within the corporate limits or in contiguous territory not more than 1 ½ miles beyond the corporate limits and not included in any municipality.

These requirements shall be effective whenever this unsubdivided land is subdivided after the adoption of the Comprehensive Plan. Following the adoption of the Comprehensive Plan, no map or plat of any subdivision presented for record affecting land within the corporate limits of the City or in contiguous territory outside of and not more than 1 ½ miles from those limits and not included in any other municipality, shall be entitled to record or shall be valid unless the subdivision thereon shall provide for streets, alleys, public grounds, and other public improvements in conformity with the Comprehensive Plan.

(2) From time to time, prepare and recommend changes in the Comprehensive Plan, or plans for specific improvements in the pursuance of the Comprehensive Plan to the City Council.

(3) To provide assistance to the City officials charged with the direction of projects for improvements embraced within the Comprehensive Plan and to further the making of these projects, and generally promote the Comprehensive Plan.

(4) To exercise such other powers, germane to the powers granted by this Code as may be conferred by the City and are granted a City under the Illinois Municipal Code.

(5) To hear appeals from any order, requirement, decision or determination of the Director of Construction and Neighborhood Services relating to the Zoning Ordinance by any person, firm or corporation aggrieved thereby, or by any officer, department, Council or Commission of the City.
The appeal shall be taken within 45 days of the action complained of by filing a Notice of Appeal, in duplicate, specifying the grounds thereof, in the Office of the City Clerk, who shall transmit forthwith one copy to the Director of Construction and Neighborhood Services and one copy to the Chairman of the Commission. The Director of Construction and Neighborhood Services shall forthwith transmit to the Chairman of the Commission all the papers constituting the record upon which the action appealed from was taken.

An appeal stays all proceedings in furtherance of the action appealed from unless the Director of Construction and Neighborhood Services certifies to the Commission that, by reason of facts stated in the certification, a stay would cause imminent peril to life or property. In such case, the proceedings shall not be stayed except by a restraining order issued by the Commission or a Court of record after notice to the Director of Construction and Neighborhood Services and on due cause shown.

The Commission shall select a reasonable time and place for the hearing of the appeal, give a minimum of 10 days notice thereof to all interested parties, and shall render a written decision on the appeal without unreasonable delay.

Any person may appear at the hearing and present testimony in person or by a duly authorized agent or attorney. The Commission may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination of the Director of Construction and Neighborhood Services.

(6) To recommend to the City Council, after holding a Public Hearing, on application for variations from the strict enforcement of any provisions of the Zoning Ordinance, in accordance with the rules and standards set forth therein.

(7) To recommend to the City Council, after holding a Public Hearing, on applications for conditional uses listed in each of the several zoning districts.

(8) To recommend to the City Council, after holding a Public Hearing, on applications for integrated design developments referred to it by the City Council and to hear and decide other matters referred to it or upon which it is required to pass under the provisions of the Zoning Ordinance.

(9) To recommend to the City Council, after holding a Public Hearing, on petitions for amendment of the provisions of the City of McHenry Zoning Ordinance and the boundary lines of zoning districts established therein.

(10) To transmit to the City Council, with every recommendation, findings of fact and to refer to any exhibits containing plans and specifications relating to its recommendation, which plans and specifications shall remain a part of the permanent records of the Commission. The findings of facts shall specify the reason or reasons for its recommendation. The terms of the relief recommended shall be specifically set forth in a conclusion or statement separate from the findings of fact of the Commission.

(11) To keep written minutes of its proceedings, which shall be a public record.
(12) To file immediately in the Office of the City Clerk every rule, order, requirement, decision or determination of the Commission after any meeting or hearing, which shall be a public record.

(13) Nothing contained herein shall be construed to authorize the Commission to change any of the provisions of the City of McHenry Zoning Ordinance or district boundary lines established hereby. The concurring vote of four members shall be necessary to reverse any order, requirement, decision or determination of the Director of Construction and Neighborhood Services, or to decide in favor of the applicant any matter upon which the Commission is authorized to act.

(14) File an annual report with the Mayor and City Council setting forth its transactions and recommendations.

(15) Adopt bylaws and any other procedural rules consistent with this and other City ordinances and state statutes.

(16) Cooperate with county and regional planning commissions and other groups to promote coordinated planning.

(17) Recommend to the City Council the employment of such professional planning, legal, engineering or administrative assistance as is necessary to fulfill its responsibilities.

(18) Carry out any other function concerning land subdivision or other matters that may be conferred upon it by the Subdivision Control and Development Ordinance, City of McHenry Zoning Ordinance, this Code, or any other City ordinance, and the Illinois Municipal Code, and discharge any other duties referred or assigned to it by the City Council.

Sec. 2-20. Special Zoning Commission.
The Commission shall serve as a special zoning commission whenever a text amendment is proposed to the City of McHenry Zoning Ordinance.

Sec. 2-204. Meetings.
All meetings of the Commission shall be held at the call of the Chairman and at such other times as the Commission and/or City Council may determine. The presence of four members shall be necessary for a quorum. All meetings shall be open to the public. The Chairman, or Vice Chairman, may administer oaths and compel the attendance of witnesses. The Commission shall keep minutes of its proceedings, keep record of its examinations and other official actions, prepare findings of fact and record the individual votes upon every question. Expenses incurred by the Commission in the performance of official duties are to be itemized and shall be borne by the City.
There is hereby created an Economic Development Commission, which shall consist of nine members, all of whom shall be appointed annually by the Mayor with the advice and consent of the City Council. A Chairperson and Vice Chairperson shall also be appointed on an annual basis by the Mayor with advice and consent of the City Council. Any vacancy on the Commission shall be filled in the same manner as the original appointment.

Members of the Economic Development Commission shall reside within the City or within one and one-half miles thereof, or shall be either a commercial or industrial property owner, or an owner, officer, or a managing executive of a business or industry located in the City. All appointees to the Economic Development Commission shall be persons dedicated to the goals of the commission and the best interests of the City. Members shall represent a wide range of industry sectors and geographic locations within the City. A minimum of one sitting City Council member as well as the Mayor shall be included as part of the nine member commission. Additionally, City staff are not voting members but shall serve solely in an advisory capacity to the commission.

The members of the Economic Development Commission may elect any other officers they deem necessary, shall hold such meetings and establish such rules and regulations as said commission shall deem necessary and proper for carrying on its functions. The commission shall meet, at a minimum, quarterly, however all meetings of the commission shall be held at the call of the chairperson and at such other times as the commission and/or City Council may determine. The presence of five members shall be necessary for a quorum. All meetings shall be open to the public. The Commission shall keep minutes and records of its proceedings and record votes. Public input shall be provided for at each meeting and all other requirements of the Open Meetings Act and Freedom of Information Act shall be followed. Expenses incurred by the commission in performance of official duties are to be itemized and shall be borne by the City.

The Economic Development Commission shall endeavor to attract business and industry for the City. The commission shall serve as an advisory body to the City Council on matters related to the business community. The commission shall have such additional powers and duties as may be assigned to it from time to time by the Mayor and City Council.

The primary functions of the Economic Development Commission can generally be divided into three categories: business communication, business attraction, and business retention and expansion.
In order to carry out the primary functions, the Economic Development Commission prepares an annual work plan/outline, which varies annually but generally includes the following projects:

- Review and provide advice to improve the business section on the City’s website as well as other forms of marketing which could assist the City in carrying out the primary functions of the Economic Development Commission;
- Discuss opportunities to carry out primary functions through use of focus groups; business retention visits; and other potential gatherings with a designated sector of the business community;
- Perform an annual review and update of business informational materials and new business welcome letter or other materials;
- Mail recognition letters to noted business successes and/or other forms of business recognition;
- Provide annual report to the City Council including goals for the upcoming year, to be completed at the end of the City’s fiscal year; and
- Additional special projects to be conducted annually, as needed. Examples may include surveys, business recognition events, seminars and/or newsletters, etc.

2-209. Compensation and Expenses.
The members of the Economic Development Commission shall serve without compensation.

The Economic Development Commission shall prepare a budget for each fiscal year and shall submit such budget to the City Council for review.
MUNICIPAL CODE
CHAPTER 2.25
ADMINISTRATIVE ADJUDICATION
(MC-10-1004)

Sec. 2.25-1. Adoption of state statutes.
The City adopts 65 ILCS 5/1-2.1-1 et seq., which authorizes a home rule municipality to create and implement a system of Administrative Adjudications for code violations and 625 ILCS 5/11-208.3 et seq., which authorizes a municipality to create and implement a system of Administrative Adjudication of Violations of Traffic Regulations Concerning the Standing, Parking, and Condition of Vehicles. The adoption of these statutes shall not preclude the City from using other methods to enforce City ordinances.

Sec. 2.25-2. Office of administrative adjudication.
(A) Creation: An Office of Administrative Adjudication is established pursuant to the authority of 65 ILCS 5/1-2.1-1 et seq. and 625 ILCS 5/11-208.3 et seq., the function of which is to administer a system of administrative adjudication provided for in this Chapter. The Office of Administrative Adjudication shall administer, manage and conduct administrative adjudication proceedings in the manner provided for in this Chapter. The creation of the Office of Administrative Adjudication shall not preclude the City from using other methods to enforce City ordinances. The Office of Administrative Adjudication shall be comprised of the following individuals appointed by the City Administrator:

(1) Hearing Officer, who may also be referred to as an Administrative Law Judge;

(2) The Chief of Police or designee;

(3) The Deputy City Administrator;

(4) A Code Administrator; and

(5) Any City Staff deemed necessary for the efficient administration of the Office of Administrative Adjudication.

(B) Jurisdiction: The Office of Administrative Adjudication shall have the authority to conduct the administrative adjudication of charges of all code violations of this Code, as amended, and vehicular standing, parking and compliance violations, except the following:

(1) Any offense under the Illinois Vehicle Code or this Code governing the movement of vehicles;

(2) Any reportable offense under Section 6-204 of the Illinois Vehicle Code (625 ILCS 5/6-204);

(3) Violations punishable by a penalty of incarceration; and

(4) Violations punishable by a fine in excess of $50,000 per violation excluding allowable costs, provided, however, that the maximum fine amount of $50,000 does not apply to cases brought to enforce the collection of any tax imposed and collected by the City.
(C) **Adjudication of Matters:** Charges of violations of this Code, as amended from time to time, and any other matter falling within the jurisdiction of the Office of Administrative Adjudication shall be heard and adjudicated by an Administrative Law Judge.

**Sec. 2.25-3 Director.**

The director of the Office of Administrative Adjudication shall be the City Administrator or his or her designee, or an independent contractor or agency contracted by the City to perform such duties as enumerated herein. The director is authorized, empowered and directed to:

(A) Operate and manage the system of administrative adjudication of vehicular standing and parking regulation violations, vehicle compliance violations, vehicle license or sticker requirement violations, building, fire and health code violations, and all other City ordinance violations as may be permitted by law and directed by ordinance or this Code.

(B) Adopt, distribute and process all notices as may be required under this Chapter or Code or as may reasonably be required to carry out the purpose of this Chapter.

(C) Collect moneys paid as fines and/or penalties assessed after a final determination of liability.

(D) Certify copies of final determinations of building, fire and health code violations or any other ordinance violation adjudicated pursuant to this Chapter and Code.

(E) If also appointed as Traffic Compliance Administrator pursuant to Section 2.25-16, certify copies of final determinations of vehicular standing and parking regulation violation liability, vehicle compliance violations, vehicle license or sticker requirement violations, and any factual reports verifying the final determination of any violation liability which were issued in accordance with this Chapter or the laws of the State, including 625 ILCS 5/11-208.3, as from time to time amended; and also certify reports to the Secretary of State concerning initiation of suspension of driving privileges in accordance with the provisions of this Chapter and those of 625 ILCS 5/6-306.5.

(F) Promulgate rules and regulations reasonably required to operate and maintain the system of administrative adjudication hereby established.

(G) Collect unpaid fines and penalties through private collection agencies that may be retained by the City or by filing citations in the 22nd Judicial Circuit Court, or by selecting or appointing an individual or agency to act on behalf of the City in filing citations, seeking judgments for unpaid fines or penalties and pursuing all post-judgment remedies available under current law.

(H) Operate and maintain, or delegate the operation and maintenance of any computer program(s) for the system of administrative adjudication hereby established, on a day-to-day basis, including, but not limited to:

1. Inputting of violation notice information;
2. Establishing hearing dates and notice dates;
3. Recording fine and penalty assessment and payments;
(4) Issuing payment receipts;

(5) Issuing succeeding notices of hearing dates and/or final determination of liability, issuing notices of immobilization, issuing notices of impending impoundment, and issuing notices of impending driver’s license suspension as may be required, in accordance with the Illinois Vehicle Code; and

(6) Keeping accurate records of appearances and non-appearances at administrative hearings, pleas entered and fines and other penalties assessed and paid.

Sec. 2.25-4 Compliance administrators.
The City Administrator, or designee, shall appoint Compliance Administrators who are authorized to issue Code violation notices and citations. Compliance Administrators are any and all police and community service officers, Director of Construction and Neighborhood Services, building code and property maintenance inspectors, Public Works Director, supervisors in the Public Works Department and any other person appointed to issue Code violation notices and citations.

Sec. 2.25-5 Administrative law judge.
(A) Appointment: The City Administrator, with advice and consent of the City Council, shall appoint an Administrative Law Judge to hear all matters under this Chapter. The Administrative Law Judge must be an attorney licensed to practice law in this State for at least 3 years. In the event the Administrative Law Judge is unavailable for any regular or special court date, the City Administrator shall appoint a temporary Administrative Law Judge. The temporary appointee must be an attorney licensed to practice law in this State for at least 3 years.

(B) Training: Prior to conducting proceedings under this Chapter, Administrative Law Judges shall successfully complete a formal training program that includes the following:

(1) Instruction on the rules of procedure of the hearings which they will conduct;

(2) Orientation to each subject area of the Code violations they will adjudicate;

(3) Observation of administrative hearings; and

(4) Participation in hypothetical cases, including ruling on evidence and issuing final orders.

(C) Powers and Duties: The powers and duties of the Administrative Law Judge shall include:

(1) Hearing testimony and accepting evidence that is relevant to the existence of the Code violation;

(2) Administering oaths and affirmations to witnesses;

(3) Issuing subpoenas, at the request of any party or on the Administrative Law Judge’s own motion for the appearance of witnesses or for the production of relevant books, records or other information, subject to Section 2.25-11;

(4) Regulating the course of the hearing in accordance with this Chapter, the rules and regulations adopted by the Office of Administrative Adjudication or other applicable law;
(5) Preserving and authenticating the record of the hearing and all exhibits and evidence introduced at the hearing;

(6) Holding conferences for the settlement or simplifications of issues;

(7) Issuing a determination, based on the evidence presented at the hearing, of whether a Code violation exists. The determination shall be in writing and shall include the fine, penalty or action with which the respondent must comply;

(8) Imposing penalties consistent with applicable Code provisions and assessing costs upon finding a party liable for the charged violation. However, in no event shall the Administrative Law Judge have authority to (i) impose a penalty of incarceration, or (ii) impose a fine in excess of $50,000, or at the option of the City, such other amount not to exceed the maximum amount established by the Mandatory Arbitration System as prescribed by the Rules of the Illinois Supreme Court from time to time for the 22nd Judicial Circuit. The maximum monetary fine under this Section shall be exclusive of costs of enforcement or costs imposed to secure compliance with the City’s ordinances and shall not be applicable to cases to enforce the collection of any tax imposed and collected by the City;

(9) Ordering a respondent to comply with the appropriate relevant Code section(s) that the respondent has been found liable of violating during the course of the administrative hearing;

(10) Imposing, in addition to fines and costs assessed, costs related to the enforcement of this Code’s provisions for which the respondent has been found liable; and

(11) Granting equitable relief as otherwise authorized by law or local ordinance.

Sec. 2.25-6 Notice of violation (non-vehicular).
The form and manner of notice for a vehicular parking, standing and compliance violation shall be as provided in Section 2.25-16. All matters, excepting vehicular parking, standing and compliance violations, to be adjudicated by the Office of Administrative Adjudication shall be commenced against the party alleged to have violated one or more Code provision(s) by issuing and serving upon that party a charging document in accordance with the following procedures:

(A) Issuance of Citation: The charging document for a violation of any provision of this Code subject to the system of administrative adjudication provided in this Chapter, other than vehicular parking, standing and compliance violations, shall be issued by a City officer or employee as authorized in Section 2.25-4, and served as provided for in Section 2.25-7.

(B) Contents: The charging document shall contain the following information:

(1) The name, City department and identification number, if applicable, of the person issuing the charging instrument;

(2) The name and address of the person or entity being charged with the violation;

(3) The name and address of the person to whom the charging document is served upon if that person is not the respondent;
(4) The section(s) of the Code alleged to have been violated;

(5) The date, time and place of the alleged violation(s);

(6) A legally sufficient description of the activity or conduct alleged to constitute a violation of each Code section set forth in the charging document; and

(7) The name of the complaining witness(es) if the violation was not witnessed by the City officer or employee issuing the charging document.

(C) **Certification**: The City officer or employee issuing the charging document shall certify the correctness of the information required by this Section by signing his or her name to the charging document.

(D) **Prima Facie Evidence**: Charging documents which comply with this Section will be sufficient to establish a prima facie case of liability for the Code violation charged.

(E) **Hearing Information**: A charging document issued pursuant to this Section shall also set forth:

(1) the date, time and place of the adjudication hearing to be held with respect to the violation;

(2) the legal authority and jurisdiction under which the hearing will be held;

(3) the penalties for failure to appear at the hearing; and

(4) the fine to be paid within the time frame set forth in Section 1-12, Settlement of Offenses, of this Code, and/or noting that appearance is required on the hearing date.

**Sec. 2.25-7  Service (non-vehicular).**

(A) The form and manner of service for a vehicular parking, standing and compliance violation shall be as provided in Section 2.25-16. A proceeding before the Administrative Law Judge shall be instituted upon the filing of a written sworn pleading or citation by any authorized official of the City, including police officers, code enforcement officers and such other employees as authorized with the Office of Administrative Adjudication.

(B) Respondents shall be served with a copy of the written sworn pleading or citation along with a notice of the hearing in any manner reasonably calculated to give them actual notice of the proceeding instituted against them including:

(1) Personal service upon a party or its employees or agents;

(2) Service by first class mail, certified mail return receipt requested, or express mail at the party’s last known address; or
Service by posting a copy of the sworn pleading or citation upon the property when a structure is involved where the violation is found if service on the owner cannot be made by mail. Posting shall be on the front door of the structure not less than 20 days before the hearing is scheduled. However, notice by posting shall not be effective notice if the property at issue is a vacant lot or a vacant building.

Sec. 2.25-8 Administrative hearings.
(A) Hearings shall be scheduled with reasonable promptness, provided that for hearings scheduled in all non-emergency situations, if requested by the respondent, the respondent shall have at least 15 days after service of process to prepare for a hearing. For purposes of this Section, “non-emergency situation” means any situation that does not reasonably constitute a threat to the public interest, safety, health or welfare. If service is provided by mail, the 15-day period shall begin to run on the day the notice is deposited in the mail.

(B) All hearings shall be open to the public, shall be recorded, and shall be conducted before an Administrative Law Judge.

(C) Documentary evidence, including the notice of violation, citation and attached exhibits, may be presented to the Administrative Law Judge.

(D) Respondents appearing at the hearing and their authorized agent or counsel shall file with the Office of Administrative Adjudication a written appearance on a form provided by the Office of Administrative Adjudication.

(E) All testimony shall be given under oath or affirmation.

(F) The formal and technical rules of evidence shall not apply in an adjudicatory hearing authorized under this Chapter. Evidence, including hearsay, may be admitted only if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs.

(G) Parties shall be provided with an opportunity for a hearing during which they may be represented by counsel, present witnesses and cross-examine opposing witnesses. Parties may request the Administrative Law Judge to issue subpoenas to direct the attendance and testimony of relevant witnesses and the production of relevant documents; however issuance of the subpoena shall be at the discretion of the Administrative Law Judge where it is determined the witness or documents are material and do not constitute a needless presentation of cumulative or repetitive evidence.

(H) Continuances may be granted at the discretion of the Administrative Law Judge upon a finding of good cause.

(I) Upon the conclusion of a hearing the Administrative Law Judge shall issue a final determination of liability or no liability. No violation may be established except by proof by a preponderance of the evidence.

(J) Upon issuing a determination of liability, the Administrative Law Judge may impose penalties and/or fines that are consistent with applicable provisions of this Code, impose a term of community service, assess costs reasonably related to instituting the administrative adjudication proceeding, if applicable, order the respondent to immediately correct the violation, and impose any other penalties or remedies available at law.
(K) Payment in full of any fine or penalty resulting from a violation shall constitute a final disposition of that violation.

**Sec. 2.25-9 Defenses to a building code violation. (MC-17-1152)**

Except for violations of Article VIII in Chapter 7, International Property Maintenance Code, of this Code, of this code as amended, it shall be a defense to a building code violation charged if the owner, his attorney or any other agent or representative proves to the Administrative Law Judge’s satisfaction that:

(A) The building code violation has been caused by the current property occupants and, in spite of reasonable attempts by the owner to maintain the dwelling free of such violation, including filing civil action to evict current occupants, the current occupants continue to cause the violation;

(B) An occupant or resident of the dwelling has refused entry to the owner or his agent to all or part of the dwelling for the purpose of correcting the building code violation.

**Sec. 2.25-10 Sanctions applicable to owner; property.**

The order to correct a building code violation and the sanction imposed by the City as the result of a finding of a building code violation under this Chapter, shall attach to the property as well as to the owner of the property so that a finding of a building code violation against one owner cannot be avoided by conveying or transferring the property to another owner. Any subsequent transferee or owner of the subject structure or property shall be subject to the findings, decision and order of a hearing officer.

**Sec. 2.25-11 Subpoenas.**

(A) **Issuance:** Issuance of a subpoena shall be at the discretion of the Administrative Law Judge and shall only be enforceable for the attendance of persons or the production of books, records or other documents that have a relevant evidentiary connection with the: 1) subject matter, and 2) facts which are relevant to the case and relate to a contested issue in the case. A party’s request to an Administrative Law Judge for a subpoena must be timely. Service of subpoenas shall be made in the same manner as summons in a civil action. Issuance shall be based upon whether the evidence sought is relevant and necessary to the defense of a violation, where without the issuance of the subpoena, the defense could not otherwise be established by the requesting party.

(B) **Content:** A subpoena issued under this Chapter shall identify:

(1) The person to whom it is directed;

(2) The documents or other items sought by the subpoena, if any; and

(3) The date, time and place for the appearance of the witnesses and the production of the documents or other items described in the subpoena.
(C) **Appearance:** The date identified for the appearance of the witnesses or the production of the documents or other items shall not be less than 7 days after service of the subpoena.

(D) **Contesting a Subpoena:** Within 5 business days of being served with a subpoena issued in accordance with this Chapter, the person or entity to whom the subpoena is directed may contest the issuance of the subpoena by filing a written motion with the Office of Administrative Adjudication, and with proper notice to all parties. The motion shall specify the grounds therefore, and shall be heard by an Administrative Law Judge on the return date indicated on the subpoena, or at the next hearing date scheduled for the case, whichever occurs earlier.

**Sec. 2.25-12** **Default; motion to set aside default judgment.**

(A) **Default:** The Administrative Law Judge may find a respondent in default if the respondent, his attorney or authorized representative fails to appear at a hearing where proper service of notice of the hearing has been provided to the respondent, in accordance with this Chapter, and where there is not a finding of good cause by the Administrative Law Judge for the respondent’s absence. Upon a finding of default, the hearing shall then proceed in absence of the respondent and evidence may be accepted relevant to the Code violation. A copy of the findings, decision and order resulting from the hearing shall be served on the respondent within 5 days after it is issued.

(B) **Motion to Set Aside Default Judgment:** The Administrative Law Judge may set aside any judgment entered by default and set a new hearing date, upon a petition filed by the respondent within 21 days after the issuance of the order of default, if the Administrative Law Judge determines that the respondent’s failure to appear at the hearing was for good cause, or at any time if the respondent establishes, by a preponderance of the evidence, that the City did not provide proper service of process. If any judgment is set aside pursuant to this Section, the Administrative Law Judge shall have authority to enter an order extinguishing any lien which has been recorded for any debt due and owing the City as a result of the vacated default judgment. When a judgment is vacated, the Administrative Law Judge shall proceed immediately with a new hearing on the underlying violation(s) as soon as practical.

**Sec. 2.25-13** **Judicial review.**

Any final decision by an Administrative Law Judge that a Code violation does or does not exist shall constitute a final determination for purposes of judicial review and shall be subject to review under the Illinois Administrative Review Law (735 ILCS 5/3-101 et seq.).

**Sec. 2.25-14** **Enforcement of judgment**

Any fine, other sanction, or costs imposed, or part of any fine, other sanction, or costs imposed, remaining unpaid after the exhaustion of or the failure to exhaust judicial review procedures under the Illinois Administrative Review Law are a debt due and owing the City and may be collected in accordance with applicable law. Additionally, after expiration of the period in which judicial review under the Illinois Administrative Review Law may be sought for a final determination of a Code violation, unless stayed by a court of competent jurisdiction, the findings, decision and order of the Administrative Law Judge may be enforced in the same manner as a judgment entered by a court of competent jurisdiction.
(A) **Failure to Comply; Costs of Enforcement**: In any case in which a respondent has failed to comply with a judgment ordering that respondent to correct a Code violation or imposing any fine or other sanction as a result of a Code violation, any expenses incurred by the City to enforce the judgment entered against that respondent, including, but not limited to, attorneys’ fees, court costs and costs related to property demolition or foreclosure, repair and/or enclosure of dangerous or unsafe buildings or uncompleted and abandoned buildings, costs for the removal of garbage, debris and other hazardous, noxious or unhealthy substances or materials from buildings or other real property after they are fixed by a court of competent jurisdiction or an Administrative Law Judge, shall be a debt due and owing the City and may be collected in accordance with applicable law. Prior to any expenses being fixed by the Administrative Law Judge pursuant to this Section, the City shall provide a notice to the respondent that states the respondent shall appear at a hearing before the Administrative Law Judge to determine whether the respondent has failed to comply with the judgment. The notice shall set the date for such hearing, which shall not be less than 7 days from the date that notice is served. If notice is served by mail, the 7-day period shall begin to run on the date the notice was deposited in the mail.

(B) **Lien**: Upon being recorded in the manner required by Article XII of the Illinois Code of Civil Procedure (735 ILCS 5/12-10 1 et seq.), or by the Uniform Commercial Code (810 ILCS 5/1-101 et seq.), a lien shall be imposed on the real estate or personal estate, or both, of the respondent in the amount of any debt due and owing the City under this Code. The lien may be enforced in the same manner as a judgment lien pursuant to a judgment of a court of competent jurisdiction.

(C) **Denial of Services**: If the respondent fails to pay any debt due and owing the City as described in this Section within 14 days after service of the notice of debt, the City may take the following actions in addition to any debt collection authorized by law:

1. Decline to issue, renew or provide any license, permit, zoning variance or permission applied for or requested by respondent under any Code or ordinance of the City until the respondent pays such debt; or

2. Decline to issue or renew residential parking permits, temporary residential parking permits or passes, or any other permit required and applied for by the respondent under any Code or ordinance of the City, until the respondent pays such debt.

**Sec. 2.25-15 Demolition, Repair, Enclosure or Remediation (MC-10-1020)**

(A) Pursuant to 65 ILCS 5/11-31-1, the City has the authority to demolish, repair or enclose or cause the demolition, repair or enclosure of dangerous and unsafe buildings or uncompleted and abandoned buildings within the City and may remove or cause the removal of garbage, debris and other hazardous, noxious or unhealthy substances or materials from those buildings. When such action is warranted, the director is authorized, empowered and directed to:

1. Apply to the hearing officer:
(a) for an order authorizing action to be taken with respect to a building if the owner or owners of the building, including the lien holders of record, after at least 15 days’ written notice by mail to do so, have failed to put the building in a safe condition or to demolish it or

(b) for an order requiring the owner or owners of record to demolish, repair or enclose the building or to remove garbage, debris and other hazardous, noxious or unhealthy substances or materials from the building. It is not a defense to the cause of action that the building is boarded up or otherwise enclosed, although the hearing officer may order the defendant to have the building boarded up or otherwise enclosed. Where, upon diligent search, the identity or whereabouts of the owner or owners of the building, including the lien holders of record, is not ascertainable, notice mailed to the person or persons in whose name the real estate was last assessed is sufficient notice under this Section.

(2) The hearing upon the application shall be expedited by the hearing officer and shall be given precedence over all other suits.

(3) The cost of the demolition, repair, enclosure or removal incurred by the City, by an intervenor, or by a lien holder of record, including hearing costs, attorneys’ fees and other costs related to the enforcement of this Section, is recoverable from the owner or owners of the real estate or the previous owner or both if the property was transferred during the 15-day notice period and is a lien on the real estate; the lien is superior to all prior existing liens and encumbrances, except taxes, if, within 180 days after the repair, demolition, enclosure or removal, the City, the lien holder of record or the intervenor who incurred the cost and expense, shall file a notice of lien for the cost and expense incurred in the office of the McHenry County Recorder of Deeds.

(4) The notice must consist of a sworn statement setting out:

(a) A description of the real estate sufficient for its identification,
(b) The amount of money representing the cost and expense incurred, and
(c) The date or dates when the cost and expense was incurred by the City, the lien holder of record, or the intervenor.

Upon payment of the cost and expense by the owner of or persons interested in the property after the notice of lien has been filed, the lien shall be released by the City, the person in whose name the lien has been filed, or the assignee of the lien, and the release may be filed of record as in the case of filing notice of lien.

(5) Unless the lien is enforced under Section 2.25-15(C), the lien may be enforced by foreclosure proceedings as in the case of mortgage foreclosures under 735 ILCS 5/1101 et seq., or mechanics lien foreclosures. An action to foreclose this lien may be commenced at any time after the date of filing of the notice of lien. The costs of foreclosure incurred by the City, including hearing costs, reasonable attorneys’ fees, advances to preserve the property, and other costs related to the enforcement of this Section, plus statutory interest, are a lien on the real estate and are recoverable by the City from the owner or owners of the real estate.
(6) All liens arising under this Section shall be assignable. The assignee of the lien shall have the same power to enforce the lien as the assigning party, except that the lien may not be enforced under Section 2.25-15(B).

(7) If the City determines that any dangerous and unsafe building or uncompleted and abandoned building within the City fulfills the requirements for an action by the City under 310 ILCS 50/1 et seq., the City may petition under that act in a proceeding brought under this Section.

(B) In any case where the City has obtained a lien it may enforce the lien pursuant to Section 2.25-14.

(C) In addition to any other remedy provided by law, the City may petition the 22nd Judicial Circuit Court to have property declared abandoned under this Section if:

(1) The property has been tax delinquent for 2 or more years or bills for water service for the property have been outstanding for 2 or more years;

(2) The property is unoccupied by persons legally in possession; and

(3) The property contains a dangerous or unsafe building for reasons specified in the petition.

All persons having an interest of record in the property, including tax purchasers and beneficial owners of any Illinois land trust having title to the property, shall be named as defendants in the petition and shall be served with process. In addition, service shall be had under 735 ILCS 5/2-206 as in other cases affecting property.

The City, however, may proceed under this Section in a proceeding brought under Section 2.25-15(A). Notice of the petition shall be served in person or by certified or registered mail on all persons who were served notice under Section 2.25-15(A).

If the City proves that the conditions described in this Section exist and (i) the owner of record of the property does not enter an appearance in the action, or, if title to the property is held by an Illinois land trust, if neither the owner of record nor the owner of the beneficial interest of the trust enters an appearance, or (ii) if the owner of record or the beneficiary of a land trust, if title to the property is held by an Illinois land trust, enters an appearance and specifically waives his or her rights under this Section, the court shall declare the property abandoned. Notwithstanding any waiver, the City may move to dismiss its petition at any time. In addition, any waiver in a proceeding under this Section does not serve as a waiver for any other proceeding under law or equity.
If that determination is made, notice shall be sent in person or by certified or registered mail to all persons having an interest of record in the property, including tax purchasers and beneficial owners of any Illinois land trust having title to the property, stating that title to the property will be transferred to the City unless, within 30 days of the notice, the owner of record or any other person having an interest in the property files with the court a request to demolish the dangerous or unsafe building or to put the building in safe condition, or unless the owner of record enters an appearance and proves that the owner does not intend to abandon the property.

If the owner of record enters an appearance in the action within the 30-day period, but does not at that time file with the court a request to demolish the dangerous or unsafe building or to put the building in safe condition, or specifically waive his or her rights under this Section, the court shall vacate its order declaring the property abandoned if it determines that the owner of record does not intend to abandon the property. In that case, the City may amend its complaint in order to initiate proceedings under Section 2.25-15(A), or it may request that the court order the owner to demolish the building or repair the dangerous or unsafe conditions of the building alleged in the petition or seek the appointment of a receiver or other equitable relief to correct the conditions at the property. The powers and rights of a receiver appointed under this Section shall include all of the powers and rights of a receiver appointed under 65 ILCS 5/11-31-2.

If a request to demolish or repair the building is filed within the 30-day period, the court shall grant permission to the requesting party to demolish the building within 30 days or to restore the building to safe condition within 60 days after the request is granted. An extension of that period for up to 60 additional days may be given for good cause. If more than one person with an interest in the property files a timely request, preference shall be given to the owner of record if the owner filed a request or, if the owner did not, the person with the lien or other interest of the highest priority.

If the requesting party (other than the owner of record) proves to the court that the building has been demolished or put in a safe condition in accordance with the local safety codes within the period of time granted by the court, the court shall issue a quitclaim judicial deed for the property to the requesting party, conveying only the interest of the owner of record, upon proof of payment to the City of all costs incurred by the City in connection with the action, including but not limited to court costs, attorney’s fees, administrative costs, the costs, if any, associated with building enclosure or removal and receiver’s certificates. The interest in the property so conveyed shall be subject to all liens and encumbrances on the property. In addition, if the interest is conveyed to a person holding a certificate of purchase for the property under 35 ILCS 200/1-1 et seq., the conveyance shall be subject to the rights of redemption of all persons entitled to redeem under that Act, including the original owner of record. If the requesting party is the owner of record and proves to the court that the building has been demolished or put in a safe condition in accordance with the local safety codes within the period of time granted by the court, the court shall dismiss the proceeding under this Section.
If the owner of record has not entered an appearance and proven that the owner did not intend to abandon the property, and if no person with an interest in the property files a timely request or if the requesting party fails to demolish the building or put the building in safe condition within the time specified by the court, the City may petition the court to issue a judicial deed for the property to the City. A conveyance by judicial deed shall operate to extinguish all existing ownership interests in, liens on, and other interest in the property, including tax liens, and shall extinguish the rights and interests of any and all holders of a bona fide certificate of purchase of the property for delinquent taxes. Any such bona fide certificate of purchase holder shall be entitled to a sale in error as prescribed under 35 ILCS 200/1-1 et seq.).

(D) The City may use the provisions of this Section to expedite the removal of certain buildings that are a continuing hazard in the City.

If a residential or commercial building is 3 stories or less in height as defined by the City’s building code, and the Director of Construction and Neighborhood Services determines that the building is open and vacant and an immediate and continuing hazard to the City, then the Director of Construction and Neighborhood Services shall be authorized to post a notice not less than 2 feet by 2 feet in size on the front of the building. The notice shall be dated as of the date of the posting and shall state that unless the building is demolished, repaired or enclosed, and unless any garbage, debris and other hazardous, noxious or unhealthy substances or materials are removed so that an immediate and continuing hazard to the City no longer exists, then the building may be demolished, repaired or enclosed, or any garbage, debris and other hazardous, noxious or unhealthy substances or materials may be removed, by the City.

Not later than 30 days following the posting of the notice, the City shall do all of the following:

1. Cause to be sent, by certified mail, return receipt requested, a Notice to Remediate to all owners of record of the property, the beneficial owners of any Illinois land trust having title to the property, and all lienholders of record in the property, stating the intent of the City to demolish, repair or enclose the building or remove any garbage, debris or other hazardous, noxious or unhealthy substances or materials if that action is not taken by the owner or owners.

2. Cause to be published, in a newspaper published or circulated in the City, a notice setting forth (i) the permanent tax index number and the address of the building, (ii) a statement that the property is open and vacant and constitutes an immediate and continuing hazard to the community, and (iii) a statement that the City intends to demolish, repair or enclose the building or remove any garbage, debris or other hazardous, noxious or unhealthy substances or materials if the owner or owners or lienholders of record fail to do so. This notice shall be published for 3 consecutive days.

3. Cause to be recorded the Notice to Remediate mailed in the office of the McHenry County Recorder of Deeds.

Any person or persons with a current legal or equitable interest in the property objecting to the proposed actions of the Director of Construction and Neighborhood Services may file his or her objection in an appropriate form in the Office of Administrative Adjudication.
If the building is not demolished, repaired, or enclosed or the garbage, debris or other hazardous, noxious or unhealthy substances or materials are not removed, within 30 days of mailing the notice to the owners of record, the beneficial owners of any Illinois land trust having title to the property, and all lienholders of record in the property, or within 30 days of the last day of publication of the notice, whichever is later, the Director of Construction and Neighborhood Services shall have the power to demolish, repair or enclose the building or to remove any garbage, debris or other hazardous, noxious or unhealthy substances or materials.

The City may proceed to demolish, repair or enclose a building or remove any garbage, debris or other hazardous, noxious or unhealthy substances or materials under this Section within a 120-day period following the date of the mailing of the notice if the Director of Construction and Neighborhood Services determines that the demolition, repair enclosure, or removal of any garbage, debris or other hazardous, noxious or unhealthy substances or materials is necessary to remedy the immediate and continuing hazard. If, however, before the City proceeds with any of the actions authorized by this Section, any person with a legal or equitable interest in the property has sought a hearing under this Section before the Office of Administrative Adjudication and has served a copy of the complaint on the City Administrator, then the City shall not proceed with the demolition, repair or enclosure or removal of garbage, debris or other substances until the hearing officer determines that that action is necessary to remedy the hazard and issues an order authorizing the City to do so. If the hearing officer dismisses the action for want of prosecution, the City must send the objector a copy of the dismissal order and a letter stating that the demolition, repair enclosure or removal of garbage, debris or other substances will proceed unless, within 30 days after the copy of the order and the letter are mailed, the objector moves to vacate the dismissal and serves a copy of the motion on the City Administrator. Notwithstanding any other law to the contrary, if the objector does not file a motion and give the required notice, if the motion is denied by the hearing officer, or if the action is again dismissed for want of prosecution, then the dismissal is with prejudice and the demolition, repair, enclosure or removal may proceed forthwith.

Following the demolition, repair or enclosure of a building, or the removal of garbage, debris or other hazardous, noxious or unhealthy substances or materials under this Section, the City may file a notice of lien against the real estate for the cost of the demolition, repair, enclosure, or removal within 180 days after the repair, demolition, enclosure or removal occurred, for the cost and expense incurred, in the office of the McHenry County Recorder of Deeds. This lien has priority over the interests of those parties named in the Notice to Remediate mailed under Section 2.25-15(D)(1), but not over the interests of third party purchasers or encumbrancers for value who obtained their interests in the property before obtaining actual or constructive notice of the lien.

The notice of lien shall consist of a sworn statement setting forth:

(1) A description of the real estate, such as the address or other description of the property, sufficient for its identification;

(2) The expenses incurred by the City in undertaking the remedial actions authorized under this Section;
The date or dates the expenses were incurred by the City;

A statement by the Director of Construction and Neighborhood Services that the building was open and vacant and constituted an immediate and continuing hazard to the community;

A statement by the Director of Construction and Neighborhood Services that the required sign was posted on the building, that notice was sent by certified mail to the owners of record, and that notice was published in accordance with this Section; and

A statement as to when and where the notice was published.

The lien authorized by this Section may thereafter be released or enforced by the City as provided in Section 2.25-15(A).

The City may remove or cause the removal of, or otherwise environmentally remediate hazardous substances and petroleum products on, in, or under any abandoned and unsafe property within the City. In addition, where preliminary evidence indicates the presence or likely presence of a hazardous substance or a petroleum product or a release or a substantial threat of a release of a hazardous substance or a petroleum product on, in, or under the property, the City may inspect the property and test for the presence or release of hazardous substances and petroleum products.

For purposes of this Section:

“property” or “real estate” means all real property, whether or not improved by a structure;

“abandoned” means:

(a) the property has been tax delinquent for 2 or more years;

(b) the property is unoccupied by persons legally in possession; and

“unsafe” means property that presents an actual or imminent threat to public health and safety caused by the release of hazardous substances; and

“hazardous substances” means the same as in 415 ILCS 5/3.215.

The code administrator shall apply to the hearing officer (i) for an order allowing the entry to the property and inspect and test substances on, in, or under the property; or (ii) for an order authorizing the code administrator to take action with respect to remediation of the property if conditions on the property, based on the inspection and testing authorized in paragraph (i).
indicate the presence of hazardous substances or petroleum products. Remediation shall be deemed complete for purposes of paragraph (ii) above when the property satisfies Tier I, II, or III remediation objectives for the property’s most recent usage, as established by 415 ILCS 5/1 et seq., and the rules and regulations promulgated thereunder. Where, upon diligent search, the identity or whereabouts of the owner or owners of the property, including the lien holders of record, is not ascertainable, notice mailed to the person or persons in whose name the real estate was last assessed is sufficient notice under this Section.

The hearing officer shall grant an order authorizing testing under paragraph (i) above upon a showing of preliminary evidence indicating the presence or likely presence of a hazardous substance or a petroleum product or a release of or a substantial threat of a release of a hazardous substance or a petroleum product on, in, or under abandoned property. The preliminary evidence may include, but is not limited to, evidence of prior use, visual site inspection or records of prior environmental investigations. The testing authorized by paragraph (i) above shall include any type of investigation which is necessary for an environmental professional to determine the environmental condition of the property, including but not limited to performance of soil borings and groundwater monitoring. The hearing officer shall grant a remediation order under paragraph (ii) above where testing of the property indicates that it fails to meet the applicable remediation objectives. The hearing upon the application to the hearing officer shall be expedited and shall be given precedence over all other suits.

The cost of the inspection, testing or remediation incurred by the City or by a lien holder of record, including court costs, attorney’s fees, and other costs related to the enforcement of this Section, is a lien on the real estate; except that in any instances where the City incurs costs of inspection and testing but finds no hazardous substances or petroleum products on the property that present an actual or imminent threat to public health and safety, such costs are not recoverable from the owners nor are such costs a lien on the real estate. The lien is superior to all prior existing liens and encumbrances, except taxes and any lien obtained under Section 2.25-15(A) or (D), if, within 180 days after the completion of the inspection, testing or remediation, the City or the lien holder of record who incurred the cost and expense shall file a notice of lien for the cost and expense incurred in the office of the McHenry County Recorder of Deeds.

The notice must consist of a sworn statement setting out (i) a description of the real estate sufficient for its identification, (ii) the amount of money representing the cost and expense incurred, and (iii) the date or dates when the cost and expense was incurred by the City or the lien holder of record. Upon payment of the lien amount by the owner of or persons interested in the property after the notice of lien has been filed, a release of lien shall be issued by the City, the person in whose name the lien has been filed, or the assignee of the lien, and the release may be filed of record as in the case of filing notice of lien.

The lien may be enforced under Section 2.25-15(B) or by foreclosure proceedings as in the case of mortgage foreclosures under 735 ILCS 5/1101 et seq., or mechanics’ lien foreclosures; provided that where the lien is enforced by foreclosure under Section 2.25-15(B) or under either statute, the City may not proceed against the other assets of the owner or owners of the real estate for any costs that otherwise would be recoverable under this Section but that remain
unsatisfied after foreclosure except where such additional recovery is authorized by separate environmental laws. An action to foreclose this lien may be commenced at any time after the date of filing of the notice of lien. The costs of foreclosure incurred by the City, including court costs, reasonable attorney’s fees, advances to preserve the property, and other costs related to the enforcement of this Section, plus statutory interest, are a lien on the real estate.

All liens arising under this Section shall be assignable. The assignee of the lien shall have the same power to enforce the lien as the assigning party, except that the lien may not be enforced under Section 2.25-15(B).

(F) In any case where the City has obtained a lien under Section 2.25-15(A), the City may also bring an action for a money judgment against the owner or owners of the real estate in the amount of the lien in the same manner as provided for bringing causes of action in 735 ILCS 5/2-101 and, upon obtaining a judgment, file a judgment lien against all of the real estate of the owner or owners and enforce that lien as provided for in 735 ILCS 5/2-101.

Sec. 2.25-16 Parking and standing of vehicles and the condition and use of vehicle equipment.

(A) This Section shall be applicable to violations of City ordinances regulating the parking and standing of vehicles and the condition and use of vehicle equipment.

(B) Definitions: In addition to the definitions found in Appendix A of this Code, terms used in this Section, whether capitalized or not, shall have the following meanings:

Compliance violation: A violation of a City ordinance or code governing the condition or use of equipment on a vehicle.

Traffic Compliance Administrator: The City Administrator or designee,

Vehicle Code: The Illinois Vehicle Code, 625 ILCS 5/1-100 et seq.

Violation notice: A violation notice issued pursuant to 625 ILCS 5/11-208.3 and the provisions of this Section.

(C) Traffic Compliance Administrator: Unless otherwise designated by the City Administrator, the director of the Office of Administrative Adjudication shall serve as the Traffic Compliance Administrator. The Traffic Compliance Administrator shall:

(1) Operate an administrative adjudication system for the adjudication of violations of City ordinances regulating the parking and standing of vehicles and the condition and use of vehicle equipment;

(2) Adopt, distribute and process violations of City ordinances regulating the parking and standing of vehicles and the condition and use of vehicle equipment and other notices required by 625 ILCS 5/11-208.3; and
(3) Collect money paid as fines and penalties for violations of City ordinances regulating the parking and standing of vehicles and the condition and use of vehicle equipment.

(4) Make a certified report to the Secretary of State pursuant to 625 ILCS 5/6-306.5. Any such certified report shall contain the information required under 625 ILCS 5/6-306.5(c).

(D) **Administrative Law Judge:** The adjudication of all notices of violation of City ordinances regulating the parking and standing of vehicles and the condition and use of vehicle equipment shall be conducted by an Administrative Law Judge conforming to all provisions of this Chapter.

(E) **Issuance of Citation:** Police and community service officers shall have the authority to issue notices of violation for any vehicular parking, standing or compliance violation.

(F) **Notice Requirements:** A violation notice shall include:

1. The date, time and place of the violation;
2. The particular regulation violated;
3. The fine and any penalty that may be assessed for late payment;
4. The vehicle make and state registration number;
5. The identification number of the person issuing the notice;
6. That the payment of the indicated fine, and any applicable penalty for late payment, shall operate as a final disposition of the violation;
7. Information on the availability of a hearing in which the violation may be contested on its merits; and
8. The time and manner in which a hearing will be held.

(G) **Service:**

1. The original or a facsimile of the notice shall be affixed to the vehicle or by handing the notice to the operator of a vehicle if present.
2. When Traffic Compliance Administrators issue violation notices they shall certify to the correctness of the facts on the violation notice by signing their name to the notice at the time of service. The original or a facsimile of the violation notice shall be retained by the Traffic Compliance Administrator. A record of the proceeding shall be kept in the ordinary course of business.
(3) A violation notice issued, signed and served in accordance with this Section, or a copy of the notice, shall be prima facie correct and shall be prima facie evidence of the correctness of the facts shown on the notice. The notice shall be admissible in any subsequent administrative or legal proceedings.

(4) Service of additional notices may be sent by first class United States mail, postage prepaid, to the address of the registered owner of the cited vehicle as recorded with the Secretary of State, or, under 625 ILCS 5/11-1306, to the lessee of the cited vehicle at the last address known to the lessor of the cited vehicle at the time of lease. If notice to that address is returned as undeliverable, service shall be to the last known address recorded in a United States postal service database. The service shall be deemed complete as of the date of deposit with the United States postal service.

(5) **Second Violation Notice**: A second notice of violation shall include:

(a) The date and location of the violation cited in the violation notice;

(b) The particular regulation violated;

(c) The vehicle make and state registration number;

(d) The fine and any penalty that may be assessed for late payment;

(e) The method in which a hearing to contest the violation on its merits may be obtained by the respondent, and the time and manner in which the hearing may be requested;

(f) A statement that failure either to pay the fine and any applicable penalty or to appear at the scheduled hearing will result in a final determination of violation liability for the cited violation in the amount of the fine and penalty indicated; and

(g) A statement that, upon the occurrence of a final determination of violation liability for the failure, and the exhaustion of, or failure to exhaust, available administrative or judicial procedures for review, any unpaid fine or penalty will constitute a debt due and owing the City.

(6) **Final Notice of Determination**: A notice of final determination of parking, standing and compliance violation liability shall be issued following a final determination of parking, standing and compliance violation liability and the conclusion of the judicial review procedures taken pursuant to this Section. The notice shall:

(a) State the unpaid fine or penalty is a debt due and owing the City; and

(b) Contain warnings that failure to pay any fine or penalty due and owing the City within the time specified may result in the City filing a petition in the 22nd Judicial Circuit Court to have the unpaid fine or penalty rendered a judgment as provided by this Section, or may result in suspension of the person’s drivers license for failure to pay fines or penalties for 10 or more parking violations under 625 ILCS 5/6-306.5.
(7) **Driver’s License Suspension**: A notice of impending driver’s license suspension shall:

   (a) Be sent to the person liable for any fine or penalty that remains due and owing on 10 or more parking violations;

   (b) State that failure to pay the fine or penalty owing within 45 days of the notice’s date will result in the City notifying the Secretary of State that the person is eligible for initiation of suspension proceedings under 625 ILCS 5/6-306.5;

   (c) State that the person may obtain a photostatic copy of an original ticket imposing a fine or penalty by sending a self-addressed, stamped envelope to the City with a request for a copy; and

   (d) Be sent by first class United States mail, postage prepaid, to the address recorded with the Secretary of State or, if any notice to that address is returned as undeliverable, to the last known address recorded in a United States postal service approved database.

(H) **Evidence Rules**: An opportunity for a hearing for the registered owner of the vehicle cited in the violation notice in which the owner may contest the merits of the alleged violation, and during which formal or technical rules of evidence shall not apply; provided, however, that under 625 ILCS 5/11-1306, the lessee of a vehicle cited in the violation notice shall be provided an opportunity for a hearing as afforded the registered owner.

(I) **Defenses**: For matters relating to parking and standing of vehicles and the condition and use of vehicle equipment, the Administrative Law Judge may consider in defense of a violation:

   (1) The motor vehicle, or registration plates, of the motor vehicle was stolen before the violation occurred and not under the control of or in the possession of the owner at the time of the violation;

   (2) The relevant required signs prohibiting or restricting parking were missing or obscured;

   (3) The facts alleged in the parking, standing or compliance violation notice are not correct, are materially inconsistent or do not support a finding that the specified regulation was violated; and

   (4) Any other evidence or issues provided by City ordinance.

To demonstrate that the motor vehicle, or the registration plates, was stolen before the violation occurred and was not under the control or possession of the owner at the time of the violation, the owner must submit proof that a report concerning the stolen motor vehicle or registration plates was filed with a law enforcement agency in a timely manner.

(J) **Final Determination of Violation Liability**: A final determination of violation liability shall occur following failure to pay the fine and any applicable penalty, or to appear at a hearing on the merits, and upon the exhaustion of the administrative review procedures. When a person fails to appear at his/her scheduled hearing to contest an alleged violation, the Administrative Law Judge’s determination of violation liability shall become final (i) upon denial of a timely petition to set aside that determination; or (ii) upon expiration of the period for filing the petition without a filing having been made.
(K) **Appeals:** A petition to void a determination may be filed by a person owing an unpaid fine or penalty and shall be filed within 30 days of the finding of liability and shall be ruled upon by the Administrative Law Judge. The grounds for such a petition are limited to:

1. The person was not the owner or lessee of the cited vehicle on the date the violation notice was issued; or
2. The person had paid the fine or penalty for the violation in question; or
3. Excusable failure to appear at or request a date for a hearing.

When it has been determined there is just cause, the registered owner shall be provided with a hearing on the merits for the violation.

(L) **Procedures for Non-Residents:** If an alleged violator does not reside within the City, the violation may be contested in writing pursuant to the notice of violation. In such circumstances, the non-resident may submit his or her position, in writing, signed and under oath, to the Administrative Law Judge, setting forth the reasons why a finding of liability should not be entered and why the issuance of the violation was improper. Said written challenge must be submitted not less than 14 days prior to the hearing as noted on the notice of violation.

**Sec. 2.25-17 Election of remedies.**
In no case may the Office of Administrative Adjudication conduct an administrative adjudication proceeding for an alleged violation of this Code where the remedy provided is a punishment of imprisonment; provided, however, where a violation of the Code is punishable by fines and other penalties in addition to imprisonment, the City may elect to institute an action with the Office of Administrative Adjudication and waive any imprisonment for the Code violation. Nothing in this Section, however, shall preclude the City from seeking the remedy of imprisonment in a court of competent jurisdiction.

**Sec. 2.25-18 Fines applicable to all offenses.**
Ordinance and Code violations that may be heard in an administrative adjudication as set forth in this Chapter shall carry the fines listed in this Code, with the maximum fines being $1,000 or as provided for in the State statutes, whichever is greater.

**Sec. 2.25-19 Reserved (MC-10-1020)**

80

Next Page is 85
ARTICLE I. DEFINITIONS

Sec. 2.50-1 Definitions. (MC-07-947)
Terms used in this Chapter 2.50, whether capitalized or not, shall have the following meanings:

Adult business: Any establishment in which 25% or more of its stock in trade or business activity in a use such as, but not limited to the following: adults-only bookstores, adults-only motion picture theater(s), adult entertainment centers, rap parlors, adults-only nightclubs or adults-only saunas, where explicit sexual conduct is depicted and/or sexual activity is explicitly or implicitly encouraged or tolerated.

Adult entertainment business: Synonymous with "adult business" as defined herein.

Adult entertainment center: An enclosed building or part of an enclosed building, which contains one or more coin-operated mechanisms which when activated permit a customer to view a live person nude or in such attire, costume or clothing as to expose to view the human male or female genitalia; pubic hair; buttocks; perineum; anal or pubic regions; or, female breast, at or below the areola thereof. In addition, the viewing of a live person, in the above described manner, after paying of any admission or fee for the viewing of same activity.

Adults-only: Any items or activities emphasizing, depicting, describing or relating to nudity, explicit sexual conduct (whether auto-erotic, heterosexual, homosexual or otherwise), bestiality or sadomasochistic activity.

Adults-only bookstore: A bookstore or video store in which 25% or more of its stock in trade, books, magazines, films for sale or viewing on premises by use of motion picture devices or other coin-operated means, and other periodicals which are distinguished or characterized by their principal emphasis on matters depicting, describing or relating to nudity, explicit sexual conduct (whether auto-erotic, heterosexual, homosexual or otherwise), bestiality or sadomasochistic activity.

Adults-only motion picture theater: An enclosed building used regularly and routinely for presenting adults-only material distinguished or characterized by an emphasis on matter depicting, describing or relating to nudity, explicit sexual conduct (whether auto-erotic, heterosexual, homosexual or otherwise), bestiality or sadomasochistic activity, for observation by patron therein.

Adults-only nightclub: An establishment or place either occasionally or primarily in the business of featuring topless dancers, go-go dancers, exotic dancers, strippers, male or female impersonators or similar entertainers, where explicit sexual conduct is depicted and/or sexual activity is explicitly or implicitly encouraged or tolerated.

Adults-only sauna: An establishment or place primarily in the business of providing a steam bath and/or massage services, where explicit sexual conduct is depicted and/or sexual activity is explicitly or implicitly encouraged or tolerated.
Booth: Any enclosure that is specifically offered to patrons of an Adult Business for the private viewing of any adults-only item or movie. Said definition does not include enclosures that are used as private offices by any operator, employee or agent for attending to the tasks of their employment and are not offered for use by the public.

Breast: A portion of the human female mammary gland (commonly referred to as the female breast) including the nipple and areola (the darker colored area of the breast surrounding the nipple) and an outside area of such gland wherein such outside area is (i) reasonably compact and contiguous to the areola and (ii) contains at least the nipple and the areola and one-fourth of the outside surface area of such gland.

Buttocks: The area at the rear of the human body (sometimes referred to as the gluteus maximus) which lies between two imaginary straight lines running parallel to the ground when a Person is standing, the first or top such line being one-half inch below the top of the vertical cleavage of the nates (i.e., the prominence formed by the muscles running from the back of the hip to the back of the leg) and the second or bottom such line being one-half inch above the lowest point of the curvature of the fleshly protuberance (sometimes referred to as the gluteal fold), and between two imaginary straight lines, one on each side of the body (the "outside lines"), which outside lines are perpendicular to the ground and to the horizontal lines described above and which perpendicular outside lines pass through the outermost point(s) at which each nate meets the outer side of each leg. Notwithstanding the above, buttocks shall not include the leg, the hamstring muscle below the gluteal fold, the tensor fasciae latae muscle or any of the above-described portion of the human body that is between either (i) the left outside perpendicular line and the left outside perpendicular line or (ii) the right inside perpendicular line and the right outside perpendicular line. For the purpose of the previous sentence the left inside perpendicular line shall be an imaginary straight line on the left side of the anus (i) that is perpendicular to the ground and to the horizontal lines described above and (ii) that is one-third of the distance from the anus to the right outside line. (The above description can generally be described as covering one-third of the buttocks centered over the cleavage for the length of the cleavage.)

Cubicle: Synonymous with "booth" as defined herein.

Door: Full, complete, non-transparent closure device that obscures the view or activity taking place within the enclosure.

Entity: For purposes of Article 4 herein, any proprietorship, partnership, corporation, association, business trust, joint venture, joint-stock company or other for profit and/or not for profit organization.
Massage therapist: Any person who, for any consideration whatsoever, engages in the practice of therapeutic massage as defined herein, and who provides proof of two of the following:

1. Proof of active membership in a professional massage therapy organization as defined herein.

2. Graduation and completion of a professional entry level massage therapy program consisting of a minimum of 500 hours of in-classroom study and a minimum of 100 hours of clinical experience in a recognized school as defined herein.

3. Passing of the National Certification Examination for Therapeutic Massage and Bodywork (NCETMB) administered by the National Certification Board for Therapeutic Massage and Bodywork, as approved by the National Commission for Certifying Agencies (NCCA), the National Organization for Competency Assurance (NOCA) or any examination exhibiting proficiency in massage therapy/bodywork approved by the State of Illinois or a federal certifying agency.

Massage therapy clinic: Any place of business having a source of income or compensation derived from the practice of therapeutic massage as defined herein where a licensed massage therapist administers therapeutic massage or from where a massage therapist is dispatched to administer therapeutic massage as defined herein. A massage therapy clinic may be located within a massage therapist's home, provided it is in compliance with the terms of Article 3 herein and other ordinances of the City.

Nightclub: An establishment serving food and/or liquor and providing music and space for dancing by patrons only. A nightclub shall not include an "Adult Business."

Nude: Any person insufficiently clothed in any manner so that any of the following body parts are not entirely covered with a fully opaque covering:

(1) The male or female genitals, or
(2) The male or female pubic area, or
(3) The female Breast, or
(4) The Buttocks.

Attire which is insufficient to comply with this requirement includes, but is not limited to, G-Strings, T-Backs, and thongs.

Body paint, body dyes, tattoos, liquid latex whether wet or dried, and similar substances shall not be considered opaque covering. Each female person may determine which one-fourth of her breast surface area (see definition of breast) contiguous to and containing the nipple and the areola is to be covered.

Nudity: The display of the human male or female genitalia; pubic hair; buttocks; perineum; anal or pubic regions; female breast, at or below the areola thereof, with no covering or with a less than fully opaque covering; or, male genitalia, in a discernible turgid state, with or without covering.
Obscene: Any material or performance is obscene if:
(1) the average person, applying contemporary adult community standards, would find that, taken as a whole, it appeals to the prurient interest; and
(2) the average person, applying contemporary adult community standards, would find that it depicts or describes, in a patently offensive way, ultimate sexual acts or sadomasochistic sexual acts, whether normal or perverted, actual or simulated, or masturbation, excretory functions or lewd exhibition of the genitals; and
(3) taken as a whole, it lacks serious literary, artistic, political or scientific value.

Operator: For purposes of an Adult Business, as defined herein, any person, (whether said persons be an individual, partner, corporation, joint stock company, fiduciary, officer, director, stockholder, employee, or manager), which conducts, maintains or owns any Adult Business.

Patron: For purposes of an Adult Business, as defined herein, any customer, patron or visitor to an Adult Business who is not employed by any operator of said establishment.
For purposes of Article 3 herein, A Patron is any person who receives a massage under such circumstances that it is reasonably expected that he or she will pay money or give other consideration therefor.

Person: For purposes of Article 4 herein, any live human being aged 10 years of age or older.

Places provided or set apart for nudity: Shall mean enclosed single sex public restrooms, enclosed single sex functional shower, locker and/or dressing room facilities, enclosed motel rooms and hotel rooms designed and intended for sleeping accommodations, doctor's offices, portions of hospitals, and similar places in which nudity or exposure is necessarily and customarily expected outside of the home and the sphere of privacy constitutionally protected therein. This term shall not be deemed to include places where a person's conduct of being nude is used for the promotion of business or is otherwise commercially exploited.

Professional massage therapy organization: An organization comprised of individuals who have graduated from a recognized school, as defined herein, and which is member owned and operated, i.e., its members elect the Board of Directors. Such organizations include, but are not limited to Rolf, Trager, APTA, HPA, IMF, AOBTA and IMTA.

Public place: Any location frequented by the public, or where the public is present or likely to be present, or where a person may reasonably be expected to be observed by members of the public. Public places include, but are not limited to, streets, sidewalks, parks, beaches, business and commercial establishments (whether for profit or not for profit and whether open to the public at large or where entrance is limited by cover charge or membership requirement); bottle clubs; hotels; motels; restaurants; night clubs; country clubs; cabarets; meeting facilities utilized by any religious, social, fraternal or similar organization. A premises, or portion thereof such as a hotel room, used solely as a private residence, whether permanent or temporary in nature, shall not be deemed to be a public place.

Rap parlor: An establishment or place primarily in the business of providing non-professional conversation or similar services for adults, where explicit sexual conduct is depicted and/or sexual activity is explicitly or implicitly encouraged or tolerated.
Recognized school: A school or educational institution which meets at least one of the following requirements:

(1) An approved school operating according to state regulations which has a current State license, approval or accreditation and/or certification and provides an entry level massage training program of a minimum of 500 hours of in-class work completed under the physical supervision of faculty; or

(2) A massage school program accredited and/or approved by the Commission on Massage Training/Approval and Accreditation (COMTAA).

Schools offering correspondence courses and not requiring actual in-class attendance are not considered recognized schools.

Room: Synonymous with "booth" as defined herein.

Sadomasochistic activity: Flagellation or torture by or upon a nude person; a person clad in undergarments, a mask or bizarre costume. In addition, the condition of being fettered, bound or otherwise physically restrained with the intent to stimulate or arouse sexually the initiator and/or the recipient.

Sell: Includes to solicit or receive an order for, to keep or expose for sale and to keep with intent to sell.

Sexual or genital: The term sexual or genital area is defined including the genitals, pubic area, anus, or perineum of any person, or the vulva or breasts of a female.

Sexual conduct: Ultimate sex acts (whether auto-erotic, heterosexual, homosexual or otherwise), bestiality or sadomasochistic activity. In addition, physical contact, intended to stimulate or arouse sexually the initiator and/or the recipient, with a person's unclothed genitalia, buttocks, perineum, anal or pubic regions, or female breast.

Therapeutic massage: Scientific health care, health maintenance and rehabilitation techniques applied to a client by a trained and professionally licensed massage therapist for the purpose of causing increased circulation throughout the body, ridding the body of waste products and/or toxins, inducing relaxation, easing mental and physical tension, alleviating aches and pains, and the break up of fatty tissues, adhesions, scar tissue and muscle spasm, and releasing the body's endorphins. Such techniques are provided under circumstances where it is reasonably expected that the client, or a third party acting on the client's behalf, will pay money or give other consideration therefore.

Therapeutic massage may include but is not limited to joint mobilization techniques, stretches, effleurage (stroking), petrissage (kneading), tapotement (percussion), compression, vibration, friction, nerve strokes and any reasonable method of pressure on the external soft parts of the body with the hands, elbows or forearms, or with the aid of any mechanical or electrical apparatus or appliances, with or without rubbing alcohol, liniments, antiseptics, oils, power, creams, lotions, ointments or other similar preparations commonly used in this practice. Therapeutic massage does not diagnose or treat classified diseases, practice spinal manipulation or prescribe medicine or drugs.
Underage: Any person under 18 years of age, the legally minimum age at which one can purchase or view adults-only items.

Wall sign: Any flat sign which is placed against a building or other structure and attached thereto in such manner that only one side is visible.

ARTICLE II. ADULT BUSINESS LICENSE

2.50-2 Adult Business License Required.
(A) No business establishment having any portion of its stock in trade or business activity in a use such as but not limited to the following: Adults-only bookstores, Adults-only motion picture theater, Adult entertainment centers, Rap parlors, Adults-only nightclubs or Adults-only saunas, where any sexual conduct is depicted and/or sexual activity is explicitly or implicitly encouraged or tolerated (collectively, "Business Involved in Adult Sales") shall be operated or maintained in the City without first fully completing a form of Statement of Business prepared by the City providing it with enough information to determine whether the proposed establishment constitutes an Adult Business as defined in Sec. 2.50-1, Definitions. Within 14 business days thereafter, the City Administrator shall notify the applicant as to whether the Business Involved in Adult Sales constitutes an Adult Business requiring compliance with the additional Adult Business license regulations of the City or whether additional information is needed to make the required determination. No Business Involved in Adult Sales shall be operated or maintained in the City without first obtaining a license to operate issued by the City. On or before September 1, 2006, all existing Businesses Involved in Adult Sales shall complete the Statement of Business form required herein and file it with the City Administrator. (MC-06-888)

(B) A license may be issued only for one adult business located at a fixed and certain place. Any person, partnership or corporation which desires to operate more than one adult business must have a license for each.

(C) No license or interest in a license may be transferred to any person, partnership or corporation.

(D) All adult businesses existing at the time of the passage of this Chapter must submit an application for a license within 90 days of the passage of this Chapter. If an application is not received within said 90-day period, then such existing adult business shall cease operations.

2.50-3 Application for License.
(A) Any person, partnership or corporation desiring to secure a license shall make application to the City Administrator. The application shall be filed in triplicate with and dated by the City Administrator. A copy of the application shall be distributed promptly to the Police Department.

(B) The application for a license shall be upon a form provided by the City. An applicant for a license, which shall include all partners or limited partners of a partnership applicant, and all officers or directors of a corporate applicant and all stockholders holding more than five percent of the stock of a corporate applicant or any other person who is interested directly in the ownership or operation of the business, shall furnish the following information under oath:
(1) Name and address, including all aliases.

(2) Written proof that the individual is at least 18 years of age.

(3) All residential addresses of the applicant for the past 10 years.

(4) The applicant's height, weight, color of eyes and hair.

(5) The business, occupation or employment of the applicant for 10 years immediately preceding the date of application.

(6) Whether the applicant previously operated in this or any other county, city or state under an adult business license or similar business license; whether the applicant has ever had such a license revoked or suspended, the reason therefor, and the business entity or trade name under which the applicant operated that was subject to the suspension or revocation.

(7) All criminal statutes, whether federal or state, or City ordinance violation convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except minor traffic violations.

(8) Fingerprints and two portrait photographs at least two inches by two inches of the applicant.

(9) The address of the adult business establishment to be operated by the applicant.

(10) If the applicant is a corporation, the application shall specify the name of the corporation, the date and state of incorporation, the name and address of the registered agent.

(C) Within 21 days of receiving an application for a license the City Administrator shall notify the applicant whether the application is granted or denied.

(D) Whenever an application is denied, the City Administrator shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within 10 days of receipt of notification of denial, a public hearing shall be held within 10 days thereafter before the City Council, as hereinafter provided.

(E) Failure or refusal of the applicant to give any information relevant to the investigation of the application or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this ordinance, shall constitute an admission by the applicant that he or she is ineligible for such license and shall be grounds for denial thereof by the City Administrator.

2.50-4 Standards for Issuance of License.

(A) To receive a license to operate an adult business, an applicant must meet the following standards:

(1) If the applicant is an individual:

   (a) The applicant shall be at least 18 years of age.
(b) The applicant shall not have been convicted of, pleaded no contest or stipulated to the facts involving a felony or any crime involving moral turpitude, prostitution, obscenity or other crime of a sexual nature in any jurisdiction within five years immediately preceding the date of the application.

c) The applicant shall not have been found to have previously violated this Article 2 within five years immediately preceding the date of the application.

2) If the applicant is a corporation:
   (a) All officers, directors and stockholders required to be named under Section 2.50-3(B)(10) herein shall be at least 18 years of age.
   (b) No officer, director or stockholder required to be named under Section 30-3(B)(10) herein shall have been convicted of, pleaded no contest or stipulated to the facts involving a felony or any crime involving moral turpitude, prostitution, obscenity or other crime of a sexual nature in any jurisdiction within five years immediately preceding the date of the application.
   (c) No officer, director or stockholder required to be named under Section 2.50-3(B)(10) herein shall have been found to have previously violated this Article 2 within five years immediately preceding the date of the application.

3) If the applicant is a partnership, joint venture or any other type of organization where two or more persons have a financial interest:
   (a) All persons having a financial interest in the partnership, joint venture or other type of organization shall be at least 18 years of age.
   (b) No persons having a financial interest in the partnership, joint venture or other type of organization shall have been convicted of, pleaded no contest or stipulated to the facts involving a felony or any crime involving moral turpitude, prostitution, obscenity or other crime of a sexual nature in any jurisdiction within five years immediately preceding the date of the application.
   (c) No person having a financial interest in the partnership, joint venture or other type of organization shall have been found to have violated any provision of this Article 2 within five years immediately preceding the date of the application.

(B) No license shall be issued unless the Police Department has investigated the applicant's qualifications to be licensed. The results of that investigation shall be filed in writing with the City Administrator no later than 14 days after the date of the application.

2.50-5 Fees.
A license fee of $250.00 shall be submitted with the application for a license. If the application is denied, one-half of the fee shall be returned. License fees paid less than 12 months prior to renewal shall not be prorated.

2.50-6 Display of License.
The license shall be displayed in a conspicuous public place in the adult business such that it may be readily seen by a person entering the premises.
2.50-7 Renewal of License.
(A) Every license issued pursuant to this Article 2 will terminate on April 30 of each year unless sooner revoked, and must be renewed before operation is allowed in the following year. Any operator desiring to renew a license shall make application to the City Administrator. The application for renewal must be filed no later than 60 days before the license expires. The application for renewal shall be filed in triplicate with and dated by the City Administrator. A copy of the application for renewal shall be distributed promptly by the City Administrator to the Police Department and to the operator. The application for renewal shall be upon a form provided by the City and shall contain such information and data, given under oath or affirmation, as is required for an application for a new license.

(B) A license renewal fee of $250.00 shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty of $100.00 shall be assessed against the applicant who files for a renewal less than 60 days before the license expires. If the application is denied, one-half of the total fees collected shall be returned.

(C) If the Police Department is aware of any information bearing on the operator's qualifications, that information shall be filed in writing with the City Administrator.

2.50-8 Revocation of License.
(A) The City Council shall revoke a license for any of the following reasons:
   (1) Discovery that false or misleading information or data was given on any application or material facts were omitted from any application.
   (2) The operator or any employee of the operator, violates any provision of this Article 2 or any rule or regulation adopted by the City Council pursuant to this Article 2; provided, however, that in the case of a first offense by an operator where the conduct was solely that of an employee, the penalty shall not exceed a suspension of 30 days if the Council shall find that the operator had no actual or constructive knowledge of such violation and could not by the exercise of due diligence have had such actual or constructive knowledge.
   (3) The operator becomes ineligible to obtain a license.
   (4) Any cost or fee required to be paid by this Article 2 is not paid.
   (5) Any alcoholic liquor is served or consumed on the premises of the Adult business.
   (6) Violation of any City ordinance, code or regulation and failure to pay the required fine or penalty or failure to cure the violations.
   (7) The transfer of a license or any interest in a license.

(B) The City Council, before revoking or suspending any license, shall give the operator at least 10 days' written notice of the charges against him, and the opportunity for a public hearing before the City Council.

(C) Any operator whose license is revoked shall not be eligible to receive a license for one year from the date of revocation. No location or premises for which a license has been issued shall be used as an adult business for six months from the date of revocation of the license.

2.50-9 Employees.
It shall be unlawful for any adult business licensee or his manager or employee to employ in any capacity within the adult business any person who is not at least 18 years of age.
2.50-10 Physical Layout of Adult business.

(A) Any adult business having available for customers, patrons or members, any booth, room or cubicle for the private viewing of any adult entertainment must comply with the following requirements:

1. Access: Each booth, room or cubicle shall be totally accessible to and from aisles and public areas of the adult business, and shall be unobstructed by any door, lock or other control-type devices.

2. Construction: Every booth, room or cubicle shall meet the following construction requirements:
   (a) Each booth, room or cubicle shall be separated from adjacent booths, rooms and cubicles and any non-public areas by a wall.
   (b) Have at least one side totally open to a public lighted aisle so that there is an unobstructed view at all times of anyone occupying same.
   (c) All walls shall be solid and without any openings, extended from the floor to a height of not less than six feet and be light colored, non-absorbent, smooth textured and easily cleanable.
   (d) The floor must be light colored, non-absorbent, smooth textured and easily cleanable.
   (e) The lighting level of each booth, room or cubicle, when not in use shall be a minimum of 10 foot candles at all times, as measured from the floor.

3. Occupants: Only one individual shall occupy a booth, room or cubicle at any time. No occupant of same shall engage in any type of sexual activity, cause any bodily discharge or litter while in the booth. No individual shall damage or deface any portion of the booth.

(B) Any adult business as defined herein which features dancers or other entertainers or forms of entertainment, must comply with the following requirements:

1. All dancing or other entertainment shall occur on a platform intended for that purpose which is raised at least two feet from the level of the floor.
2. No dancing or other entertainment shall occur closer than 10 feet to any patron.
3. No dancer or other entertainer shall fondle or caress any patron and no patron shall fondle or caress any dancer or other entertainer.
4. No patron shall directly pay or give any gratuity or tip to any dancer or other entertainer and no dancer or other entertainer shall directly or indirectly solicit any pay or gratuity or tip from any patron.

2.50-11 Responsibilities of the Operator.

(A) The operator shall maintain a register of all employees, showing the name and aliases used by the employee, home address, age, birth date, sex, height, weight, color of hair and eyes, phone numbers, Social Security number, date of employment and termination and duties of each employee. The above information on each employee shall be maintained in the register on the premises for a period of three years following termination.

(B) The operator shall make the register of employees available immediately for inspection upon demand of a member of the Police Department at all reasonable times.
(C) Every act or omission by an employee constituting a violation of the provisions of this Article 2 shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.

(D) Any act or omission of any employee constituting a violation of the provisions of this Article 2 shall be deemed the act or omission of the operator for purposes of determining whether the operator's license shall be revoked, suspended or renewed.

(E) No employee of an adult business shall allow any minor to loiter around or to frequent an adult business.

(F) The operator shall maintain the premises in a clean and sanitary manner at all times.

(G) The operator shall maintain at least 10 foot candles of light in the public portions of the establishment, including aisles, at all times. However, if a lesser level of illumination in the aisles shall be necessary to enable a patron to view the adult entertainment in a booth, room or cubicle adjoining an aisle, a lesser amount of illumination may be maintained in such aisles, provided, however, at no time shall there be less than one foot candle of illumination in said aisles, as measured from the floor.

(H) The operator shall insure compliance of the establishment and its patrons with the provisions of this Article 2.

2.50-12 Exclusions.
All private schools and public schools, as defined in the Illinois Compiled Statutes, located within the City are exempt from obtaining a license hereunder when instructing pupils in sex education as part of their curriculum.

2.50-13 Penalties and Prosecution.
(A) Any person, partnership or corporation who is found to have violated this Article 2 shall be fined not less than $300.00 nor more than $750.00 per offense plus costs of prosecution incurred by the City including reasonable attorney fees and shall result in the revocation of any license.

(B) Each violation of this Article 2 shall be considered a separate offense, and any violation continuing more than one day shall be considered a separate offense.

2.50-14 Enforcement.
The Police Department shall have the authority to enter any adult business at all reasonable times to inspect the premises and enforce this Article 2.

ARTICLE III.
MASSAGE ESTABLISHMENTS AND MASSAGE THERAPISTS (MC-05-870)

Sec. 2.50-15 Additional Terms Defined.
In addition to the terms defined in Article 1 of this Chapter 2.50, for purposes of Article 3 herein, the following words or phrases shall have the meanings ascribed to them below, unless otherwise indicated by the context:
**Massage therapist:** Any person who, for any consideration whatsoever, engages in the practice of massage therapy and is licensed by the Illinois Department of Financial and Professional Regulation.

**Massage therapy license:** A valid massage therapy license issued by the Illinois Department of Financial and Professional Regulations.

**Sec. 2.50-16 License Required.**

It shall be unlawful for any person, association, firm or corporation to operate a massage therapy clinic in the City without a valid and current license issued by the City pursuant to the terms of this Chapter 2.50. A separate license shall be required for each massage therapy clinic location regardless of whether such multiple clinics are operated by the same person, association, firm or corporation.

**Sec. 2.50-17 Exemptions.**

The licensing requirements of this Chapter 2.50 shall not be applicable to:

(A) Hospitals, nursing homes and persons holding an unrevoked certificate to practice the healing arts under the laws of the Illinois Department of Professional Regulation, including but not limited to chiropractors, naprapaths, nurses, occupational therapists, physical therapists and physicians.

(B) Any barber, cosmetologist or nail technician lawfully carrying on their respective business to the extent authorized under a valid unrevoked license or certificate or registration issued by the State. Provided, this exemption is only intended to permit normal and customary barber, cosmetologist or nail technician services which involve incidental physical contact, such as scalp rubs and facials, which otherwise qualify as massage activities. This exemption is not intended to include, and does not permit, general massage activities as part of any barber, cosmetologist or nail technician business beyond that authorized by the state license or certification.

(C) Any state registered athletic trainer who administers such athletic-related massage in the normal course of training duties.

(D) A business which employs or includes not more than one massage therapist shall not be required to apply for or obtain a massage therapy clinic license. Such exempt business must be located in a structure which contains no more than one room where massage activities are performed. Except for businesses which operate separate and distinct hours of operation, such exempt businesses must also be the sole massage activity within such structure. Under no circumstances shall more than two exempt businesses be permitted in any structure. Provided further, a massage therapist’s license shall be required for the individual massage therapist performing massage activities in such exempted business.

(E) Where massage services are actually performed at the patron’s premises, including the patron’s place of business or residence, a massage therapy clinic license shall not be required for such patron’s premises. However, a massage therapist’s license shall be required for the massage therapist performing massage activities in such patron’s premises.
Sec. 2.50-18 Application for Massage Therapy Clinic License.

Any person desiring to obtain a license to operate a massage therapy clinic shall make application to the City Administrator. The City Administrator shall have the right to confirm any of the information asked for, or provided in the application, and shall work in conjunction with the Police Department where applicable. Applications shall include the following:

(A) The name (including nicknames or aliases) and address, telephone number, social security number and age of the applicant; the registered agent of the applicant if the applicant is a corporation; and the general or managing partners if the applicant is a partnership.

(B) The location of the massage therapy clinic.

(C) A complete statement of all convictions of the applicant as provided in this Section 2.50-18. If the applicant is a corporation, such statement shall include applicant’s officers, and directors thereof, and any stockholder or stockholders owning in the aggregate more than 20 percent of the stock of such corporation. If the applicant is a partnership, such statement shall include all general partners, and any limited partner owning more than 20 percent of the aggregate limited partner interest in such partnership. Such listing shall include the following:

   (1) Any offense involving sexual misconduct with children or other sex offenses.
   (2) A felony based upon conduct or involvement in such business or activity or related or similar business or activity, within the past 11 years; or
   (3) A felony unrelated to conduct or involvement in such business or activity or related to similar business or activity, but which felony involved the use of a deadly weapon, violations of the Cannabis Control Act or the Controlled Substance Act or violence against another person, including rape, within the past five years; or
   (4) A misdemeanor or licensing ordinance violation, based upon conduct or involvement in such business or activity or related or similar business or activity, within the past two years.

(D) A description of the proposed massage therapy clinic, including the number of massage therapists, other activities or business conducted at the same location, and the physical facilities to be used, with a floor layout diagram of same attached thereto.

(E) A statement of whether the business will be conducted by a manager. In such case the manager’s name, address, telephone number and age shall be provided, along with a statement of any convictions as set forth in this Section 2.50-18.

(F) A current certificate of inspection of the premises from the McHenry County Department of Health, if required.

(G) The license fee as provided in this Section 2.50-22.

(H) Business, occupation or employment of the applicant for three years immediately preceding the date of application.

(I) In the event the applicant is made aware that any information or document submitted as part of this application process is inaccurate or incomplete, applicant shall immediately notify the City and provide appropriate corrections. Failure to accurately and completely provide, or as necessary update, required information, may delay the processing of such application or result in its denial.
(J) Proof of United States citizenship, permanent resident alien status or a valid work permit, as well as proof of professional liability insurance in an amount of not less than $1,000,000 per each occurrence.

**Sec 2.50-19 Application Processing.**

(A) An application shall not be considered proper or filed until all information and material required of the applicant pursuant to this Article 3 has been submitted.

(B) Upon receipt of a proper application, the City Administrator, along with the Police Chief or designee, shall investigate the information contained in the application and shall determine compliance with all applicable laws of the City. The nature and scope of the investigation shall be within the discretion of the City Administrator and the Police Department, and shall include, but is not limited to, a criminal history background check and premises inspection. The applicant for a massage therapy clinic license shall allow the Building Code Enforcement Officer to inspect the premises and/or review plans for the facility, to ascertain whether the premises and/or planned changes are in conformance with the City Building Code. In the event plans are submitted prior to construction, a final inspection will be conducted prior to issuance of the license to assure compliance with said Building Code.

(C) The investigation, including any required inspections and background checks, shall be completed within 35 business days after receipt of a proper application. Provided, however, the City Administrator may extend this investigation period an additional period, not to exceed an additional 11 business days, upon a finding that such additional period is needed to properly complete the investigation. Provided, whenever such extension period is invoked, written notice shall be provided to the applicant along with the specific reasons for such extension.

(D) If, within 11 business days following completion of the investigation, the City Administrator determines that the applicant and premises are in compliance with the applicable laws of the City and the State, the City Administrator shall issue the license.

(E) If, within 11 business days following completion of the investigation, the City Administrator determines that the premises are not in compliance with the applicable laws of the City and the State, the City Administrator shall notify the applicant in writing that the license has been denied, setting forth the reasons therefore, and advising the applicant of his or her right to appeal pursuant to Section 2.50-29 herein. Unless a timely appeal has been filed as provided in Section 2.50-29 herein, such denials shall be final and effective on the 11th day following service of the notice on the applicant. The fee paid by the applicant pursuant to Section 2.50-22, shall be returned, less $50.00 which will be retained as the processing fee.

**Sec. 2.50-20 Transfer; Change in Ownership or Management.**

(A) Any license issued pursuant to this Chapter 2.50 shall be applicable only to the specific applicant and location designated, and may not be sold, transferred or otherwise assigned. Provided, where the licensee remains the same, but a request is made to designate and substitute a different location, the City Administrator may approve such new location upon submission of proof that such location is in compliance with the provisions of this Article 3. A fee of $50.00 shall be required for processing such location change.
(B) For purposes of this Chapter 2.50, a transfer of ownership or control of a massage therapy clinic shall mean the sale, lease or sublease of the business, the transfer of securities which constitute a controlling interest in the business whether by sale, exchange or similar means, or the establishment of a trust, gift or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control, or any person not previously listed as an applicant pursuant to this Article 3 acquires an ownership interest in the business of 20 percent or more.

(C) A transfer of ownership or control of a massage therapy clinic shall constitute change in the licensee and the existing license shall be deemed surrendered and extinguished. A new application and license shall be filed and processed as provided in this Article 3 prior to such transfer taking effect. Any transfer in the ownership or control of a massage therapy clinic in violation of this Section 2.50-20 shall constitute operation of such business without a license.

(D) Notice shall be provided prior to any change of the designated manager conducting business for the massage therapy clinic as provided in this Article 3. The licensee shall, not less than 11 business days before such change is to take effect, give the City Administrator written notice of such change. The notice shall include any information concerning the new manager which is required in Section 2.50-18 herein.

Sec. 2.50-21 Limitation on Issuance and Review of License.
No massage therapy clinic license shall be issued or renewed under the following circumstances:

(A) To an applicant who has been convicted of the following offenses:

(1) Any offense involving sexual misconduct with children or sex offenses; or
(2) A felony based upon conduct or involvement in such business or activity or related or similar business or activity, within the past 11 years; or
(3) A felony unrelated to conduct or involvement in such business or activity or related to similar business or activity, but which felony involved the use of a deadly weapon, violations of the Cannabis Control Act or the Controlled Substance Act or violence against another person, including rape, within the past five years; or
(4) A misdemeanor or licensing ordinance violation, based upon conduct or involvement in such business or activity or related or similar business or activity, within the past two years.

(B) To an applicant whose license issued under this Chapter 2.50 has been revoked for cause.

(C) To an applicant who at the time of application for renewal of any license issued hereunder would not be eligible for such license upon a first application.

(D) To an applicant under the age of 18 years of age.

(E) To an applicant where grounds for revocation exist as provided under Section 2.50-28.

(F) In addition to the provisions stated hereinabove, no massage therapy clinic license shall be issued or renewed under the following circumstances:
(1) To a partnership, if any general partner thereof, or any limited partner owning more than 20 percent of the aggregate limited partner interest in such partnership, would not be eligible to receive a license hereunder.
(2) To a corporation, if any officer or director, or any stockholder or stockholders owning in aggregate more than 20 percent of the stock of such corporation, would not be eligible to receive a license hereunder.
(3) To a corporation unless it is incorporated in Illinois, or unless it is a foreign corporation which is qualified under the Business Corporation Act of 1983 to transact business in Illinois.
(4) To any applicant whose place of business is conducted by a manager unless the manager possesses the same qualifications required by the licensee.
(5) To any applicant who is not a beneficial owner of the business to be operated by the licensee.

(G) To an applicant who is not a United States citizen or has status as a permanent resident alien or a valid work permit.

Sec. 2.50-22 Fees.
The fee for a massage therapy clinic license required by this Section 2.50-22 shall be $100.00 and such license shall be valid for three (3) years.

Sec. 2.50-23 Expiration of License; Renewal.

(A) Each license shall expire on December 31 of the third year and may be renewed only by making application as provided in this Article 3. Provided, in lieu of full submittal, an applicant may, on forms provided by the City, certify that the information previously provided remains true and valid. This renewal application shall be processed as provided in Section 2.50-19. Application for renewal should be made at least 30 days before the expiration date, and when made less than 30 days before the expiration date, the expiration of the license will not be affected. Renewal applications for massage therapy clinic licenses shall be obtained from the City Administrator’s office.

(B) When the City Administrator denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. Provided, if subsequent to denial the City Administrator finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license.

Sec. 2.50-24 Massage Therapy Clinic Facilities.
No license, or renewal thereof, shall be issued to conduct a massage therapy clinic unless an inspection, conducted by the City Administrator, or his designee, confirms that the clinic complies with the following minimum requirements. Renewal of a license may require reinspections by the City Administrator or his designee.

(A) Hot and cold running water shall be provided.

(B) Adequate private dressing and toilet facilities shall be provided for patrons.

(C) All walls, ceilings, floors, steam rooms and other physical facilities shall be kept in good repair, and maintained in a clean and sanitary condition.

(D) Clean and sanitary towels and linens shall be provided for each client receiving massage services. No common use of towels or linens shall be permitted.
Sec. 2.50-25 Prohibited Acts and Conditions.

(A) No employee or operator shall perform, offer or agree to perform any act which would require the touching of a patron’s genital area.

(B) The sexual or genital areas of patrons must be covered by non-transparent towels, clothing, cloths or undergarments at all times while in a massage therapy clinic premises, except while said patrons are alone in a washroom, bathroom, shower or clothes-changing area, or except when said patron is receiving lymphatic drainage treatment from a massage therapist having a minimum of 20 hours of training in such treatment.

(C) It shall be unlawful for any person, knowingly, in a massage therapy clinic to place his or her hand upon, to touch with any part of his or her body, to fondle in any manner, or to massage, a sexual or genital area of any other person.

(D) No person shall administer a therapeutic massage to a patron if the massage therapist has a skin fungus, skin infection, skin inflammation or skin eruption; unless a physician duly licensed by the State of Illinois certifies in writing that such massage therapist may safely administer a massage and prescribing the condition thereof.

(E) No employee or operator shall administer a therapeutic massage to a patron exhibiting any skin fungus, skin infection, skin inflammation or skin eruption; unless a physician duly licensed by the State of Illinois certifies in writing that such person may be safely massaged and prescribing the conditions thereof.

(F) It shall be unlawful for any person to advertise themselves as a massage therapist without having a valid massage therapist license as defined in this Chapter 2.50.

(G) Any license issued under this Chapter 2.50 shall be displayed in a conspicuous location within the customer area of a licensed clinic. Massage therapists shall wear or otherwise display in a conspicuous location within the customer area their State massage therapy license at all times when they are performing, or holding themselves out as available to provide any therapeutic massage. In lieu of this display requirement, when therapeutic massage services are provided at the patron’s location, the State massage therapy license shall be presented to the customer before such services commence.

(H) At all times during the hours of operation of a massage therapy clinic there shall be present a manager or other employee of the licensee who shall not be less than 18 years of age.

(I) No bathroom, bath, shower and/or clothes-changing area may be occupied by more than one person at any time. No massage therapist, massage therapy clinic owners, managers, employees and/or agents may be in any sauna or whirlpool while a patron is in same.

(J) No massage therapy clinic licensee shall employ as a massage therapist any person unless said person has a valid State massage therapy license.

(K) It shall be unlawful for any person who holds a license to operate a massage therapy clinic within the City to fail to comply with the conditions and regulations set forth in this section or to suffer or permit noncompliance with such conditions and regulations on or within the licensed premises.
(L) It shall be unlawful for any person, association, firm or corporation licensed as provided in this Chapter 2.50 to operate under any name or conduct business under any designation not specified in such license.

(M) It shall be unlawful for any person, corporation, firm or association licensed under this Chapter 2.50 to provide massage therapy services between the hours of 9:00 p.m. and 7:00 a.m.

(N) A licensee shall have the premises supervised at all times when open for business. At least one person who is a State licensed massage therapist shall be on the licensed premises at all times while the establishment is open. The licensee shall personally supervise the business, or shall delegate such supervisory responsibility to a manager whose name is listed on the City license and shall not violate, or permit others to violate, any application provisions of this Chapter 2.50. The violation of any provision of this Chapter 2.50 by any agent or employee of the licensee shall constitute a violation by the licensee.

(O) Employee Dress Code: All employees, including massage therapists, shall be clean and wear clean, nontransparent outer garments, covering at least the entire torso and the sexual and genital areas as defined herein.

(P) Separate License for Each Premises: Licenses shall apply only to the premises described in the application, and in the license issued thereon, and only one location shall be so described in each license.

(Q) Minors Prohibited: No person under the age of 18 shall be permitted to come or remain on the area where the massage activity is taking place on the licensed premises.

(R) Alcoholic Beverages Prohibited: No person shall sell, give, dispense, provide, keep or consume, or cause to be sold, given dispensed, provided, kept or consumed, any alcoholic beverage on the licensed premises.

Sec. 2.50-26 Premises Restrictions.
(A) No massage therapy clinic shall be located on any premises for which a license to sell alcoholic liquor has been issued.

(B) The massage therapy clinic premises shall be in compliance with applicable codes and ordinances of the City, including, but not limited to, zoning, building, fire and life safety codes.

(C) When any license has been revoked for cause, no license shall be granted to any person for the period of one year thereafter for the conduct of a massage therapy clinic in the premises described in the revoked license.

Sec. 2.50-27 Notice of Revocation, Suspension, or Refusal of a License.
No license shall be revoked, suspended or refused until the licensee has received due notice. Said notice shall be served upon the licensee by delivering the same personally or by leaving such notice at the place of business or residence of the licensee in the custody of a person 15 years of age or older. In the event the licensee cannot be found, and the service of such notice cannot be otherwise made in the manner herein provided, a copy of such notice shall be sent by certified mail, postage prepaid, addressed to the licensee at the licensee’s place of business or residence at least 11 business days prior to the date of such hearing.
Sec. 2.50-28 Revocation or Suspension of a License.
The license of a massage therapy clinic may be revoked or suspended, in addition to the fines provided for in Section 2.50-30 herein, upon one or more of the following grounds:

(A) The licensee has committed an act(s) of fraud or deceit in the application for license, or renewal thereof, submitted to the City Administrator.

(B) The licensee is engaged in the practice of massage under a false or assumed name, or is impersonating another massage therapist of a like or different name.

(C) The licensee has committed an act of fraudulent, false, misleading or deceptive advertising, or prescribing medicines, drugs or practices any other licensed profession without legal authority therefore.

(D) The licensee has committed an act(s) of prostitution, sexual offense or trafficking in controlled substances after the date of issuance of a massage therapy clinic or of a massage therapist license.

(E) The licensee is found to be in violation of any section of this Chapter 2.50.

(F) The licensee permits acts of prostitution or solicitations for acts of prostitution to be performed within the premises or elsewhere or permits any procedure during the performance of services within or off the premises that are performed for the purpose of sexual arousal or gratification of any patron, or should reasonably be expected to cause such result, or permits the use or trafficking of controlled substances or cannabis on the premises, or the commission of any unlawful act on the premises, unless expressly permitted by this Ordinance.*

(G) The licensee performs an act of prostitution or other lewd conduct within the premises or without the premises or solicits an act of prostitution or other lewd conduct on or off the premises or performs services within or without the premises in such manner for the purpose of sexual arousal or gratification of a patron, or should reasonably be expected to cause such result, or the licensee uses or is trafficking in controlled substances or cannabis.

(H) The licensee has violated or is not in compliance with this Article 3 and the license has been suspended within the preceding 24 months.

(I) A licensee has knowingly allowed prostitution on the premises.

(J) A licensee knowingly conducted massage activities in the City during a period of time when the licensee’s license was suspended.

(K) Within a 24- month period, a person or persons committed an offense as listed in Section 2.50-21(A), which substantially occurred in or on a licensed premises, and for which a conviction has been obtained, and the person or persons were employees of the licensee at the time the offenses were committed. The fact that a conviction is being appealed shall have no effect on the revocation of the license.

* Cross Reference-City of McHenry Zoning Ordinance Article III General District Regulations Q. Medical Cannabis (MC-14-1094).
Sec. 2.50-29 Appeal.
(A) Any applicant or licensee who receives a notice of denial, revocation or suspension may file an appeal with the Mayor as provided herein. Such appeal shall be filed with the Mayor in writing no later than 11 business days following receipt of the notice, and shall include a response to the City Administrator’s notice. Such response shall include a brief statement addressing the substantive deficiencies cited in the City Administrator’s notice and shall set forth the basis for why the license should not be denied, revoked or suspended. If an appeal is filed of an order of the City Administrator, suspending or revoking a license, such suspension or revocation shall be stayed pending final order of the Mayor as provided in this Section 2.50-29.

(B) The Mayor shall schedule an informal public hearing not later than 11 business days following receipt of such appeal. The purpose of the hearing will be to offer the applicant or licensee an opportunity to show cause why the application should not be denied, or why the license should not be suspended or revoked. A record shall be made of the informal public hearing and documents may be submitted and/or testimony given, either in person or through sworn affidavit. This record may be made by electronic recording. The Mayor shall have the power to administer oaths and to continue the hearing from time to time to permit the applicant to provide additional information.

The Mayor may designate a hearing officer to schedule, convene and conduct the public hearing. In such case, the hearing officer shall have the same powers as the Mayor to administer oaths and continue the hearing from time to time to permit the applicant to provide additional information. Where such designation has been made, the hearing officer shall submit proposed findings and recommendations to the Mayor within 21 days of the close of the hearing.

(C) Within 21 days after the close of the hearing set forth in Section 2.50-29(B) herein, the Mayor shall make written findings of fact and issue an appropriate order. Within five business days a copy of such order shall be served upon the applicant or licensee. If the Mayor determines that the license should be revoked or suspended, the suspension or revocation shall take effect immediately upon receipt unless otherwise specified.

(D) The decision of the Mayor provided in Section 2.50-29(C) herein shall be the final administrative action of the City with respect to the license or application, and shall be subject to the immediate appeal by the licensee or applicant to the circuit court. Such appeal to the circuit court shall be filed not later than 35 days following the receipt of the Mayor’s findings and order. Failure to file such appeal as provided herein shall render the Mayor’s decision final.

Sec. 2.50-30 Penalty for Violation.
Any person, corporation, firm or partnership found guilty of violating, disobeying, omitting, neglecting or refusing to comply with any of the provisions of this Chapter 2.50 shall be punished by a fine of not less than $200.00 nor more than $1,000.00 for each offense. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues. In addition to any penalty, a licensee violating any provision of this Chapter 2.50 may be subject to having the license revoked, suspended or not renewed.

Sec. 2.50-31 Reserved
ARTICLE IV. PUBLIC NUDITY

Sec. 2.50-32 Intent.
It is the intent of this Article 4 to protect and preserve the health, safety, welfare and morals of the citizens of the City by prohibiting a person from intentionally or recklessly appearing or being nude, or causing another person to appear to be nude, in a public place and in other places which may reasonably be expected to be observed by the public within the City except as herein provided.

Sec. 2.50-33 Legislative Findings.
In addition and supplemental to the findings and determinations contained in this Article 4, which are incorporated by reference into this Section 2.50-33, it is hereby found by the City Council, acting in its legislative capacity for the purpose of regulating the conduct of appearing nude in public places that the acts prohibited in this Article 4 encourage or create the potential for criminal activity, that actual and simulated nudity and sexual conduct, begets and has the potential for begetting undesirable and unlawful behavior; that sexual, lewd, lascivious and salacious conduct among patrons and employees within establishments results in violation of law and creates dangers to the health, safety, welfare and morals of the public and those who engage in such conduct.

Sec. 2.50-34 Nudity Prohibited in Public Places.
It shall be unlawful for any person to knowingly, intentionally or recklessly appear, or cause another person to appear, nude in a public place or in any other place which is readily visible to the public, except as provided in Section 2.50-35 herein. It shall also be unlawful for any person or entity maintaining, owning or operating any public place establishment to encourage, suffer or allow any person to appear nude in such public place, except as provided in Section 2.50-35 herein.

Sec. 2.50-35 Exemptions.
The prohibitions in Section 2.50-34 herein shall not apply:

(A) When a person appears nude in a place provided or set apart for nudity provided such person is:
   (1) nude for the sole purpose of performing the legal function(s) that is customarily intended to be performed within such place provided or set apart for nudity; and
   (2) is not nude for the purpose of obtaining money or other financial gain for such person or for another person or entity, or;
(B) When the conduct of being nude cannot legally be prohibited by this Article 4 because it constitutes a part of a bona fide live communication, demonstration or performance by a Person wherein such nudity is expressive conduct incidental to and necessary for the conveyance or communication of a genuine message or public expression and is not a mere guise or pretense utilized to exploit the conduct of being nude for profit or commercial gain and as such is protected by the United States or Illinois Constitution or because it is otherwise protected by the United States or Illinois Constitution.
(C) A mother breast feeding her baby in any location, public or private, where the mother is otherwise authorized to be, irrespective of whether the nipple of the mother's breast is uncovered during or incidental to the breast feeding.

Sec. 2.50-36 Enforcement and Penalties.
Any person or entity violating any of the provisions of this Article 4 shall be fined not less than $300.00 nor more than $750.00 per offense plus the cost of prosecution incurred by the City including reasonable attorney fees. Each incident or separate occurrence of an act that violates this Article 4 shall be deemed a separate offense. Continual or repeated violations of this Article 4 shall constitute a public nuisance and the City may initiate proceedings to abate any such nuisance.
MUNICIPAL CODE
CHAPTER 3
ADVERTISING*
(MC-07-916)
ARTICLE I. IN GENERAL *

Sec. 3-1. Posting bills.
(a) No person shall post, stick, stamp, paint, nail or otherwise fix, or cause the same to be done by any person, any notice, placard, bill, card, poster, advertisement, or any other paper or device calculated to attract the attention of the public, to or upon any sidewalk, crosswalk, curb or curbstone, flagstone, or any other portion or part of any public way or public place, or any lamp post, electric light, telegraph or telephone line pole, or any railroad structure, hydrant, shade tree or tree box, or upon the piers, columns, trusses, girders, railings, gates or other parts of any public bridge or viaduct, or other public structures or building except as may be authorized or required by the laws of the United States, the State of Illinois, and the ordinances of the City.
(b) No person shall fasten in any way any show-card, poster or other advertising device upon public or private property in the City unless legally authorized to do so.

Sec. 3-2. Use of loudspeakers, amplifiers, etc., for advertising.**
The using, operating or permitting to be played, used or operated of any radio receiving set, instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound in the zoned business area of the City, which sound is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure, other than during the hours of 9:00 a.m. to 6:00 p.m. on weekdays and Saturdays, is prohibited. This prohibition shall not apply to any religious place of worship using direct or amplified sound to signify a religious service.

Sec. 3-3 Nuisances defined. (MC-09-981)
The following acts and practices are defined as nuisances pursuant to Section 5/11-60-2 of the Illinois Municipal Code and subject to abatement by the City at the violator’s cost in any manner permitted by law:

Any person constituting, or acting as, a Moving Sign, as defined in Chapter XIX of the City of McHenry Zoning Ordinance, if such Moving Sign is:

1. (a) located in a commercial or business zoning district or upon public property adjacent and parallel to the commercial or business zoning district; and
   (b) located within 50 feet from any public roadway adjacent and parallel to the zoning lot on which the sign is located; or
   (c) actually visible from any public roadway or right-of-way; or
2. Interferes with pedestrian traffic along a right-of-way or sidewalk; or
3. Interferes with vehicular traffic in a roadway or actively solicits the attention of drivers through acts or motions specifically directed at any vehicle or driver; or
4. Located within a public roadway, sidewalk or right-of-way.

* Cross references - Advertising and signs in parks, Sec. 16-41; signs overhanging rights-of-way, Sec. 21-89; attaching advertisements to public trees, Sec. 28-4.
** Cross reference - Noise, Sec. 14-8.
It shall be a violation of this Section and constitute a nuisance for a person to 1) act as a Moving Sign, or 2) for a person to direct another to act as a Moving Sign in violation of this Section of the City of McHenry Municipal Code.

Sec. 3-4   Penalty and abatement. (MC-09-981)
(a) Any violation of this Article is punishable by a minimum fine of $100 and each day on which a violation occurs shall be a separate offense. In addition, the violator shall be required to pay the City’s reasonable costs of enforcement, abatement, and prosecution, including attorney fees.
(b) The City may abate violations of this Article by any legal available means

Secs.3-5 -3-15.  Reserved.

ARTICLE II. HANDBILLS

Sec. 3-16. Throwing in public places.
It shall be unlawful for any person to deposit, place, throw, scatter or cast any commercial handbill in or upon any public place within this City; and it shall also be unlawful for any person to hand out or distribute or sell any commercial handbill in any public place, provided, however, that it shall not be unlawful for any person to hand out or distribute, without charge to the receiver thereof, any non-commercial handbill in any public place to any person willing to accept such non-commercial handbill.

Sec. 3-17. Placing in vehicles.
It shall be unlawful for any person to distribute, deposit, place, throw, scatter or cast any commercial or non-commercial handbill in or upon any automobile or other vehicle. The provisions of this Section shall not be deemed to prohibit the handing, transmitting or distributing of any non-commercial handbill to the owner or other occupant of any automobile or other vehicle, who is willing to accept the same.

Sec. 3-18. Distribution on uninhabited or vacant premises.
It shall be unlawful for any person to distribute, deposit, place, throw, scatter or cast any commercial or non-commercial handbill in or upon any private premises which are temporarily or continuously uninhabited or vacant.

Sec. 3-19. Distribution where properly posted.
It shall be unlawful for any person to distribute, deposit, place, throw, scatter or cast any commercial or non-commercial handbill upon any premises, if requested by anyone thereon not to do so, or if there is placed on said premises in a conspicuous position near the entrance thereof, a sign bearing the words "No Trespassing," "No Peddlers or Agents," "No Advertisement," “No Solicitation” or any similar notice, indicating in any manner that the occupants of said premises do not desire to be molested or to have their right of privacy disturbed, or to have any such handbills left upon such premises.

Sec. 3-20. Distribution on inhabited private premises.
No person shall distribute, deposit, place, throw, scatter or cast any commercial or non-commercial handbill in or upon any private premises which are inhabited, except by placing or depositing such handbill in or upon such inhabited private premises, if such handbill is so placed or deposited as to secure or prevent such handbill from being blown or drifted about, except that mailboxes may not be used when prohibited by federal postal laws or regulations. (MC-96-646)
Sec. 3-21. Name and address of printer, etc., and distributor.

It shall be unlawful for any person to distribute, deposit, scatter, hand out or circulate any commercial or non-commercial handbill in any place, under any circumstances, which does not have printed on the cover, front or back thereof, the name and address of the following:

(a) The person who printed, wrote, compiled or manufactured the same.

(b) The name and address of the person who caused the same to be distributed; in addition the names and addresses of the owners, managers or agents of the person sponsoring said handbill shall also appear thereon.
Sec. 4-1. Definitions.
Unless the context otherwise requires, the following terms as used in this Chapter shall be construed according to the definitions given below:

**Alcoholic liquor** means any spirits, wine, beer, ale or other liquid containing more than one-half of one per cent (1/2 of 1%) of alcohol by volume, which is fit for beverage purposes.

**Caterer Retailer** means a person who serves alcoholic liquor for consumption off site of the licensed premises, as an incidental part of food service, sold at a package price as agreed upon under contract. (MC-11-1041).

**Club** means a corporation organized under the laws of this 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 accommodations of its members and their guests and provided with suitable and adequate dining and kitchen space and equipment and maintaining a sufficient number of servants and employees for cooking, preparing and serving food and meals for its members and guests; provided that such club files with the Mayor at the time of its application for a license under this Chapter two (2) copies of a list of names and residences of its members, and similarly files within ten (10) days of the election of any additional member, his name and address; and provided further that its affairs and management are conducted by a board of directors, executive committee or similar body chosen by the members at their annual meeting, and that no member or 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 members of 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 the board of directors or governing body out of the general revenue of the club.

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

**Restaurant** means any public place kept, used, maintained, advertised and held out to the public as a place where meals are served, and where meals are actually and regularly served without sleeping accommodations, such place being provided with adequate and sanitary kitchen and dining room equipment and capacity and having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests.

**Retail sale** means the sale for use or consumption, and not for re-sale in any form.

Cross reference - Alcoholic beverages in parks, Sec. 16-28.
Sec. 4-2. Mayor designated Liquor Control Commissioner; assistants.
The Mayor of the City shall act as Liquor Control Commissioner of the City and he shall be assisted by the entire Council of the City and each member of the City Council shall be designated as Assistant Liquor Control Commissioner.

Sec. 4-3. License required.*
It shall be unlawful to sell or offer for sale at retail in the City any alcoholic liquor without having a retail liquor dealer's license, or to be in violation of the terms of such license.

Sec. 4-4. Applications for licenses.
Applications for licenses required by this Chapter shall be made to the Mayor in writing, signed by the applicant, if an individual or by duly authorized agent thereof, if a club or corporation, verified by oath or affidavit. All applications shall contain the following information and statements which shall be true and accurate by the person signing the affidavit (MC-00-753):

(a) The name, age and address of the applicant in the case of an individual; in the case of a co-partnership the persons entitled to share in the profits thereof, and in the case of a corporation, for profit, or a club, the date of incorporation, the objects for which it was organized, the names and addresses of the officers and directors, and if a majority in interest of the stock of such corporation is owned by one person or his nominee, the name and address of such person.

(b) The citizenship of the applicant, his place of birth and if a naturalized citizen, the time and place of his naturalization.

(c) The character of business of the applicant; and in case of a corporation, the objects for which it was formed.

(d) The length of time that said applicant has been in business of that character or in the case of a corporation, the date on which its charter was issued.

(e) The amount of goods, wares and merchandise on hand at the time application was made.

(f) The location and description of the premises or place of business which is to be operated under such license.

(g) A statement whether applicant has made a similar application for a similar license on premises other than described in this application and the disposition of such application.

(h) A statement whether applicant has ever been convicted of a felony or is disqualified to receive a license by reason of any matter or thing contained in this Chapter, laws of the State, or the ordinances of this City.

* Cross reference - Licenses generally, Ch. 12.
Whether a previous license by any state or subdivision thereof, or by the federal government has ever been revoked and the reasons therefore.

A statement that the applicant will not violate any of the laws of the State of Illinois or of the United States, or any ordinance of this City in the conduct of his place of business.

Such additional information that the Mayor determines to be useful to him as Liquor Control Commissioner in evaluating the eligibility of the applicant for license.

Sec. 4-5. Persons ineligible for license. (MC-96-645)
No license shall be issued to:

A person who is not a resident of the City.

A person who is not of good character and reputation in the community in which he resides.

A person who is not a citizen of the United States.

A person who has been convicted of a felony under any Federal or State law, unless the 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.

A person who has been convicted of being the keeper or who is the keeper of a house of ill-fame.

A person who has been convicted of pandering or other crime or misdemeanor opposed to decency and morality.

A person whose license issued under this Chapter has been revoked for cause.

A person who at the time of application for renewal of any license issued hereunder would not be eligible for such license upon a first application.

A co-partnership, if any general partnership thereof, or any limited partnership thereof, owning more than 5% of the aggregate limited partner interest in such co-partnership would not be eligible to receive a license hereunder for any reason other than residency within the City.

A corporation, if any officer, manager or director thereof, or any stockholder or stockholders owning in the aggregate more than 5% of the stock of such corporation, would not be eligible to receive a license for any reason other than citizenship and residence within the City.

A corporation unless it is incorporated in Illinois, or unless it is a foreign corporation which is qualified under the "Business Corporation Act of 1983" to transact business in Illinois.
For the purposes of this subsection 4-5(l), the terms “manager” and “agent” shall refer to an authorized representative of the Licensee who has supervisory authority over all employees of the licensed premises. The manager/agent must be a full-time employee who is regularly on the premises during hours when the business is open. (MC-00-753)

A person who has been convicted of a violation of any Federal or State law concerning the manufacture, possession or sale of alcoholic liquor, subsequent to the passage of this Ordinance, or shall have forfeited his bond to appear in Court to answer charges for any such violation.

A person who does not beneficially own the premises for which a license is sought, or does not have a lease thereon for the full period for which the license is to be issued.

Any person, association, or corporation not eligible for a State retail liquor dealer's license.

Any current City of McHenry police officer, Mayor, Alderman/Alderwoman or department head, unless authorized by a majority vote of the City Council. (MC-17-1154)

A person who is not a beneficial owner of the business to be operated by the licensee.

A person who has been convicted of a gambling offense as prescribed by any of Subsections (a)(3) through (a)(10) of Section 28-1 of, or as prescribed by, Section 28-3 of the "Criminal Code of 1961", approved July 28, 1961, as heretofore or hereafter amended or as proscribed by a statute replaced by any of the aforesaid statutory provisions.

A person to whom a Federal wagering stamp has been issued by the Federal government for the current tax period.

A co-partnership to which a Federal wagering stamp has been issued by the Federal government for the current tax period, or if any of the partners have been issued a Federal wagering stamp by the federal government for the current tax period.

A corporation, if any officer, manager or director thereof, or any stockholder owning in the aggregate more than 20% of the stock of such corporation has been issued a Federal wagering stamp for the current tax period.

Any premises for which a Federal wagering stamp has been issued by the Federal government for the current tax period.

Any person whose application for liquor license contains false statements or misrepresentations thereon. (MC-00-753)

Sec. 4-6. License classification and fees; limitation on number of licenses.
Licenses required by this Chapter shall be divided into the following classes:
(1) **Class A license**, which shall authorize the sale of alcoholic liquors for consumption on the premises and retail sale of packaged liquors. The annual fee for such licenses shall be $1,400.00. No more than thirty (30) Class A licenses shall be in force in the City at any time. (MC-88-444; MC-89-485; MC-90-535; MC-90-545; MC-91-562; MC-92-577; MC-92-578; MC-92-585; MC-93-596; MC-95-635; MC-95-642; MC-96-650; MC-96-661; MC-99-721; MC-99-732; MC-99-735; MC-00-754; MC-00-757; MC-01-764; MC-01-769; MC-01-771; MC-01-781; MC-01-784; MC-01-785; MC-02-788; MC-02-803; MC-02-811; MC-02-814; MC-03-818; MC-03-819; MC-03-821; MC-03-825; MC-04-848; MC-05-862; MC-05-864; MC-05-868; MC-05-872; MC-06-891; MC-07-905; MC-07-939; MC-08-975; MC-09-983; MC-09-988; MC-09-993; MC-09-998; MC-10-1000; MC-12-1051; MC-12-1054; MC-13-1062; MC-13-1077; MC-15-1104; MC-15-1103; MC-15-1107; (MC-15-1120); (MC-16-1122); (MC-16-1124); (MC-16-1125); (MC-16-1128); (MC-16-1136); (MC-16-1137); (MC-16-1138); MC-17-1142; MC-17-1144) (MC-17-1153)

**Class A(1) license**, which shall authorize the sale of beer and wine for consumption on the premises and retail sale of packed beer and wine. The annual fee for a Class A1 license shall be $1,250.00. There shall be two (2) Class A(1) license in force in the City at any one time. (MC-06-893; MC-06-894; MC-09-998; MC-13-1065; MC-14-1086; MC-14-1090; (MC-16-1126); (MC-16-1129) (MC-16-1132); (MC=17-1142)

**Class A(2) license** shall be issued only to a business that is a caterer-retailer and who presently holds a Class A, Class G(1) or Class H liquor license issued by the City of McHenry. The Class A(2) license authorizes the sale and delivery of alcoholic beverages by the drink for consumption as an incidental part of food service off-site of the licensed premises. The annual fee for a Class A(2) license shall be $250.00. There shall be no more than two (2) Class A(2) licenses in force in the City at any one time. (MC-11-1041; MC-12-1045; MC-12-1051; MC-13-1064); (MC-16-1125)

(2) **Class B license**, which shall authorize the retail sale of beer and wine in packages only, and no consumption thereof shall be permitted on the premises. Effective April 1, 1993 the annual fee for such license shall be $700.00. No more than one (1) Class B licenses shall be in effect within the City at any time. (MC-89-480; MC-89-480; MC-92-585; MC-93-591; MC-96-650; MC-96-664; MC-97-696; MC-99-725; MC-01-763; MC-02-791; MC-03-819A; MC-03-831; MC-10-999; MC-10-1010; MC-12-1043)

(3) **Class D license**, which shall authorize a veteran's club to sell alcoholic liquors at retail on the premises for consumption on the premises only. The annual fee for such license shall be $100.00. No more than three (3) such Class D license shall be in force in the City at any time. (MC-89-514; MC-96-650)

(4) **Class E(1) license**, which shall authorize the retail sale of alcoholic and malt liquors for consumption on the premises only, in conjunction with a special occasion facility organized for the purpose of providing banquets, weddings and other receptions, meetings, parties, or other special events upon a contractual engagement. The special occasion facility shall not be open to the general public and shall be limited to the contracting party and invited guests. The annual fee for a Class E(1) license shall be $1,500. There shall be no (0) Class E(1) licenses in force in the City. (MC-08-957)
Class **E(2) license**, which shall authorize not-for-profit organizations registered with the State of Illinois to sell at retail alcoholic and malt liquors on the premises only in conjunction with a special occasion facility organized for the purposes of providing banquets, weddings, and other receptions, meetings, parties, or other special events upon a contractual engagement. The special occasion facility shall not be open to the general public and shall be limited to the contracting party and invited guests. The annual fee for a Class E(2) license shall be $100. There shall be no (0) Class E(2) licenses in force in the City. (MC-08-957; MC-08-966; MC-08-970)

(5) **Class F(1) license**, which shall authorize the sale at retail of alcoholic liquors in packages only, for consumption off the premises, where more than 50% of the public sales area of said premises is devoted to alcoholic liquor. The annual fee for such license shall be $1,100.00. No more than six (6) Class F(1) licenses shall be in force and effect within the City at any time. (MC-88-462; MC-90-517; MC-92-585; MC-96-650; MC-96-664; MC-97-673; MC-98-713; MC-99-749; MC-05-863; MC-06-880; MC-06-894; MC-07-911; MC-08-958; MC-09-987; MC-09-994; MC-10-1003; MC-11-1033)

Class **F(2) license**, which shall authorize the sale at retail of alcoholic liquors in packages only, for consumption off the premises, where more than 50% of the public sales area for said premises is devoted to goods and commodities other than alcoholic liquor. The annual fee for such license shall be $800.00. No more than ten (10) Class F(2) licenses shall be in force in the City at any time. (MC-99-749; MC-00-759; MC-01-763; MC-02-790; MC-02-802; MC-03-819B; MC-03-822; MC-03-828; MC-05-863; MC-08-961; MC-10-1003; MC-10-1010; MC-10-1013; MC-10-1025; MC-11-1032; MC-11-1040; MC-11-1042; MC-12-1043; MC-13-1064; MC-13-1078); (MC-15-1118)

Class **F(3) license**, which shall authorize the sale at retail of alcoholic liquors in packages only, for consumption off the premises, where more than 50% of the public sales area for said premises is devoted to goods and commodities other than alcoholic liquor. Said license shall be issued and available only to convenience stores associated with the distribution and sale of gasoline. Sales of alcoholic beverages shall not occur between the hours of 12:00 a.m. and 6:00 a.m. on Monday, Tuesday, Wednesday, Thursday, Friday and Saturday, nor between the hours of 12:00 a.m. and 10:00 a.m. on Sunday. The annual fee for such license shall be $800. No more than six (6) Class F(3) licenses shall be in force in the City of McHenry at any time. (MC-10-1007; MC-10-1008; MC-12-1046; MC-13-1080; MC-15-1102; MC-15-1109)

(6) **Class G license (removed 4/28/08 by MC-08-961)**


Class **G(1) license**, which shall authorize the sale of alcoholic and malt liquors for consumption on the premises only, so long as more than fifty percent of the annual gross revenue of the licensed premises is derived from the sale of food or non-alcoholic beverages (“Annual Fifty Percent Standard”). All consumption of alcoholic and malt beverages shall be at tables. No bar sales shall be permitted; however, a small service bar may be utilized in connection with the table service. (MC-07-924)
The determination of whether the Annual Fifty Percent Standard has been met shall be made, at the time of license renewal, for the year just ended. In the event a licensee has not possessed a Class G(1) license for a full year, the determination of whether the Annual Fifty Percent Standard has been met shall be deferred until the next license renewal period. To determine whether the Annual Fifty Percent Standard has been met the City staff shall be permitted to review and audit documents of the licensee including, but not limited to, audited financial statements, corporate financial reports, tax return information, state liquor license reports, and any other relevant form of information deemed necessary by the City. The annual fee for a Class G(1) license shall be $700.00. No more than eight (8) Class G(1) licenses shall be in effect in the City at any time. (MC-07-924; MC-07-930; MC-07-943; MC-08-961; MC-09-987; MC-09-989; MC11-1030; MC-11-1035; M-11-1036; MC-12-1047; MC-12-1051; MC-12-1052; MC-12-1060; MC-14-1090; MC-14-1091; MC-14-1096; MC-14-1097; MC-15-1112; MC-15-1114)

(7) **Class H license,** which shall authorize the retail sale of beer and wine on the premises only; provided, however, that all consumption of beer and wine shall be at tables, and no bar sales shall be permitted. A small service bar may be utilized in connection with such table service. Effective April 1, 1993 the annual fee for such license shall be $700.00. No more than six (6) Class H licenses shall be in force in the City at any time. (MC-88-443; MC-89-492; MC-89-495; MC-90-525; MC-92-572; MC-92-577; MC-92-585; MC-99-742); MC01-769; MC-02-796; MC-03-824; MC-03-827; MC04-848; MC-06-883; MC-08-974; MC-09-982.A; MC-10-1009; MC-11-1030; MC-12-1050; MC-13-1061; MC-13-1070; MC-14-1090; MC-14-1092; MC-14-1097; MC-15-1105); MC-15-1108; MC-16-1123; MC-17-1145.

(8) **Special Event Liquor License,** which shall authorize the retail sale of alcoholic liquors for consumption on nonresidential premises only for a designated special event. No such license shall be issued for a license period in excess of 3 days nor shall any private premises be eligible for more than eight such licenses during any calendar year. The fee for such license shall be $25.00 per event. (MC-08-972)

**Sec. 4-7. Effect on license if holder becomes ineligible.**
If the Licensee identified on the license discontinues operations at the premises described in the application and license for a period of 30 consecutive days (except as hereafter set forth), or whenever there is clear evidence of an intent of the licensee to abandon the premises, said license shall be deemed void, and the license shall cease to exist upon written notice to the Licensee by the Local Liquor Control Commissioner. Thereafter, the total number of available licenses for that class shall be reduced by action of the City Council. If said discontinued operation is due to fire or other such damage wherein the Building Inspector deems the premises uninhabitable, said 30-day period shall be tolled until occupancy is granted by the Building Inspector.(MC-95-637; MC-00-753)

**Sec. 4-8. Disposition of fees.**
All license fees shall be paid to the Mayor at the time application is made, and shall be forthwith turned over to the Finance Director. In the event the license applied for is denied, the fee shall be returned to the applicant; if the license is granted, then the fee shall be deposited in the general corporate funds or in such other funds as shall have been designated by the Council.

**Sec. 4-9. Bond.**
No bond shall be required by the City, but every applicant for a beverage license shall file with the City Clerk any bonds which may be required by any act by the Legislature of the State of Illinois or by the Congress of the United States.
Sec. 4-10. List required; to be current.  
The Mayor shall keep or cause to be kept a complete record of all licenses issued by him; and shall furnish to the Clerk, Finance Director, and Chief of Police a copy thereof; upon the issuance of any new license or the revocation of any old license, the Mayor shall give written notice of such action to each of these officers within 48 hours of such action.

Sec. 4-11. Personal nature of licenses; expiration date.  
A license shall be a purely personal privilege, good for the license period which shall expire on April 30th next following the date of issuance, unless sooner revoked, and shall not constitute property nor shall it be subject to attachment, garnishment or execution, nor shall it be alienable or transferable, voluntarily or involuntarily, or subject to being encumbered or hypothecated. Such license shall not descend by the laws of testate or intestate devolution, but it shall cease upon the death of the licensee, provided that executors or administrators, 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, may continue the business of the sale or manufacture of alcoholic liquor under order of the appropriate court, and may exercise the privileges of the deceased or insolvent or bankrupt licensee after the death of such decedent, or such insolvency or bankruptcy until the expiration of such license but not longer than 6 months after the death, insolvency or bankruptcy of such licensee. A refund shall be made of that portion of the license fees paid for any period in which the licensee shall be prevented from operating under such license in accordance with the provisions of this Section.

Sec. 4-12. License renewal.  
(a) Any licensee may renew his license at the expiration thereof, provided he is then qualified to receive a license and the premises for which such renewal privilege is sought are suitable for such purpose; and provided further, that the renewal privilege herein provided for shall not be construed as a vested right which shall in any case prevent the Mayor and City Council from decreasing the number of licenses to be issued in his jurisdiction.

(b) A licensee may during the first 15 days of the license period waive his renewal privilege in writing to a new operator without first making application for a renewal of license in his own name, thereby surrendering his privilege of renewal.

Sec. 4-13. Effect on license due to change in ownership; transfer fee. (MC-00-753)  
(a) Any changes in partnership, officers, directors, persons holding directly or beneficially more than 5% of the stock or ownership interest, managers of businesses licensed under this Chapter, shall be reported in writing to the Liquor Control Commissioner within 10 days of the change. All new personnel shall meet the standards of this Chapter and must otherwise qualify to hold a liquor license. All such changes in personnel shall be subject to review by the Local Liquor Control Commissioner within 30 days of the change.

(b) Upon such a change in ownership, the pre-existing license shall be deemed terminated and the new license shall be applied for by the new ownership, and a transfer fee of $250 shall be paid.

Sec. 4-14. License for one location only.  
Licenses issued hereunder apply only to the premises described in the application and in the license issued thereon, and only one location shall be so described in each license. (MC-95-637)
Sec. 4-15. Sales near churches, schools, etc.
No license shall be issued for the sale at retail of any alcoholic liquor within 100 feet of any church, school, other than an institution of higher learning, hospital, home for aged or indigent persons or for veterans, their spouses or children or any military or naval station, provided, that this prohibition shall not apply to hotels offering restaurant service, regularly organized clubs, or to restaurants, food shops or other places where sale of alcoholic liquors is not the principal business carried on if such place of business so exempted is not located in a municipality of more than 500,000 persons, unless required by local ordinance; nor to the renewal of a license for the sale at retail of alcoholic liquor in premises within 100 feet of any church or school where such church or school has been established within such 100 feet since the issuance of the original license. In the case of a church, the distance of 100 feet shall be measured to the nearest part of any building used for worship services or educational programs and not to property boundaries.

Nothing in this Section shall prohibit the issuance of a license to a church or private school to sell at retail alcoholic liquor if any such sales are limited to periods when groups are assembled on the premises solely for the promotion of some common object other than the sale or consumption of alcoholic liquors.

Sec. 4-16. License revocation authorized. (MC-99-721)
(a) No person holding a license issued by the City shall, in the conduct of the licensed business or upon the licensed premises, either directly or through the agents or employees of the licensee:

1. Violate or permit a violation of any federal law or state statute related to the control of liquor.

2. Violate or permit a violation of any city ordinance or resolution regulating the sale of alcoholic liquor or relating to the eligibility of the licensee to hold a liquor license.

3. Violate or permit a violation of any rule or regulation of the Illinois Liquor Control Commission as revised from time to time.

4. Permit the sale and/or consumption of any alcoholic beverages outdoors except upon issuance of specific permit by the McHenry City Council or from the hours of 11:00 a.m. to 4:15 p.m. during Sidewalk Sales on the Saturday preceding Parade Day during Fiesta Days and provided that the liquor license holder attend the annual meeting called by the City’s Chief of Police on a day and time prior to the event. Notice of said annual meeting shall be mailed to each liquor license holder at the address provided on their application no later than fourteen (14) days prior to the meeting. (MC-14-1087)

5. During Fiesta Days on Parade Day sell or service:
   a. carry out alcoholic beverages (not including packaged liquor sales); or
   b. alcoholic beverages in non-original containers, such as plastic cups. Only original containers, such as cans, bottles, or other glassware may be used.
6. Allow fighting, disorderly conduct or excessive noise constituting a nuisance or tumultuous conduct of patrons and/or employees of licensee, as defined in the McHenry City Code, to take place on the licensees premises or on, about and/or adjacent to the property where the licenses premises are located.

7. Allow patrons to serve or distribute alcoholic beverages to minors on the licensees premises or allow minors to drink alcoholic beverages on the licensees premises.

8. Fail to call the City Police Department upon the violation of any City ordinance or state law relating to fighting, disorderly conduct or excessive noise constituting a nuisance or tumultuous conduct of patrons and/or employees on the licensed premises.

9. Submit to the Mayor an application for license containing a false or misleading statement (MC-00-753).

(b) Proof before the Liquor Control Commissioner of the facts which establish a violation of any federal law, state statute, City ordinance or resolution or rule of the Illinois Liquor Control Commission shall be sufficient cause for revocation, suspension and fine of any liquor licensee, irrespective of whether or not a conviction has been obtained in any court. In addition, the licensee shall be obligated to reimburse the City for all attorney’s fees incurred as a result of the prosecution of the offending licensee.

(c) Pursuant to Resolution No. R-99-013, passed by the McHenry City Council, all appeals from the decision of the City of McHenry Local Liquor Control Commissioner shall be limited to a review of the official record of proceedings.

Sec. 4-17. Relicensing after revocation.
If such license shall be permanently revoked, no license shall be granted to any person for a period of 1 year thereafter for the conduct of the business of selling alcoholic liquors in the premises described in such revoked license.

Sec. 4-18. Hearing on revocation.
No license issued hereunder shall be revoked except after a hearing, with at least 3 days’ notice having been given to the licensee for an opportunity to appear and defend the charges against him.

Sec. 4-19. Peddling.
It shall be unlawful to peddle alcoholic liquor in the City.

Sec. 4-20. Sanitation generally.
All premises used for the retail sales of alcoholic liquor, or for the storage of such liquor for such sale, shall comply in all respects with the provisions of this Code.

Sec. 4-21. Minimum age of bartenders and persons serving alcoholic beverages.
No licensee hereunder may employ any person under the age of 21 years for the purpose of bartending or drawing, pouring, dispensing or mixing any alcoholic liquor. Provided however, this section shall not prohibit licensees from employing persons 18 years of age or older to serve alcoholic liquor to customers at tables in restaurants for consumption on the premises. (MC-96-643)
Sec. 4-21.1. Minimum age of persons conducting retail sale of packaged alcoholic liquors.
No licensee hereunder may employ any person under the age of 21 years for the purpose of conducting the sale of any alcoholic liquor in packages.

Sec. 4-22. Closing hours. (MC-00-753;MC-10-1007)
It shall be unlawful to sell or offer for sale at retail, give away or deliver, either in, upon or from any licensed premises, any alcoholic liquor in the City between the hours of 1:00 a.m. and 6:00 a.m. on Monday, Tuesday, Wednesday, Thursday, and Friday.

It shall be unlawful to sell or offer for sale at retail, give away or deliver, either in, upon or from any licensed premises, any alcoholic liquor in the City between the hours of 2:00 a.m. and 6:00 a.m. on Saturday.

It shall be unlawful to sell, or offer for sale at retail, give away or deliver, either in, upon or from any Class F(3) licensed premises, any alcoholic liquor in the City between the hours of 12:00 a.m. and 6:00 a.m. on Monday, Tuesday, Wednesday, Thursday, Friday and Saturday, and between the hours of 12:00 a.m. and 10:00 a.m. on Sunday. (MC-10-1007)

It shall be unlawful for a Class A Licensee, Class A(1) Licensee, Class G Licensee and a Class G(1) Licensee to sell or offer for sale at retail, give away or deliver, either in, upon or from any licensed premises, any alcoholic liquor in the City between the hours of 2:00 a.m. and 10:00 a.m. on Sunday.

On the mornings of New Year’s Day, Memorial Day (observed), Independence Day (4th of July) and Thanksgiving Day, it shall be lawful to sell alcoholic liquor in the City for one additional hour beyond the aforesaid regular closing hours for that date. Provided, however, when the above holiday falls on Sunday, regular 2:00 a.m. closing times shall apply.

During the aforesaid hours, it shall be unlawful to keep open for business, to admit the public to, to permit the public to remain within or to permit the consumption of alcoholic liquor by employees or members of the public in or upon the licensed premises. Officers of the City’s Police Department shall be permitted access for purposes of inspection to ensure compliance with this Section.

Sec. 4-23. Use of premises following legal closing hours.
(a) Every location in which alcoholic liquors are sold under this Chapter shall observe the following rules and regulations:

(1) Within 15 minutes after the legal hours for closing in effect for that day, all customers shall be off the premises, and all containers of alcohol shall be emptied and removed from the areas accessible to customers. (MC-00-753)

(2) During said 15-minute period, no employee shall be stationed behind the bar or any service counter for the sale of alcoholic liquors provided, however, that if there are no customers on the premises during such period of time, employees may go behind such bar or service counter for any purpose other than for the sale or dispensation of alcoholic liquor.
(3) All exterior lights shall be extinguished at the closing hour in effect for that day.

(4) After the expiration of the said 15 minutes, employees may proceed with such nightly clean-up routine as may be desired in any section of the premises.

(5) No patrons shall be permitted entrance into the premises after the legal closing hour as established for such day, and to effect same, the door, or doors, of the establishment shall be locked at such legal closing hour.

(6) Employees of any licensed establishment shall immediately upon request admit officers of the McHenry Police Department for the purpose of inspection of the premises to ensure compliance with the provisions of this Section 4-23.(MC-00-753)

(b) These rules and regulations shall be printed or duplicated and given to each applicant for a liquor license at the time of issuance of said license.

Sec. 4-24. View from street.
In premises upon which the sale of alcoholic liquor for consumption on the premises is licensed (other than as a restaurant, hotel or club or any bowling establishment), no screen, blind, curtain, partition, article or thing shall be permitted in the windows or upon the doors of such licensed premises nor inside such licensed premises, which shall prevent a clear view into the interior of such licensed premises from the street, road or sidewalk at all times, and no booth, screen, partition or other obstruction nor any arrangement of lights or lighting shall be permitted in or about the interior of such premises which shall prevent a clear and full view of the entire interior of such premises from the street, road or sidewalk, and such premises shall be so located as to provide for such a view. All rooms where liquor is sold for consumption upon the premises shall be continuously lighted during business hours by natural light or by artificial white light so that all parts of the interior of the premises shall be clearly visible. In case the view into any such licensed premises required by the foregoing provisions, shall be willfully obscured by the licensee or by him willfully suffered to be obscured or in any manner obstructed, then such license shall be subject to revocation in the manner herein provided. In order to enforce the provisions of this Section the Mayor shall have the right to require the filing with him of plans, drawings and photographs showing the clearance of the view as above required.

Sec. 4-25. Reserved.

Sec. 4-26. Purchasing, accepting, possessing, consuming by minors.
(a) The purchase, acceptance or possession of any alcoholic liquor by any person under the age of 21 years is forbidden. This Section does not apply to possession by a person under the age of 21 years making a delivery of an alcoholic beverage in pursuance of the order of his parent or in pursuance of his employment.

(b) The consumption of any alcoholic liquor by any person under the age of 21 years is forbidden.

(c) The possession and dispensing or consumption by a minor of alcoholic liquor in the performance of a religious service or ceremony, or the consumption by a minor under the direct supervision and approval of the parents or parent of such minor in the privacy of a home, is not prohibited by this Section.
Sec. 4-26.1. Sale or delivery to minors.
No licensee nor any officer, associate, member, representative, agent or employee of such licensee shall sell, give or deliver alcoholic liquor to any person under the age of 21 years or to any intoxicated person or to any person known by him to be an habitual drunkard, spendthrift, insane, mentally ill, mentally deficient or in need of mental treatment. No person, after purchasing or otherwise obtaining alcoholic liquor, shall sell, give or deliver such alcoholic liquor to another person under the age of 21 years, except in the performance of a religious ceremony or service.

Sec. 4-26.2. Reserved.

Sec. 4-27. Misrepresenting age.
Any person under the age of 21 years who misrepresents his or her age for the purpose of purchasing or obtaining alcoholic liquor from any retail licensee in the City shall be guilty of a misdemeanor.

Sec. 4-28. Warning to minors.
All licensees under this Chapter shall display at all times, in a prominent place, a printed card which shall read substantially as follows:

<table>
<thead>
<tr>
<th>WARNING TO MINORS</th>
</tr>
</thead>
<tbody>
<tr>
<td>You are subject to a fine of up to $500.00 under the ordinances of the City of McHenry if you purchase alcoholic liquor or misrepresent your age for the purpose of purchasing or obtaining alcoholic liquor.</td>
</tr>
</tbody>
</table>

Sec. 4-29. Parental responsibility for violations.
Any parent or guardian who shall knowingly suffer or permit any minor child who is his child or ward, to violate any provision or provisions of this Chapter, shall be guilty of a misdemeanor.

Sec. 4-30. Prohibitions. (MC-01-767)
(a) It shall be unlawful for any person maintaining, owning or operating a commercial establishment located within the City, at which alcoholic beverages are offered for sale for consumption on the premises, to permit or allow the following activity to be conducted on the premises of such a commercial establishment, all of which activity is defined in Article 1 of Chapter 2.50 of this Code: adult business; adult entertainment center; adults-only activity, bookstore, motion picture theater(s), adult-only sauna; nudity; obscene activity; rap parlor; sadomasochistic activity; or sexual conduct activity.

(b) It shall be unlawful for any establishment defined as an adult business pursuant to the City of McHenry Zoning Ordinance to sell, distribute or permit beer or alcoholic beverages on the premises.
Sec. 4-31. Females soliciting drinks.
No female person, whether an employee of the licensee or an entertainer at the licensee's establishment, or otherwise, shall solicit, induce or request any patron to purchase any alcoholic or non-alcoholic beverage for herself or any other person not a patron. No proprietor or operator of any such establishment shall allow the presence in such establishment of any female who violates the provisions of this Section.

Sec. 4-32. Penalty for violation of Chapter.
Any person, firm or corporation violating any provision of this Chapter shall be fined not less than $25.00 nor more than $750.00 for each offense committed on each day during, or on which, a violation occurs or continues. (MC-96-654)
Sec. 5-1. Application of provisions.
The provisions of this Chapter, except as to licensing and fees, shall apply to all public shows, theatricals, circuses and other amusements in the municipality, whether specifically licensed in another provision of this Code, or not.

Sec. 5-2. License required.
It shall be unlawful to conduct or operate any amusement which is open to the public, and for admission to which a fee is charged, without having first secured a license therefore; provided that the provisions of this Section shall not be held to apply to those amusements which are specifically licensed by any other provision of this Code or by any other ordinance of the City.

Sec. 5-3. License applications.
Applications for licenses as provided herein shall be made to the City Clerk as in other cases of application for licenses and permits, and all applicants shall conform with the general provisions set forth in Chapter 12.

Sec. 5-4. License fees.
The following fees shall be prerequisites for securing licenses under this Chapter:

<table>
<thead>
<tr>
<th>Activity</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Athletic exhibitions for profit</td>
<td>$25.00 per day</td>
</tr>
<tr>
<td>Billiard and pool halls</td>
<td>$5.00 per table-annual fee</td>
</tr>
<tr>
<td>Carnivals</td>
<td>$100.00 per day</td>
</tr>
<tr>
<td>Circuses</td>
<td>$25.00 per day</td>
</tr>
<tr>
<td>Exhibitions</td>
<td>$5.00 per day</td>
</tr>
<tr>
<td>Motion pictures and theatricals</td>
<td>$80.00 annual fee</td>
</tr>
<tr>
<td>Public dance halls</td>
<td>$50.00 annual fee</td>
</tr>
<tr>
<td>Skating rinks</td>
<td>$50.00 annual fee</td>
</tr>
<tr>
<td>Bowling alleys</td>
<td>$5.00 per ally/annual fee</td>
</tr>
</tbody>
</table>

(MC-92-584)

Sec. 5-5. Minors prohibited if alcohol sold.
Minors, under the age of 19 years, shall under no circumstances frequent, loiter, go, or remain in that portion of the premises of any billiard hall, pool hall, skating rink, public dance hall or other place of amusement in which alcoholic beverages for consumption on the premises, are sold.

Sec. 5-7. General safety.
(a) No place of amusement, exhibition hall, public dance hall, skating rink or any similar building or enclosure, operated either permanently or temporarily, shall be permitted to operate unless each such building or enclosure fully complies with all State and City requirements for the safety of the general public.
(b) It shall be unlawful to obstruct or permit the obstruction of aisles, corridors, or exits leading from such building or enclosure.

(c) Exit directions in all buildings or structures shall illuminated in letters at least six inches high over every door or opening, and shall meet with the approval of the Construction and Neighborhood Services Department.

(d) It shall be the duty of the Construction and Neighborhood Services Department enforce the provisions of this Section.

Sec. 5-8, Additional Requirements for Carnivals and Circuses (MC-07-908)

(a) **Definitions.** For the purposes of this Chapter, terms shall have the following meaning:

**Carnival.** A traveling amusement show usually including rides, sideshows and games of skill.

**Circus.** A traveling company consisting typically of a variety of performances by acrobats, clowns, and trained animals.

(b) **Permit Required.** A building permit is required for a carnival or circus, as defined herein. Such permit shall not be issued without first obtaining approval by the City Council with any conditions attached as the City Council deems appropriate to protect the health, safety and welfare of the public.

(c) **Application.** Not less than 45 calendar days before the carnival or circus, a building permit application shall be submitted to the Construction and Neighborhood Services Department, which shall include:

1. A site plan showing the layout of the event, including rides, tents, trailers, overnight quarters for security personnel (if applicable), and all wires, lines, cables, etc.
2. Certificate of insurance for a minimum $2,000,000 general liability, including bodily injury, property damage and motor vehicle liability, naming the City as an additional insured. A letter from the insurer stating there are no outstanding claims against the policy.
3. The filing fee, which is $50 for each day the event will run. Said fee may be waived for City-based not-for-profit organizations that submit a copy of their certificate of incorporation.
4. A letter of consent from the property owner if the event will be held on private property or a letter to the City Council requesting the use of public property.
5. Information on all proposed signs for the event, including number, size and location.
6. Copy of the McHenry County temporary food service permit, if applicable.
(d) **Other Limitations.**

1. The carnival or circus shall not exceed 10 days.
2. The carnival or circus shall not be located in or directly adjacent to any developed residential area, with the exception that it may be on a church, school or public park property even if located next to residential property.
3. The event must be operated or sponsored by a not-for-profit organization based in the City.
4. No private property location may host more than one carnival or circus per year.
5. No employee, agent or other representative of the carnival/circus may live, sleep or otherwise remain overnight on the premises of the carnival. Persons providing security on the site may receive an exemption from this requirement, upon approval by the City Council.
6. All carnival/circus workers must keep government issued photo identification on their person at all times during the public event. The government issued identification must be presented at any time to an officer of the City upon request.
7. Only those carnival/circus employees who have completed a background check through the McHenry Police Department will be permitted to work on the premises. The background check is valid for the calendar year in which it is conducted and is subject to review after the initial approval. No person will be allowed to work the event if he/she:
   - Is a registered child sex offender; or
   - Has been convicted of a felony in the past five years; or
   - Has been convicted of any other crime involving moral turpitude or violence; or
   - Is identified as a known gang member in the Illinois State Police LEADS system.
   - Is deemed unfit for any reason by the City of McHenry Police Department.

(e) **Additional Submittals.**

1. Copy of an Illinois Department of Labor amusement ride permit.
2. List of employees who will work on the premises of the carnival/circus including their legal name, date of birth, home address and social security number.
3. All registered employees shall submit their fingerprints along with a completed police background authorization form. The fee for this service shall be $500 plus $50 for each employee. Volunteers for local not-for-profit organizations shall be exempt from fingerprinting.
4. Signed waivers of liability for all employees who will work on the premises of the carnival/circus.
5. Completed City carnival operator questionnaire, if required by City.

(f) **Inspections.** Any City official shall have free access to the carnival/circus grounds and all booths, shows and concessions at all times to ensure compliance with City, county and state ordinances and regulations.

(g) **Revocation.** The City may revoke a permit or carnival worker permit at any time and demand immediate cessation of the carnival/circus when it is found to be in violation of City, county or state ordinances and regulations or when public safety is endangered.
MUNICIPAL CODE
CHAPTER 6
ANIMALS AND FOWL*
ARTICLE I. IN GENERAL
(MC-13-1075)

Sec. 6-1. Policy and Purpose.
The purpose of this ordinance is to provide protection for the people of McHenry, to ensure their health, safety
and welfare, and to provide harmonious relationships between people and Animals by:
   a. Providing security to residents from annoyance, intimidation and injury from Dogs and other Animals;
   b. Protecting Animals from improper use, abuse, neglect, inhumane treatment and health hazards;
   c. Encouraging responsible pet Ownership;

Sec. 6-2. Definitions.
Animal, means every living creature, other than man, which may be affected by rabies.
Animal, Companion means an Animal that is commonly considered to be, or is considered by the Owner to be
a pet.
Animal, control or restraint refers to any owned Animal that is either secured by a leash or lead or under
voice control or within the premises of its Owner or confined within a crate or cage or confined within a vehicle
or on the premises of another person with the consent of that person.
Animal, Domestic means Dogs, Cats, rabbits, rodents, birds, reptiles and any other similar species of Animals
that are sold or retained as household pets.
Animal, Exotic shall include but is not limited to the following: Felis concolor (i.e. Cougar, Mountain Lions,
Panther, Puma, Catamount, Florida Panther); Panthers (i.e. Lion, Tiger, Leopard, Jaguar, Snow Leopard):
Neofelis (i.e. Clouded Leopard; Acinonyx (i.e. Cheetah); Felis wiedi (i.e. Margay); Felis lynx (i.e. Lynx) Felis
rufus (i.e. BobCat); Leopardus pardalis (i.e. Ocelot); Yagouaroundi (i.e. Jaguardundis); Hyaenidae (i.e.
Hyenas); Canis Lupus (i.e. Gray Wolf, Timber Wolf, White Wolf); Canis Rufus (i.e. Red Wolf); Alopex
lagopus (i.e. Arctic Fox, Polar Fox, White Fox, Blue Fox); Uracyon cineragnostes (i.e. Gray Fox); Canis
latrans (i.e. Coyote); Ursidae (i.e. Black Bear, Brown or Grizzly Bear, Polar Bear); Proboscides (i.e. Elephant);
non-human primate; Crocodylis (i.e. crocodiles, Alligator); all species of the following families or genera of
Squamata (snakes and lizards): Helodermatidae (i.e. Gila monsters); Elapidae (i.e. Cobras, coral snakes);
Hydrophiidae (i.e. sea snakes); Viperidae (i.e. vipers and pit vipers); Atractaspidae (i.e. twig snake);
Rhabdophis (i.e. keelback snakes); Eunectes murinus (i.e. Gree anaconda); Python sebae (i.e. African rock
python); Python molurus (i.e. Burmese python); Python reticulates (i.e. Reticulated python); Liasis amethystinus
(i.e. Amethystine python); or any other Animal or reptile deemed dangerous by the McHenry County Health
Department, Illinois Department of Aquiculture or Illinois Department of Conservation.
Animal, Farm are species of fowl, ovine (i.e. sheep), caprine (i.e. goat), bovine (i.e. Cattle), porcine (i.e. pig)
and equine (i.e. horse).
Animal, Stray means any Domestic Animal that is not under control and constraint.
Bite means seizure of a person with the jaws or teeth of any Animal capable of transmitting rabies so that the
person so seized has been wounded or pierced and further includes contact of the saliva of such Animal with
any break or abrasion of the skin.
Cat, is any member of the family Felidae.
Dog, is any member of the family Canidae.
Feral Cat, is a Cat that (1) is born in the wild or is the offspring of an owned or feral Cat and is not socialized,
or (2) is a formerly owned Cat that has been abandoned and is no longer socialized, or (3) lives on a farm.
Kennel. Any lot or premises on which four or more Animals commonly used as household pets that are more than four months of age are bred, groomed, boarded, trained, placed or sold for commercial or humane purposes and which offers provisions for minor medical treatment, including Animal shelter.

Leash, is a cord rope, strap, nylon strap or chain which shall be securely fastened to the collar or harness of a Dog or other Animal and shall be of sufficient strength to keep such Dog or other Animal under control.

Owner, also including Person in Possession, means any person having a right of property in an Animal or who keeps or harbors an Animal, or who has it in his or her care, or acts as its custodian, or who knowingly permits a Dog or other Domestic Animal to remain on any premises occupied by him or her for a period of 7 days. Owner does not include a feral Cat caretaker who participates in a trap spay/neuter, return or release program.

Restraint, within the meaning of this ordinance, require a Dog or Animal, off the premises of the Dog Owner’s owned or real property to be controlled by a leash and held by a competent persons capable of controlling such Animal; at “heel” of a competent person; within a vehicle being driven, parked or stopped; accompanied by a person competent in commonly accepted methods of control.

* Cross references – Molesting animals or birds in parks, Sec. 16-11; pets and domestic animals in parks, Sec. 16-30.

Sec. 6-3. Cruel Treatment.

a. No person or Owner may beat, cruelly treat, torment, starve, overwork or otherwise abuse an Animal.

b. No Owner may abandon any Animal where it may become loose in the public or may suffer injury, hunger or exposure.

Sec. 6-4. Owners Duties.

No person or Owner shall fail to provide any Animal in their charge or custody, as Owner or otherwise, with the following:

(1) Sufficient quantity of good quality, wholesome, food and water; (Outdoor Animals must have a constant supply of fresh water available.)

(2) Adequate shelter and protection from the weather;

(3) Veterinary care when needed to prevent suffering; and

(4) Humane care and treatment.

Sec. 6-5. Keeping Animals other than household pets.

(a) Except as otherwise provided herein, no person shall keep or harbor any Animal, except Domestic Animals, within the corporate limits of the City.

(b) Except as authorized by the issuance of a conditional use permit in the A-M Agricultural and Mining Overlay District, no person shall keep or harbor, within the corporate limits of the City, any Farm Animals, including chickens sold as “household pets”.

(c) No person shall keep or harbor, within the corporate limits of the City, any Exotic Animals.

Sec. 6-6 Running at large prohibited.

The Owner of any Dog, Cat or other Domestic Animal shall not permit such Animal to run at large within the City of McHenry, with the exception of Dogs in a designated City Dog park.

No person shall cause or permit any Dog Cat or other Domestic Animal owned by them, unless under restraint, to be on any public place or on any privately owned premises other than those of the Owner, without that property Owner’s consent, with the exception of Dogs in a designated City Dog park.

-151-

8/13
Any Dog, Cat or other Domestic Animal found running at large is hereby declared a nuisance, and it shall be presumed that such Animal is running at large with the permission of the Owner, keeper or person in control of such Animal, with the exception of Dogs in a designated City Dog park.

Sec. 6-7 Impoundment.
The City may apprehend any Dog, Cat, or other Domestic Animal found running at large, with the exception of Dogs in a designated City Dog park. The impounded Animals will be held at the Police Department until transported to the McHenry County Health Department for disposition.

Sec. 6-8. Control of Animals.**
No Owner or person in the custody or control of Animals shall fail to exercise proper care and control of such Animals to prevent them from becoming a public nuisance. The following actions shall be deemed a public nuisance:

(a) **Barking Dogs.** No Owner or person in the possession, custody or control of a Dog shall allow the Dog to bark, whine, or howl continuously for a period longer than 15 minutes, intermittently for a period in excess of two hours, or between the hours of 10:00 p.m. and 6:00 a.m., so as to disturb the peace, quiet or repose, or be audible to another person of ordinary sensibility.

(b) **Entry Upon The Private Property of Another.** The Owner or person in possession of any Dog or Cat shall not permit such Dog or Cat to enter upon the premises or property which is located within the City of another person without permission of the Owner of such premises or property.

(c) **Damage to Property.** The Owner of any Dog, Cat, or other Domestic Animal shall not permit such Dog, Cat or other Domestic Animal to injure, destroy or carry any vegetable, plant, fruit shrub, tree, flower or other thing which may be on or which may be planted or seeded on the property of another or on public property. These provisions do not exclude any civil liability for damage to property by a Dog, Cat, or other Domestic Animal.

(d) **Accumulation of Feces.** No person shall allow Animal feces to accumulate in any yard, pen or premises in or upon which an Animal shall be confined or kept so that it becomes offensive to those residing in the vicinity or a health hazard to the residing Animal.

(e) **Removal of Feces.** No person shall fail to remove feces deposited by their Animals, except support Dogs, upon the public ways or within the public places of the City or upon the premises of any person other than the Owner without that person’s consent.

(f) **Female Animals In Heat.** All Dogs and Cats in heat (estrus) shall be confined in a building or secure enclosure and attended in such a manner that such female Cat or Dog cannot come into contact with a male of the same species except for planned breeding.

**  Cross reference – Noise, generally, Sec 14-8.

Sec. 6-9. Places where Animals are prohibited.
It shall be unlawful to permit any Animals to enter any place where food is stored, prepared, served, or sold to the public; provided, however, this Section shall not apply to Dogs leading blind persons, the hearing impaired, or support Dogs for the physically handicapped.

ARTICLE II. Biting Animals

Sec. 6-10 Biting Dogs, Cats and Other Animals.

(a) It is unlawful for any person having direct knowledge that any person has been bitten by a Dog, Cat, or other Animal capable of transmitting rabies to refuse to notify the McHenry County Health Department immediately.

(b) It is unlawful for the Owner or Person in Possession of such Dog or other Animal to euthanize, sell
give away or otherwise dispose of any such Dog or other Animal known to have bitten a person, until it is released by the health department.

(c) It is unlawful for the Owner or Person in Possession of such Dog or other Animal to refuse or fail to comply with the written or printed instructions made by the health department. If such instructions cannot be delivered in person, they shall be mailed to the Owner of such Dog or other Animal by regular mail.

(d) Any expense incurred in the handling of any Dog or other Animal under this ordinance shall be borne by the Owner. For the purpose of this Section, the word “immediately” means by telephone, in person, or by means other than use of mail.

Sec. 6-11. Limitation of Animals and Grandfathering.
No person shall permit more than three Dogs, excluding puppies under four months of age, to be or remain in or about any dwelling unit, including but not limited to any garage, yard or other structure associated with said dwelling unit. This provision shall not be applicable to kennels which are properly zoned. Any person with more than three Dogs at the time of adoption of this ordinance shall be permitted to maintain all the Dogs for the life of the Dog(s). After which, a maximum of three Dogs shall be permitted to be or remain in about any dwelling unit, including but not limited to any garage, yard or other structure associated with said dwelling unit. For the purposes of this section addresses with four or more Dogs shall be those registered with the McHenry County Department of Health as of the date of adoption of this ordinance.

Sec. 6-12. To be licensed and registered by County.
All Dogs kept, harbored or maintained by their Owners within the City shall be licensed and registered by the County of McHenry.

Sec. 6-13. Vaccination required.
It shall be unlawful for the Owner or Person in Possession of any Dog to keep or maintain such Dog unless it shall have been vaccinated by a licensed veterinary surgeon with anti-rabies vaccine, within one year preceding the date on which such Dog is kept, maintained or allowed to run at large.

Sec. 6-14. Penalties.
Any person violating this Chapter of the Municipal Code shall be fined not less than $100 for each offense and shall be responsible for reimbursing the City's cost of prosecution including Attorney's fees incurred by the City. Each day that a violation continues shall be considered a separate offense.

The next page is 165.
Sec. 7-1. Office of Director of Construction and Neighborhood Services established; powers, duties.
The office of Director of Construction and Neighborhood Services is hereby created in which is vested the power and duty to administer, and enforce all of the provisions of this Chapter and such related regulations as shall be assigned to that office from time to time by the City Council. That officer is meant wherever in this Chapter the term "Building Officer", "Building Inspector" or similar description is used. The Director of Construction and Neighborhood Services shall be the head of the Construction and Neighborhood Services Department and shall be responsible for the efficient management and operation thereof, and for the enforcement of the building regulations, zoning ordinances and such other ordinances as the Council may from time to time specify.

Sec. 7-1.1 Appointment of officer, assistants.
The Director of Construction and Neighborhood Services shall be appointed by the Mayor, with the consent of the Council.

Sec. 7-2. Permits in advance of work.
It is hereby required that a permit be obtained in advance and all other requirements of this Chapter be complied with whenever a building or structure, or parts or appurtenances thereof, such as water supply, sewage disposal, plumbing installation and electrical installation, which are regulated by this Chapter, or a utility shed, is erected, installed, altered, converted, remodeled, structurally repaired, moved, demolished or changed.

No permit may be issued for the construction of a building foundation exclusive of the permit for the construction of the building to which the foundation relates.

* Cross references - Planning and Zoning generally, Ch. 17 (also see under separate covers); swimming pools, Ch. 22; water and sewers, Ch. 26; noise attending construction operations, Sec. 14-8(g); house numbering, Sec. 21-20; use of water during construction, Sec. 26-54 et seq.
Sec. 7-3. Permit fees established, penalty fee. (MC-94-617; MC-02-809;MC-04-854;MC-06-895; MC-08-962; MC-10-1026; MC-11-1038; MC-13-1066; MC-13-1084) The following fees shall be charged for permits required by this Chapter:

<table>
<thead>
<tr>
<th>TYPE OF CONSTRUCTION/PROJECT</th>
<th>FEES</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>A. RESIDENTIAL CONSTRUCTION</strong></td>
<td></td>
</tr>
<tr>
<td>A New Construction (single family, 2-family, multi-family)</td>
<td></td>
</tr>
<tr>
<td>Plus plumbing review/inspection fee</td>
<td></td>
</tr>
<tr>
<td>Single-family dwelling</td>
<td>$0.25/sq ft</td>
</tr>
<tr>
<td>2-Family or multi-family dwelling</td>
<td>$84/unit plus $28/bldg</td>
</tr>
<tr>
<td><strong>B. Additions</strong></td>
<td></td>
</tr>
<tr>
<td>Plus plumbing review/inspection fee</td>
<td>$0.25/sq ft ($50 minimum fee)</td>
</tr>
<tr>
<td>Plus fee per plumbing fixture</td>
<td>$56</td>
</tr>
<tr>
<td><strong>C. Remodeling</strong></td>
<td></td>
</tr>
<tr>
<td>Plus plumbing review/inspection fee</td>
<td>$0.25/sq ft ($50 minimum fee)</td>
</tr>
<tr>
<td>Plus fee per plumbing fixture</td>
<td>$56</td>
</tr>
<tr>
<td><strong>D. Minor Permit Extension</strong></td>
<td></td>
</tr>
<tr>
<td>(any permit other than 1a, 1b, or 1c above)</td>
<td>1 ½ times the original building permit fee</td>
</tr>
<tr>
<td><strong>Major Permit Extension</strong></td>
<td></td>
</tr>
<tr>
<td>(any permit as referenced in 1a, 1b or 1c above)</td>
<td></td>
</tr>
<tr>
<td>Six-month Extension</td>
<td>½ the cost of the original building permit fee</td>
</tr>
<tr>
<td>One-year Extension</td>
<td>Cost of the original building permit fee</td>
</tr>
<tr>
<td><strong>2. AIR CONDITIONING</strong></td>
<td>$40</td>
</tr>
<tr>
<td><strong>3. ANTENNA/SATELLITE DISH</strong></td>
<td>$30</td>
</tr>
<tr>
<td><strong>4. BACKFLOW PREVENTION INSTALLATION</strong></td>
<td>$50</td>
</tr>
<tr>
<td><strong>5. DECK</strong></td>
<td>$30 plus $0.05/sq ft</td>
</tr>
<tr>
<td><strong>6. DEMOLITION OF PRINCIPAL BUILDING ON PREMISES</strong></td>
<td>$100</td>
</tr>
<tr>
<td><strong>7. DOOR REPLACEMENT</strong></td>
<td>$25</td>
</tr>
<tr>
<td><strong>8. DRIVEWAY</strong></td>
<td>$25</td>
</tr>
<tr>
<td><strong>9. ELECTRICAL INSTALLATION/UPGRADE</strong></td>
<td>$50</td>
</tr>
<tr>
<td><strong>10. FENCE</strong></td>
<td>$25</td>
</tr>
<tr>
<td><strong>11. FIREPLACE</strong></td>
<td>$50</td>
</tr>
<tr>
<td><strong>12. FURNACE (CHANGING SOURCE OR NEW UNIT)</strong></td>
<td>$35</td>
</tr>
<tr>
<td><strong>13. GAZEBO</strong></td>
<td>$30 plus $0.05/sq ft</td>
</tr>
<tr>
<td><strong>14. GARAGE</strong></td>
<td>$0.15/sq ft</td>
</tr>
<tr>
<td><strong>15. LAWN SPRINKLER SYSTEM</strong></td>
<td>$50</td>
</tr>
<tr>
<td><strong>16. POOLS AND HOT TUBS</strong></td>
<td></td>
</tr>
<tr>
<td>A Above-Ground</td>
<td>$60</td>
</tr>
<tr>
<td>B In-Ground</td>
<td>$115</td>
</tr>
<tr>
<td>C Hot Tub</td>
<td>$35</td>
</tr>
<tr>
<td>D Storable Swimming Pool</td>
<td>$30</td>
</tr>
<tr>
<td><strong>17. RAISING, SHORING OR UNDERPINNING OF STRUCTURES</strong></td>
<td>$15</td>
</tr>
<tr>
<td><strong>18. RE-ROOF</strong></td>
<td>$25</td>
</tr>
<tr>
<td><strong>19. SEWER REPAIR</strong></td>
<td>$25</td>
</tr>
<tr>
<td><strong>20. SHED</strong></td>
<td>$30</td>
</tr>
<tr>
<td><strong>21. SIDING</strong></td>
<td>$25</td>
</tr>
<tr>
<td><strong>22. STONE, BRICK VENEER</strong></td>
<td>$37.50</td>
</tr>
<tr>
<td><strong>23. WATER REPAIR</strong></td>
<td>$25</td>
</tr>
<tr>
<td><strong>24. WINDOW REPLACEMENT</strong></td>
<td>$25</td>
</tr>
<tr>
<td><strong>25. MINIMUM FEE FOR ALL NEW RESIDENTIAL CONSTRUCTION INCLUDING MISCELLANEOUS CONSTRUCTION UNLESS OTHERWISE SPECIFIED</strong></td>
<td>$22.50</td>
</tr>
<tr>
<td><strong>26. TEMPORARY CERTIFICATE OF OCCUPANCY</strong></td>
<td>$50</td>
</tr>
<tr>
<td><strong>27. PLAN REVIEW FEE: NEW CONSTRUCTION/ADDITION/ALTERATION</strong></td>
<td>$80</td>
</tr>
<tr>
<td><strong>28. WATER HEATER REPLACEMENT</strong></td>
<td>$35</td>
</tr>
<tr>
<td><strong>29. ALL PRIVATE WALKS THAT HAVE STEPS AND STOOPS</strong></td>
<td>$25</td>
</tr>
<tr>
<td><strong>30. RETAINING WALLS OVER 4 FEET IN HEIGHT</strong></td>
<td>$25</td>
</tr>
<tr>
<td>TYPE OF CONSTRUCTION/PROJECT</td>
<td>FEES</td>
</tr>
<tr>
<td>---------------------------------------------------</td>
<td>-------------------------------------------</td>
</tr>
<tr>
<td><strong>A</strong> Non-Residential Construction (MC-11-1038)</td>
<td></td>
</tr>
<tr>
<td><strong>B</strong> New Construction:</td>
<td></td>
</tr>
<tr>
<td>First 200 sq ft</td>
<td>$250</td>
</tr>
<tr>
<td>201 sq ft – 20,000 sq ft</td>
<td>$0.08/sq ft</td>
</tr>
<tr>
<td>20,001 sq ft and above</td>
<td>$0.05/sq ft</td>
</tr>
<tr>
<td>Plus plumbing review/inspection fee</td>
<td>$215</td>
</tr>
<tr>
<td>Plus fee per plumbing fixture</td>
<td>$1.50/fixture</td>
</tr>
<tr>
<td><strong>B</strong> Additions:</td>
<td></td>
</tr>
<tr>
<td>Plus plumbing review/inspection fee</td>
<td>$0.25/sq ft ($50 minimum fee;</td>
</tr>
<tr>
<td>Plus fee per plumbing fixture</td>
<td>$10,000 max fee)</td>
</tr>
<tr>
<td></td>
<td>$86</td>
</tr>
<tr>
<td></td>
<td>$1.50/fixture</td>
</tr>
<tr>
<td><strong>C</strong> Remodeling:</td>
<td></td>
</tr>
<tr>
<td>Plus plumbing review/inspection fee</td>
<td>$0.25/sq ft ($50 minimum fee)</td>
</tr>
<tr>
<td>Plus fee per plumbing fixture</td>
<td>$86</td>
</tr>
<tr>
<td></td>
<td>$1.50/fixture</td>
</tr>
<tr>
<td><strong>D</strong> Minor Permit Extension</td>
<td></td>
</tr>
<tr>
<td>(any permit other than 1a, 1b or 1c above)</td>
<td></td>
</tr>
<tr>
<td>Six-month Extension</td>
<td>1 ½ times the original building permit fee</td>
</tr>
<tr>
<td><strong>D</strong> Major Permit Extension</td>
<td></td>
</tr>
<tr>
<td>(any permit referenced in 1a, 1b and 1c above)</td>
<td></td>
</tr>
<tr>
<td>One-year Extension</td>
<td>½ the cost of the original building permit fee</td>
</tr>
<tr>
<td></td>
<td>Cost of the original building permit fee</td>
</tr>
<tr>
<td><strong>2</strong> Accessory Structure (Garage, Shed , etc)</td>
<td>$1.15/sq ft ($50 minimum fee)</td>
</tr>
<tr>
<td><strong>3</strong> Air Conditioning, Central</td>
<td>$75</td>
</tr>
<tr>
<td><strong>4</strong> Antenna/Satellite Dish</td>
<td>$60</td>
</tr>
<tr>
<td><strong>5</strong> Awning/Canopy</td>
<td>$50</td>
</tr>
<tr>
<td><strong>6</strong> Backflow Prevention Installation</td>
<td>$50</td>
</tr>
<tr>
<td><strong>7</strong> Deck</td>
<td>$65</td>
</tr>
<tr>
<td><strong>8</strong> Demolition</td>
<td>$200</td>
</tr>
<tr>
<td><strong>9</strong> Door Replacement</td>
<td>$50</td>
</tr>
<tr>
<td><strong>10</strong> Driveway</td>
<td>$45</td>
</tr>
<tr>
<td><strong>11</strong> Electrical Installation/Upgrade</td>
<td>$110</td>
</tr>
<tr>
<td><strong>12</strong> Elevator</td>
<td>$120</td>
</tr>
<tr>
<td><strong>13</strong> Fence</td>
<td>$35</td>
</tr>
<tr>
<td><strong>14</strong> Fire Protection/Sprinkler System</td>
<td>$200</td>
</tr>
<tr>
<td><strong>15</strong> Furnace (new unit only)</td>
<td>$75</td>
</tr>
<tr>
<td><strong>16</strong> Gazebo</td>
<td>$65</td>
</tr>
<tr>
<td><strong>17</strong> Incinerator/Crematory</td>
<td>$50</td>
</tr>
<tr>
<td><strong>18</strong> Irrigation/Lawn Sprinkler System</td>
<td>$60</td>
</tr>
<tr>
<td><strong>19</strong> Parking Lot</td>
<td>$45</td>
</tr>
<tr>
<td><strong>20</strong> Raising, Shoring, Underpinning Structure</td>
<td>$200</td>
</tr>
<tr>
<td><strong>21</strong> Re-Roof</td>
<td>$75</td>
</tr>
<tr>
<td><strong>22</strong> Sewer Repair</td>
<td>$75</td>
</tr>
<tr>
<td><strong>23</strong> Siding</td>
<td>$50</td>
</tr>
<tr>
<td><strong>24</strong> Signs:</td>
<td></td>
</tr>
<tr>
<td><strong>A</strong> Non-illuminated</td>
<td>$30 fee plus $30 deposit*</td>
</tr>
<tr>
<td><strong>B</strong> Illuminated</td>
<td>$55</td>
</tr>
<tr>
<td><strong>C</strong> Portable/Temporary</td>
<td>$30 fee plus $30 deposit*</td>
</tr>
</tbody>
</table>

* Following the expiration of the portable/temporary sign permit to whom the permit was issued must contact the Community & Economic Development Department, during normal business hours (8:00 a.m. to 5:00 p.m. Monday thru Friday, excluding recognized holidays which the office is not open), at (815)363-2170, within five (5) business days to schedule an inspection to verify its removal. If the sign has been removed the permit will be closed and the ($30) deposit will be refunded to the applicant. If the applicant does not contact the Community & Economic Development Department within five (5) business days following the expiration of the portable/temporary sign permit, the deposit will be permanently retained by the City.

*A portable/temporary $100 deposit shall be required exclusively for grand opening signs. Grand opening signs must comply with all other provisions outlined in Section 7-3 Table B-1 Non-Residential Construction (d)(24)(C) in addition to
D. The aforesaid residential and non-residential permit fees shall be increased by 50% where construction has been commenced before a permit is issued for such work.

E. All fees as are herein established or made, by Amendment, or hereinafter established by the City Council, shall be collected by the Construction and Neighborhood Services Department and deposited with the Finance Director.

Sec. 7-3.1 Reserved (MC-89-508; MC-08-94-617; MC-08-955)

Sec. 7-4. Cash contributions for schools, park, Fire Protection District and library purposes as condition of approval for residential building permit; calculation; when payable; remittance to school district.

As a condition of approval of an application for a residential building permit for the construction of any residential dwelling unit anywhere in the City on land for which a cash contribution has not been previously paid under the terms and provisions of Section 8 of the City’s Subdivision Control and Development Ordinance, the applicant for such residential dwelling unit building permit shall be required to pay for school districts, park, Fire Protection District and library district purposes, a cash contribution per each residential dwelling unit to be constructed, calculated in accordance with the following schedule, which contributions shall be increased each May 1 by the percentage increase in the Chicago Area Consumer Price Index for the previous year, for purposes of this paragraph, the price index to be used for comparative purposes shall be that index published for the Annual Average Chicago Area CPI-U, as published by the U.S. Department of Labor, Bureau of Labor Statistics, beginning May 1, 1997: (MC-96-651)
CONTRIBUTION PER RESIDENTIAL DWELLING UNIT FOR:
EFFECTIVE MAY 1, 2016

<table>
<thead>
<tr>
<th>TYPE OF RESIDENTIAL DWELLING UNIT</th>
<th>TOTAL CONTRIBUTION PER UNIT</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>SCHOOLS</strong></td>
<td><strong>PARK</strong></td>
</tr>
<tr>
<td>Single Family Dwellings:</td>
<td></td>
</tr>
<tr>
<td>2 bedroom or less</td>
<td>$2765.00</td>
</tr>
<tr>
<td>3 bedroom</td>
<td>4494.00</td>
</tr>
<tr>
<td>4 bedroom</td>
<td>6226.00</td>
</tr>
<tr>
<td>5 bedroom or more</td>
<td>6397.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>DWELLING UNIT</th>
<th>SCHOOLS</th>
<th>PARK</th>
<th>LIBRARY</th>
<th>FIRE DIST.</th>
<th>PER UNIT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Apartments:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Efficiency</td>
<td>$ -0-</td>
<td>$2676.00</td>
<td>$347.00</td>
<td>$347.00</td>
<td>$3370.00</td>
</tr>
<tr>
<td>1 bedroom</td>
<td>-0-</td>
<td>3636.00</td>
<td>347.00</td>
<td>347.00</td>
<td>4330.00</td>
</tr>
<tr>
<td>2 bedroom</td>
<td>1115.00</td>
<td>3968.00</td>
<td>347.00</td>
<td>347.00</td>
<td>5777.00</td>
</tr>
<tr>
<td>3 bedroom or more</td>
<td>5017.00</td>
<td>6317.00</td>
<td>347.00</td>
<td>347.00</td>
<td>12028.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>DWELLING UNIT</th>
<th>SCHOOLS</th>
<th>PARK</th>
<th>LIBRARY</th>
<th>FIRE DIST.</th>
<th>PER UNIT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Townhouse, Row House, Quadriplex:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1 bedroom</td>
<td>$ -0-</td>
<td>$2466.00</td>
<td>$347.00</td>
<td>$347.00</td>
<td>$3160.00</td>
</tr>
<tr>
<td>2 bedroom</td>
<td>2324.00</td>
<td>4118.00</td>
<td>347.00</td>
<td>347.00</td>
<td>7136.00</td>
</tr>
<tr>
<td>3 bedroom</td>
<td>2630.00</td>
<td>4949.00</td>
<td>347.00</td>
<td>347.00</td>
<td>8273.00</td>
</tr>
<tr>
<td>4 bedroom</td>
<td>6332.00</td>
<td>6505.00</td>
<td>347.00</td>
<td>347.00</td>
<td>13531.00</td>
</tr>
</tbody>
</table>

(MC-91-560; MC-93-595; MC-96-651; MC-98-711; MC-99-746)

The cash contributions required by the previous paragraph shall be payable to the City at the time application is made to the City for the issuance of such residential building permit. Such cash contributions shall be calculated pursuant to the above schedule on the basis of the type of residential unit to be constructed and the number of bedrooms specified in said application.

Sixty-five percent of the cash contributions for school purposes shall be remitted to the grade school district affected by said subdivision development and thirty-five percent shall be remitted to the affected high school district. (MC-91-560)

The City shall remit the cash contributions to the affected school district on a periodic basis no less frequently than annually. Such cash contributions, in lieu of school sites, shall be held in a special fund by the school district and disbursed by the school district for use in the acquisition of land for a school site to serve the immediate or future needs of children from that subdivision or development or for the improvement to any existing school site which already serves such needs, but not for the construction of any school building or additions thereto.
Sec. 7-5. Duration of permit. (MC-03-829; MC-06-895; MC-08-962)
(a) Duration of Minor Permits. A minor permit shall be any permit issued for an accessory use listed in Table 19: Permitted Obstructions of Required Yards in the City of McHenry Zoning Ordinance. A minor permit shall expire and become invalid if a substantial construction start is not made within ninety (90) days after the issuance of said permit, and/or if construction is not fully completed within six (6) months after the issuance of said permit. In any of the aforesaid cases, no further construction shall be permitted until a new application has been submitted and approved and all fees have been paid in connection with the application for said minor permit.

(b) Duration of Major Permits. A major permit shall be any permit not classified as a minor permit. A major permit shall expire and become invalid if a substantial construction start is not made within sixty (60) days after the issuance of said permit, construction is not completed, and a final inspection passed (Temporary Occupancy Agreement issued), within one (1) year after the issuance of said permit, or, if the building whose construction is authorized thereby has not had and passed a final inspection and a Certificate of Occupancy is not issued within two (2) years after the issuance date of said permit. In any of the aforesaid cases, no further construction shall be permitted until a new application has been submitted and approved and all fees have been paid in connection with the application for said major permit.

(c) Building Permit Extensions. A building permit extension may be granted by the Director subsequent to the payment of the fees specified in Section 7-3 herein.

(d) No more than one permit extension shall be granted per building permit.

Sec. 7-6. Certificate of Occupancy to be filed with Township Supervisor of Assessments.
The Director of Construction and Neighborhood Services shall file a Certificate of Occupancy, when issued, with the Township Supervisor of Assessments.

Sec. 7-7. Occupancy Certificate required prior to occupancy or use.
(a) No building, or structure or addition thereto erected, constructed, enlarged, remodeled, altered, reconstructed or moved after the effective date of this Section (11-19-84, MC-84-313) shall be occupied or used, in whole or in part, for any purpose unless and until an Occupancy Certificate shall have been issued by the Construction and Neighborhood Services Department certifying that the proposed use or occupancy complies with all provisions of the Zoning Ordinance and all other applicable ordinances of the City of McHenry.

(b) Any person who erects or constructs any house, dwelling place, business or establishment or any other type of building or structure within the City of McHenry pursuant to a building permit issued by the Construction and Neighborhood Services Department before transferring possession to the whole or any part of such building or structure to any other person for any use as a dwelling, business establishment, or for any other purpose, shall secure an Occupancy Certificate from the Construction and Neighborhood Services Department certifying that such building or structure conforms to all applicable provisions and requirements of the City of McHenry Building Codes and the City of McHenry Zoning Ordinance.
Sec. 7-8. Full compliance needed prior to issuance of Occupancy Certificate.

(a) No Occupancy Certificate for a new use or a structure or addition thereto erected, constructed, enlarged, remodeled, altered, reconstructed, or moved shall be issued until the premises have been inspected by the Construction and Neighborhood Services Department and determined to be in full compliance with all of the applicable regulations for the zoning district in which it is located and construction completed pursuant to the following schedule:

(1) Single family dwelling building permits:
No Occupancy Certificate shall be issued unless and until the entire residence or residential structure or addition thereto shall have been substantially completed to the satisfaction of the Construction and Neighborhood Services Department.

(2) Multiple family dwelling building permits:
No Occupancy Certificate shall be issued unless and until any apartment unit or units of such building or addition thereto, shown by the plans and specifications of the permittee as an "area" or "suite", or an entire floor of the building or addition thereto shall have been completed and adequate safety measures provided pursuant to paragraph 4 below.

(3) Commercial and industrial building permits:
No Occupancy Certificate shall be issued unless and until any unit or units of such building or addition thereto, shown by the plans and specifications of the permittee as an "area" or "suite" to be treated as such unit shall have been completed and adequate safety measures provided pursuant to paragraph 4 below.

(4) Safety precautions:
In each instance where an Occupancy Certificate is requested for other than an entire building or addition to an existing building, the permittee shall have first provided and shall continue to maintain during the remaining construction to be done on said premises and until and Occupancy Certificate has been issued for every part of such building:

(a) Fully completed ingress to and egress from the units for which the Occupancy Certificate is sought in order not to jeopardize the lives or property of the general public or any resident of such building;

(b) Complete and total quarantine and isolation of all areas or units in the said building for which an Occupancy Certificate has not been issued; and

(c) Separate ingress to and egress from areas under construction so as to keep workmen and building materials without the completed units to such building.

Sec. 7-9. Requirements declared minimum.
These rules and regulations set forth requirements which are considered reasonable and are held in every instance to be the minimum for the promotion of public health, safety, and the general welfare.
Sec. 7-10. Effect of conflicts.
In the event of a conflict between this Code, or any part thereof, and regulations and standards adopted by reference, the provisions of this Code shall govern and prevail.

Sec. 7-11. Portable toilets.
In the absence of permanent toilet facilities on the job site premises, an operable portable toilet shall be installed on the job site from the time that construction or remodeling begins until it is completed. In case of unusual circumstances, this requirement may be waived by the Construction and Neighborhood Services Department.

Sec. 7-12. Minimum floor space requirements.
Henceforth, no building permit for new residential construction shall be granted unless the floor area of the proposed residential construction shall equal or exceed the amount of the square footage hereinafter indicated opposite the residential use for which the permit is being sought:

Minimum Square Feet of habitable living space:

<table>
<thead>
<tr>
<th>Type of Residential Construction</th>
<th>Area Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single-Family dwelling</td>
<td>1,000 square feet</td>
</tr>
<tr>
<td>Multifamily dwelling, one bedroom</td>
<td>650 square feet</td>
</tr>
<tr>
<td>Multifamily dwelling, two bedrooms.</td>
<td>775 square feet</td>
</tr>
<tr>
<td>Condominium units</td>
<td>900 square feet</td>
</tr>
<tr>
<td>Efficiency apartment</td>
<td>550 square feet</td>
</tr>
</tbody>
</table>

Sec. 7-13. Where noninflammable materials required.
(a) Any industrial building or structure erected shall be constructed of brick, cement or metal.

(b) Any commercial building or structure erected shall be constructed of brick, cement or metal or shall have a minimum of two (2) hour fire-rated walls. Abutting walls shall be constructed of brick, cement or other material authorized by the Construction and Neighborhood Services Department.

(c) The fire walls of all multi-family dwelling structures shall be constructed of brick, masonry or stone.

Sec. 7-14. Use of streets restricted.*
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 except with the consent of the owner or occupant of the premises abutting on such portion. Any person seeking to make such use of the street shall file an application for a permit therefore with the City together with a bond with sureties to be approved by and filed with the City Clerk, to indemnify the City for any loss or damage which may be incurred by it by reason of such use and occupation.

* Cross reference - Sec. 14-21, Maintenance of streets during construction (MC97-671).
Sec. 7-15. Obstructing, removing sidewalks.
No sidewalk shall be obstructed in the course of building construction or alteration without a special permit from the City and whenever the removal of a sidewalk is required in such work a special permit from the City shall be obtained.

Sec. 7-16. Safeguards.
It shall be the duty of the person doing any construction, altering 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 wherever necessary for the protection of pedestrians or traffic; and temporary roofs over sidewalks shall be constructed wherever there is danger to pedestrians from falling articles or materials.

Sec. 7-17-7-18. Reserved.

Sec. 7-19. Exterior wall materials.
A minimum 75% of the exterior walls of all buildings and structures, and of all additions to existing buildings and structures, hereafter erected upon any premises which are classified under the Zoning Ordinance of the City of McHenry as RM-1 Low Density Multi-Family Residential District and RM-2 High Density Multi-Family Residential District shall be faced with brick, brick or masonry veneers, natural or case stone veneers or other masonry materials.

A minimum of 50% of the exterior walls of all buildings and structures, and of all additions to existing buildings and structures, hereafter erected upon any premises which are classified under the Zoning Ordinance of the City of McHenry as RA-1 Attached Residential District shall be faced with brick, brick or masonry veneers, natural or cast stone veneers or other masonry materials. (MC-89-490)

Sec. 7-20. House numbering. (MC-06-895; MC-07-937)
(a) All houses, buildings and structures in the City shall be numbered in accordance with the United States Postal Department recommended numbering system.

(b) No occupancy permit shall be issued on connection with any building permit until and unless the numbering requirements of this Section are satisfied.

(c) It shall be the duty of the owner and occupant of every house, building and structure in the City to have placed and maintained thereon, in a place clearly visible at all times from the street, figures no less than 3 inches in height showing the number of the house, building or structure.

(d) The authorized numbering chart and plan shall be kept on file in the office of the Construction and Neighborhood Services Department

Sec. 7-21. Garages required. (MC-06-895)
No permit for the construction of a new single-family residence shall be issued and no new single-family residence may be constructed unless at least a one-car garage (either attached or detached) is included in the plans and specifications in such residential construction. No occupancy permit for such residence shall be issued until such garage is completed. A carport shall not satisfy the garage requirements of this Section. When an attached garage is sought to be converted to habitable living space, a new substitute garage must be constructed prior to the issuance of a conversion permit.

173
No garage shall be smaller than twelve feet wide by twenty feet deep, with a door opening no less than nine feet wide by seven feet high.

**Sec. 7-22. Subsoil drains; discharge into sanitary sewer. (MC-01-776)**

Subsoil drains shall be provided around all foundations enclosing habitable or usable spaces located below grade and which are subject to groundwater conditions. Drains shall be installed at or below the area to be protected and shall discharge by gravity or mechanical means into a drainage system approved by the Construction and Neighborhood Services Department. The outlet of sump pump discharge piping shall be oriented to discharge water in the direction of the engineered drainage for the subdivision. No person shall discharge or cause to be discharged stormwater, foundation drain water, groundwater, roof runoff, surface drainage, cooling waters, or any other unpolluted water into any sanitary sewer, onto any public street, sidewalk, or right-of-way, or onto abutting or nearby property, in such a manner as to cause a public or private nuisance.

**Sec. 7-23. Sidewalks in Commercial and Office Districts.**

No construction permit shall be issued in connection with any premises zoned Commercial or Office District unless a sidewalk meeting the specifications set forth in the City of McHenry Subdivision Control and Development Ordinance for commercial and business property is then in existence along the entire frontage of said premises, or, unless, the application for such construction permit shall include, as an integral part thereof, the construction of such sidewalk at the sole expense of the applicant or owner of the premises, in accordance with the terms and specifications of the City of McHenry Subdivision Control and Development Ordinance. No occupancy in connection with such construction permit shall be allowed until such sidewalk is properly installed and accepted by the City.

**Sec. 7-24. Burning of construction waste materials prohibited.**

It shall be unlawful to burn construction waste materials anywhere in the City. (MC-89-496; MC-89-500)

**Sec. 7-25. On-site storage of waste materials.**

Prior to their disposal from the construction site, all construction waste material shall be stored in a dumpster or shall be confined in such a manner so as to prevent the material from being scattered about by wind, persons or animals. (MC-89-500)

**Sec. 7-26. Spotted Surveys. (MC-03-829)**

A stamped and signed spotted survey, performed by a licensed professional land surveyor in the State of Illinois, shall be required for all new major permits after a building foundation has been poured and passed inspection but prior to the start of any framing. Said spotted survey shall indicate the finished elevation of the top of the building foundation, the distance from the foundation to the location of all property corners and any additional information as required. The installation of metal property pins at all property corners shall be required prior to the beginning of framing.

**Sec. 7-27. Minimum floor elevation. (MC-03-829;MC-06-895)**

The basement, crawl space or lowest floor elevation of any building shall be a minimum of 1 foot above the seasonal high water level as determined by an Illinois licensed professional soils engineer.

**Sec. 7-28. Residential Rental Registration. (MC-12-1048)**

No person shall lease, rent, occupy or otherwise allow a rental unit within the City to be occupied unless the owner has registered the property on a form provided by Construction and Neighborhood Services of the City of McHenry.
Sec.- 7-29. Reserved.

Sec. 7-30. Violations.

(a) 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, including provisions adopted by reference, or who refuses to remedy a violation of any such provisions or to remedy a hazard of fire, explosion, collapse, contagion, or spread of infectious disease found to exist and duly ordered eliminated shall be punished by a fine of not less than $25.00 nor more than $750.00 and each day upon which such violation continues shall constitute a separate offense. (MC-96-654)

(b) A person licensed or registered by the State or a subdivision thereof to do work regulated by this Chapter or to render professional architectural or engineering service in connection therewith who violates the law or ordinance under which licensed or registered, or who violates this Chapter while carrying out such work or rendered service in connection therewith shall be reported by the Construction and Neighborhood Services Department to the Licensing Authority.

Secs. 7-31-7-40 Reserved.

ARTICLE II.

ILLINOIS STATE PLUMBING CODE*


Sec. 7-41. State Plumbing Code adopted.

That a document, three copies of which are on file in the Office of the City Clerk of the City of McHenry, Illinois, being marked and designated as the “Illinois State Plumbing Code” current edition and amendments thereto are hereby adopted and incorporated herein by reference as and for the minimum code of standards of the City for plumbing and the fixtures, materials, design and installation methods of plumbing systems. (MC-89-493; MC-99-744)

Sec. 7-42. Overhead sewers required.

For all new structures, an overhead sewer shall be installed in the lowest level when the lowest level is 3 feet or less above the elevation of the crown of the street adjacent to the structure. Where installation of an overhead sewer is not possible due to building design, a check valve shall be installed within the interior of the structure. (MC-99-744)

Secs. 7-43 - 7-50. Reserved.
ARTICLE III.
INTERNATIONAL BUILDING CODE/2015 ADOPTED
(MC-00-756; MC-06-895; MC-11-1027; MC-13-1084, MC-17-1148)

Sec. 7-51 Building and structures, other than one or two family dwellings.

Certain document copies of which are on file with the Community Development Department of the City of McHenry, Illinois, being marked and designated ‘International Building Code/2015’ and annual supplements thereto, as published by the International Code Council (ICC), be and is hereby adopted for the control of buildings structures, other than detached one or two family dwellings, as herein provided; and each and all of the regulations, provisions, penalties, conditions, and terms of the International Building Code/2015,’ are hereby referred to, adopted and made a part hereof, as if fully set out in this Article, with the following additions, insertions, deletions and changes:

(4) Insert the City of McHenry in the second line of Section 101.1 on page 1 of the Code.
(5) Delete Sections 105.1.1 Annual Permits and 105.1.2 Annual Permit Records and 105.2 Work Exempt from Permit.
(6) Delete Section 105.2.3
(7) Section 114.4 shall read as follows: "Violation Penalties: Any person who shall violate a provision of this Code or shall fail to comply with any of the requirements thereof or who shall erect, construct, alter or repair a building or structure in violation of an approved plan or directive of the Building Official, or of a permit or certificate issued under the provisions of this Code, shall be punishable by a fine of not less than $25.00 nor more than $750.00. Each day that a violation continues shall be deemed a separate offense."
(8) Section 115.3 shall read as follows: "Unlawful Continuance: Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe conditions, shall be liable to a fine of not less than $50.00 nor more than $500.00. Each day that a violation continues shall be deemed a separate offense."
(9) Delete the provisions of Code Sections 113.1 through 113.3 inclusive; insert Section 113.1 which shall read as follows: "Appeals. Any person aggrieved by any decision of the Building Officer may appeal there from to the City Council which may affirm, modify or reverse the decisions of the Building Officer. Thereupon, the Building Officer shall take action in accordance with the decisions of said City Council."
(10) Insert “City of McHenry” in Section 1612.3 and “November 16, 2006”.
(11) Add new section 107.6 of the International Building Code (IBC), stating “Landmark Commission approval required prior to demolition.”
(12) Section 111.2 of the International Building Code (IBC), Certificate Issued, delete line 5 starting with “that contains the following” to the end of Section 111.3.
(13) Appendix B – Board of Appeals, Delete Section B101 General, and insert the following: “Appeals. Any person aggrieved by any decision of the Building Officer may appeal there from to the City Council which may affirm, modify or reverse the decisions of the Building Officer. Thereupon, the Building Officer shall take action in accordance with the decisions of said City Council.”

176
(14) Adopt Appendix – B as modified.
(15) Replace Section 3001 Elevators and Conveying Systems, Section 3001 General, subparagraph 3001.2 referenced standards with the following text: “Except as otherwise provided for in this code, the design, construction, installation, alteration, repair and maintenance of elevators and conveying systems and their components shall conform to Illinois Elevator Safety Rules and ASCE 24 for construction in flood hazard areas established in Section 1612.3.” (MC-08-955)

Secs. 7-52 – 7-60. Reserved.

ARTICLE IV.
Illinois State Energy Conservation Code
(MC-06-895; MC-11-1027; MC-13-1084)

Sec. 7-61 Illinois State Conservation Code Adopted.
A certain document copies of which are on file with the Community and Economic Development Department of the City of McHenry, Illinois, being marked and designated ‘Illinois State Conservation Code’ current edition and amendments thereto are hereby adopted and incorporated herein by reference as and for the minimum code of standards of the City for energy conservation.”

Secs. 7-62-7-70. Reserved.

ARTICLE V.
INTERNATIONAL FIRE CODE/2015
(MC-00-756; MC-06-895; MC-11-1027; MC-13-1084; MC-17-1148)

A certain document copies of which are on file with the Community Development Department of the City of McHenry, Illinois, being marked and designated ‘International Fire Code/2015’ and annual supplements thereto, as published by the International Code Council (ICC), be and is hereby adopted as mandated by the State of Illinois for the control buildings structures as herein provide; and each and all of the regulations, provisions, penalties, conditions, and terms of the International Fire Code 2015,’ are hereby referred to, adopted and made a part hereof, as if fully set out in this Article, with the following additions, insertions, deletions and changes:

(5) Insert "City of McHenry" in the second line of Section F-101.1 on page 1 of the Code.
(6) Section 104.1 Add “The Building Officer is hereby referred to as the Fire Official.”
(7) Delete the provisions of Section 108 Board of Appeals and replace with the following:
Any person aggrieved by any decision of the Building Officer may appeal there from to the City Council which may affirm, modify or reverse the decisions of the Building Officer. Thereupon, the Building Officer shall take action in accordance with the decisions of the City Council.
(8) Section 111.4 line 5 insert “$50.00” in the less than box in line 5, and $500.00 in more than box in line 5.”
ARTICLE VI.
INTERNATIONAL FUEL GAS CODE 2015
(MC-06-895; MC-11-1027; MC-13-1084; MC-17-1148)

A certain document copies of which are on file with the Community and Economic Development Department of the City of McHenry, Illinois, being marked and designated ‘International Fuel Gas Code 2015’ and annual supplements thereto, as published by the International Code Council (ICC), be and is hereby adopted as mandated by the State of Illinois for the control buildings structures as herein provide; and each and all of the regulations, provisions, penalties, conditions, and terms of the International Fuel Gas Code 2015,’ are hereby referred to, adopted and made a part hereof, as if fully set out in this Article, with the following additions, insertions, deletions and changes:


(4) Insert “the City of McHenry” in Section 101.1

(5) Delete the provisions of Section 109 (IFGC) Means of Appeal in its entirety and replace with: “any person aggrieved by any decision of the code official may appeal there from to the City Council which may affirm, modify or reverse the decisions of the code official. Thereupon the code official shall take action in accordance with the decisions of the City Council.”

(6) Delete Section 106.6.2 Fee Schedule and replace with the following: Related fees. The payment of the fee for the construction, alteration, removal or demolition for work done in the connection to or concurrently with the work authorized by a building permit shall not relieve the applicant or holder of the permit from the payment of other fees that are prescribed by law.

(7) Delete Section 106.6.3 Fee Refunds and replace with the following: Refunds. The Building official is authorized to establish a refund policy.

(8) Delete Section 108.4 Violation penalties and replace with the following: "Violation” Penalties: Any person who shall violate a provision of this Code or shall fail to comply with any of the requirements thereof or who shall erect, construct, alter or repair a building or structure in violation of an approved plan or directive of the Building Official, or of a permit or certificate issued under the provisions of this Code, shall be punishable by a fine of not less than $25.00 nor more than $750.00. Each day that a violation continues shall be deemed a separate offense.”

(9) Section 108.5 Stop Work Orders. Insert $50.00 in less than amount and $500.00 in more than amount.”

Secs. 7-82-7-90 Reserved.
Sec. 7-91. International Mechanical Code 2015 Adopted.

A certain document copies of which are on file with the Community and Economic Development Department of the City of McHenry, Illinois, being marked and designated ‘International Mechanical Code 2015’ and annual supplements thereto, as published by the International Code Council (ICC), be and is hereby adopted as mandated by the State of Illinois for the control buildings structures as herein provide; and each and all of the regulations, provisions, penalties, conditions, and terms of the International Mechanical Code 2015 are hereby referred to, adopted and made a part hereof, as if fully set out in this Article, with the following additions, insertions, deletions and changes:

(4) Insert "City of McHenry" in the second line of Section 101.1 on Page 1 of the Code.
(5) Delete Section 106.5, Fees to the end of this section and replace with the following:

Related fees. The payment of the fee for the construction, alteration, removal or demolition for work done in the connection to or concurrently with the work authorized by a building permit shall not relieve the applicant or holder of the permit from the payment of other fees that are prescribed by law.

(6) Insert Section 106.5.3 Fee Refunds:

Refunds. The Building official is authorized to establish a refund policy.

(7) Delete Section 108.4 Violation Penalties and replace with the following:

"Violation” Penalties: Any person who shall violate a provision of this Code or shall fail to comply with any of the requirements thereof or who shall erect, construct, alter or repair a building or structure in violation of an approved plan or directive of the Building Official, or of a permit or certificate issued under the provisions of this Code, shall be punishable by a fine of not less than $25.00 nor more than $750.00. Each day that a violation continues shall be deemed a separate offense."

(8) Section 108.5 Stop work Orders, insert “$50.00” in amount box in line 13, and “$500.00” in amount box in line 14.

(9) Delete the provisions of Section 109.1 through 109.7 inclusive and replace with the following:

Section 109.1 Appeals. Any person aggrieved by any decision of the Building Officer may appeal there from to the City Council. Said City Council may affirm, modify or reverse the decisions of the Building Officer. Thereupon, the Building Officer shall take action in accordance with the decisions of said City Council.

Sects. 7-92-7-100. Reserved
ARTICLE VIII
INTERNATIONAL PROPERTY MAINTENANCE CODE 2009
(MC-99-750; MC-06-895; MC-11-1027; MC-17-1148)

Sec. 7-101 The International Property Maintenance Code 2015 Adopted

A certain document, three copies of which are on file in the Office of the City Clerk of the City of McHenry, Illinois, and which have been on file therein for a period of thirty days prior to the adoption of this ordinance, being marked and designated as the International Property Maintenance Code 2015, and annual supplements thereto, as published by the International Code Council (ICC) be and is hereby adopted for the control of buildings and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of the International Property Maintenance code 2015, are hereby referred to, adopted and made a part hereof, as if fully set out in this ordinance, with the following additions, deletions, insertions and changes:

Delete all references to the 2015 edition of the International Plumbing Code and replace with the Illinois State Plumbing Code.


Delete the following text from Section (f) 304.3 “Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of 4 inches (10mm) high with a minimum stroke of 0.5 inch (17.7mm).”

Delete all references to the International Zoning Code and replace with the City of McHenry Zoning Ordinance.

Insert “the City of McHenry” in Section 101.1.

Delete Section 103.1 in its entirety and replace as follows: “Section 103.1 General. It shall be the duty and responsibility of the Building Officer to enforce the provisions of the Property Maintenance Code. The Building Officer is hereby referred to as the code official.”

Delete Section 103.5 Fees and replace with the following:

**Related fees.** The payment of the fee for the construction, alteration, removal or demolition for work done in the connection to or concurrently with the work authorized by a building permit shall not relieve the applicant or holder of the permit from the payment of other fees that are prescribed by law.

In Section 111.1 delete Board of Appeals and replace with City Council.

In Section 111.2 delete entire section thru and including Section 111.2.5.

Delete Section 111.3.

In Section 111.4 delete entire last sentence.

Delete Section 111.4.1.
Delete Section 111.5.

Delete Section 111.7.

In Section 112.4 Insert $50.00 in not less than and $500.00 in not more than.

In Section 302.2 Enclosures: delete “containing more than 24 inches” and replace with “is capable of holding 24 inches or more.”

Add Section 302.2.1 Sump Pump and Gutters: All sump pump and gutters from all buildings shall be connected to a storm sewer, provided an existing storm sewer is adjacent to or within the boundaries of the property where the building is located. If no storm sewer exists, the sump pump and/or roof gutter shall discharge not less than five feet beyond the building but no more than ten feet from the building. Discharge shall not terminate within ten feet of any property line. In no case shall the discharge cause a nuisance to adjoin properties. The termination distance may be extended upon the approval of the Code Official.

In Section 302.4 insert “eight (8) inches.”

Section 303.3, Maintenance. Pools and spas and related mechanical, electrical and plumbing systems, both existing and new, and parts thereof shall be maintained in proper operation condition in accordance with the original design in a safe and sanitary condition. Devices or safeguards that are required by this code shall be maintained in compliance with the edition of the code under which they were installed.

The owner(s) authorized agent shall be responsible for maintenance of systems. To determine compliance with this provision, the code official shall have the authority to require any system to be re-inspected.

In Section 303.14 insert “April 1st to November 15th.”

Add Section 308.3.3 Trash Enclosures: All multi-family, commercial and/or industrial buildings utilizing exterior storage for refuse containers shall construct and maintain screened trash enclosures. Exterior refuse containers shall be enclosed behind a permanent, opaque enclosure constructed of wood, metal, masonry, or other appropriate material authorized by the building official. Such enclosures shall extend from the ground level to two feet above the top of the highest container and shall be equipped with access gates. The gates shall be equipped with an inside release to preclude child entrapment. Access walls and gates shall be maintained plumb and in good repair.

Insert Section 506.4 “Cross connection of sanitary and storm sewers shall not be permitted.”

In Section 602.3 insert September 15th to June 1st.

In Section 602.4 insert “September 15th to June 1st.”

In Section 705 Carbon Monoxide Detector. Every dwelling unit shall be equipped with at least one approved carbon monoxide alarm in an operating condition within 15 feet of every room used for sleeping purposes. The installation, placement and maintenance of Carbon monoxide detectors shall comply with the state of Illinois Carbon Monoxide Alarm Detector Act.

Secs. 7-102-7-110 Reserved.
ARTICLE IX
INTERNATIONAL RESIDENTIAL CODE
FOR ONE AND TWO FAMILY DWELLINGS 2009
(MC-00-756; MC-06-895; MC-11-1027; MC-13-1084; MC-17-1148)

Sec. 7-111 International Residential Code (IRC) for One and Two Family Dwellings 2009 Adopted
A certain document copies of which are on file with the Community Development Department of the City of McHenry, Illinois, being marked and designated ‘International Residential Code for One and Two Family Dwellings 09’ and annual supplements thereto, as published by the International Code Council (ICC), be and is hereby adopted as mandated by the State of Illinois for the control buildings structures as herein provide; and each and all of the regulations, provisions, penalties, conditions, and terms of the International Residential Code for One and Two Family Dwellings 2015,’ are hereby referred to, adopted and made a part hereof, as if fully set out in this Article, with the following additions, insertions, deletions and changes:


   (1) Add climatic and geographic design criteria to Table R3012(1). (Needed to complete code section.)

<table>
<thead>
<tr>
<th>Ground Snow Load</th>
<th>Wind Design</th>
<th>Seismic Design Category</th>
<th>Subject to Damage From</th>
</tr>
</thead>
<tbody>
<tr>
<td>Speed (mph)</td>
<td>Topographic Effects</td>
<td>Wind-borne debris zone</td>
<td>Weathering</td>
</tr>
<tr>
<td>25</td>
<td>90 Gust</td>
<td>70 Sustained</td>
<td>No</td>
</tr>
</tbody>
</table>

   Added Wind Design with Speed (mph), Special Wind Region and Wind-Borne Debris Zone

IRC Changes to Amendments

(10) Delete Chapter 42 Swimming Pools (Using the NEC Article 680 Swimming Pools, Fountains, and Similar Installations, 2014) (Note: Chapter 41 has been changed to Chapter 42 in the 2015 IRC.)
Delete Section 309.5 Fire Sprinklers

Delete Section R313 Automatic Fire Sprinkler Systems

Insert Section M1308 Pan and Drain Required
  
  • Add require Pan where a storage tank-type water heater, not water storage tank or washing machine is installed in a location where water leakage will cause damage, there shall be installed a pan constructed of one of the following:
    
    o Galvanized steel or aluminum of not less than 0.0236 inches in thickness.
    o Plastic not less than 0.036 inches in thickness.
    o Other approved materials.
    o A plastic pan shall not be installed beneath a gas fired water heater.

Pan size and drain: The pan shall be not less than 1 ½ inches deep and shall be of sufficient size and shape to receive dripping or condensate from the tank or water heater. The pan shall be drained by an indirect waste pipe of not less than ¾ inch diameter. Piping for safety pan drains shall be of those materials indicated in IPC.

Secs. 7-112 - 7-120. Reserved

ARTICLE X
NATIONAL ELECTRIC CODE 2014 EDITION NFPA 70
(MC-00-756; MC-06-895; MC-11-1027; MC-13-1084, MC-17-1148)

Sec. 7-121 Electrical Commission established; membership. Deleted in its entirety. (MC-13-1068)

Sec. 7-122. Duties of Commission. Deleted in its entirety. (MC-13-1068)

Sec. 7-123. Permit, compliance required.
No electric wiring for light, heat or power shall be installed, altered or extended in any buildings, structures or developments regulated by this Chapter except in conformity with the provisions of this Article and such rules as may be adopted and promulgated by the Building Officer under the provisions of this Article, and after receiving a permit.

Sec. 7-124. Adoption of National Electrical Code. (MC-00-756; MC-06-895; MC-11-1027; MC-13-1084 MC-17-1148)
A certain document copies of which are on file with the Community Development Department of the City of McHenry, Illinois, being marked and designated ‘The National Electric Code,’ 2014 Edition NFPA 70, promulgated by the National Fire Protection Association, and amendments thereto, are hereby adopted by reference as and for the safe and practical standards for the installation, alteration and use of electrical wiring, apparatus and equipment in the City; provided, however, that where the provisions of the National Electric Code and amendments thereto are in conflict with the provisions of the followings sections of this article, or such amendments thereof as the City may hereafter adopt, such sections and amendments shall control.”

Sec. 7-125. Electrical service, wiring and grounding. (MC-06-895)
The following exceptions and modifications are found necessary to meet conditions and shall prevail in the case of conflict thereof with any of the provisions in the National Electrical Code:

183
(a) All commercial, industrial and multi-family residence service shall be in rigid conduit. All interior wiring in commercial, industrial and multi-family residences shall be in thin wall (EMT) conduit.

(b) Detached, single-family residence and associated accessory structures service shall be in rigid, IMC or in thin wall (EMT) metal conduit. All interior wiring in single-family residences shall be in BX or in thin wall (EMT) conduit or shall be grounded NM cable. (MC-17-1148)

(c) All metal noncurrent carrying parts of enclosures of electrical equipment and metal boxes shall be grounded. The ground wire shall be secured to a cold water pipe when such pipe is available. If such pipe is not available, then the ground shall be secured to a ground rod at least eight (8) feet in length. No ground shall be secured to any fixture or fitting. All buildings having metal siding shall be grounded by means of 2 ground rods, 8 feet in length, located on opposite corners.

(d) All lighting fixtures located above tubs and showers shall be ground fault interrupter (GFI) protected. (MC-03-829)

(e) Wiring for dining rooms, kitchens, laundries and utility rooms in all residences shall not be smaller than No. 12 AWG wire and no more than three (3) appliance outlets shall be located on any separate individual circuit. All furnaces, boilers, washers, dishwashers, air-conditioners, wells and sump pumps shall be wired on separate circuits of wire not smaller than No. 12 AWG.

(f) The existing type of wiring may be followed where additional outlets are being installed in any existing structure. However, where a building addition is being constructed, the type of wiring in the existing structure shall not be followed unless such existing wiring complies with the provisions of this Article.

(g) Meter sockets on new single-family construction shall be located on the side of the house closest to the source.

Sec. 7-126. Establishment, composition, etc., Electrical Inspection Department (MC-17-1148)
There is hereby established an Electrical Inspection Department for the regulation of the installation, alteration and use of all electrical wiring, apparatus and equipment as provided in this Article. Such Electrical Inspection Department shall consist of the Electrical Inspector and such other employees as may, from time to time, be provided for by the City Council, and shall be a division of the Community Development Department, under the supervision of such Department. Such Electrical Inspector shall be charged with the duty of enforcing the provisions of the rules and regulations relating to the installation, alteration and use of electrical equipment, as provided for in this Article, and shall function under the immediate supervision and control of the Director.

Sec. 7-127. Building Inspector to act as Electrical Inspector.
The Building Inspector shall act as the Electrical Inspector and shall have all of the powers and perform all of the duties connected with that office.

Sec. 7-128. Rough-in inspections.
(a) No electrical installation or alteration shall be covered up or concealed before the electrical wiring, equipment and apparatus has been inspected and approved by the Electrical Inspector.

(b) Whenever an electrical installation or alteration is ready for a rough-in inspection, a request for such inspection shall be made to the Community Development Department at least one full work day in advance thereof. The rough-in inspection shall be made as soon thereafter as it is practical for the Department to do so. Any electrical installation or alteration which has been concealed or covered up in violation of the provisions of this Section shall be completely opened up and uncovered by the owner of the premises upon the request of the Electrical Inspector. In addition thereto, the initial failure to have any electrical installation or alteration uncovered or opened for inspection shall be punishable by the payment of the fine provided for in Section 7-42. (MC-17-1148)
Sec. 7-129. Final inspections and certificates of approval.
(a) It shall be unlawful for any person to turn on electrical power into any electrical wire or apparatus for temporary or for permanent electrical service, unless a certificate of approval has first been issued for such purpose by the Community Development Department. (MC-17-1148)
(b) When temporary or permanent electrical service is desired, it shall be the responsibility of the electrical contractor or other installer performing the electrical work to make a request to the Department for an inspection of the electrical work, such request to be at least one full working day in advance of the requested inspection. No certificate of approval for such temporary or permanent electrical service shall be issued until after the Department has completely inspected the electrical work and until such inspection discloses that the provisions and requirements of this Article have been fully complied with.
(c) Certificates of approval shall be issued by the department. One copy thereof shall be retained as part of the records of the Department. No electric utility company shall energize any temporary or permanent electric service until it has received a copy of the aforesaid certificate of approval.

Sec. 7-130. Annual inspections.
The electrical installations in all buildings and structures located in areas that are zoned for industrial, commercial, office or multi-family dwelling (where the dwelling consists of more than two (2) units) uses shall be subject to annual re-inspections by the Electrical Inspector. Changes and alterations in the electrical installations may be ordered by the Electrical Inspector as a consequence of such annual inspection, where the public safety requires. Written notice of such changes or alterations shall be given to the owner of the premises by the Community Development Department, and such changes or alterations shall be made within 30 days after such written notice is given. The Community Development Department shall have the power to cause the current in any wire or conductor to be turned off wherever this becomes necessary, in its judgment, for the protection of life, limb or property. All changes and alterations made pursuant to such notice shall be inspected and approved by the Community Development Department. (MC-17-1148)

Sec. 7-131. Licensing and registration of electrical contractors. All persons, including electrical contractors as defined herein, engaged in the business of installing or altering electric equipment shall hold a valid electric license/registration from a community in the State of Illinois, or master electrician license from the State of Wisconsin. (MC-13-1068; MC-17-1148)

Secs. 7-132 – 7-140. Reserved.
ARTICLE XI.
FENCES*
(MC-12-1049)

Sec. 7-141. Permit to erect; compliance with Article.

(a) No fence shall be erected in the City unless a permit is obtained in advance and unless such fence is erected in compliance with the provisions of this Article within 90 days after such permit is issued. An accurate sketch showing the proposed location of the fence on the premises shall be furnished to the Department of Community & Economic Development at the time application is made for the permit to erect a fence. No fence permit shall be required for the installation of no more than two sections of fencing used for decorative or landscape purposes only with a maximum height not to exceed 42-inches. (MC-15-1106)

(b) Fees for residential and non-residential fences as established in Section 7-3 herein. (MC-02-809)

(c) Relief from Ordinance restrictions. Petitions for relief from the fence regulations herein shall be heard and decided by the City Council. Notice must be given to the owners of record of each parcel of real estate abutting or across a street or alley from any boundary of the property affected by the application. The owners of record for this purpose shall be considered those who paid property taxes for the most current year according to the Township records or County Treasurer. A completed property owner/current resident notification form provided by the city shall be attached to the application.

(d) Application filing fee for relief from fence ordinance restrictions. There shall be a $175 application filing fee.

* Cross reference – Fences for swimming pools, Sec. 22-20.

Sec. 7-142. Required fencing.

Hereafter, no occupancy permit shall be issued for or in connection with a residential dwelling consisting of 2 or more dwelling units whose premises abut upon a railroad right-of-way, unless the owner thereof constructs a chain link fence at least 6 feet in height along the entire length of the common boundary line between the premises and said railroad right-of-way. (MC-88-442)

Sec. 7-143. General standards.

In addition to the standards prescribed in the following Sections of this Article, the following standards shall be followed in connection with all fences:

(a) All fence posts and supporting fence members shall be erected so that after the fence is constructed they will face to the interior of the premises for which the fence permit is issued.

(b) Electrified fences, snow fences, chicken wire, hog and farm-style fences are prohibited.

(c) No stone, masonry or concrete fence shall be constructed unless it is supported by a foundation and footing which shall extend at least 42 inches below the finished grade of the ground on both sides of the fence.
(d) Nothing contained in this Article shall be construed to restrict or limit the height of chain link fencing for the enclosure of non-residential sport venues such as tennis courts, baseball diamonds backstops, etc. (MC-15-1106)

(e) Nothing contained in this Article shall be construed to restrict or limit the height of chain link fencing for the enclosure of non-residential sport venues such as tennis courts, baseball diamond backstops, etc.

**Sec. 7-144. Standards for fences on residentially zoned lots. (MC-07-942; MC-15-1106)**

The following standards shall apply to any site used for residential purposes:

(a) *Front and Corner Side Yards:* No fence shall be installed closer than the required front or corner side yard setback established by the zoning district, except as follows:

1. Split rail, picket and wrought iron style fences may be installed in a required front yard so long as the fence maintains a minimum of 50% opacity and the height of said fence does not exceed 42 inches;

2. Any style fence may be installed in a corner side yard provided that the maximum height of said fence shall not exceed 72 inches, is located no closer than five feet from a corner side lot line, and providing that a clear line of sight for pedestrians and vehicles is maintained;

3. On a double frontage lot, split rail, chain link, or wrought iron style fencing may be located in a required front yard abutting a street, provided:

   i) Said yard shall not provide a means of vehicular access to the site; and,

   ii) Maximum height of fencing shall not exceed 72 inches.

(b) *Side and Rear Yards:* Fences in side and rear yards shall not exceed 72 inches in height, except that where a residential lot abuts any non-residential lot, a fence shall not exceed 96 inches in height.

(c) *Obstructions:* No fence shall obstruct the clear view of vehicular traffic using any abutting streets or public ways.

(d) *Use of Barbed Wire Prohibited.* The use of barbed wire in residential zoned districts is prohibited.

(e) *Chain link fencing must be installed knuckle-side up.* The use of spikes, broken glass, or other sharp or pointed instruments or materials intended or likely to cause injury to any person coming into contact therewith is prohibited.

**Sec. 7-145. Standards for fences on non-residentially zoned lots. (MC-15-1106)**

The following standards shall be followed in connection with fences constructed upon premises used for non-residential purposes:

(a) No fence shall be installed closer than the required front or corner side yard setback established by the zoning district, except as follows:
1. Split rail fences may be installed in a front or corner side yard provided that the maximum height of said fence shall not exceed 42 inches;

2. A fence in a corner side yard may be located no closer than fifteen feet from a corner side lot line, except where a corner side yard abuts another corner side yard, the fence may be located no closer than five feet from the corner side lot line.

(b) No fence shall exceed 96 inches in height from the ground level.

(c) Use of barbed wire. The use of barbed wire is permitted only at heights in excess of 72 inches above the ground level and all barbed wire supporting arms may either slope inward, toward the premises for which the fence permit is issued, or outward, providing the barbed wire fence is over 72 inches in eight, and that no part of the arm or barbed wire extends beyond the property line

(d) Chain link fencing. Chain link fencing may be installed with or without the knuckle-side up. Other than the installation of barbed wire per the regulation above, the use of spikes, broken glass, or other sharp or pointed instruments or materials intended or likely to cause injury to any person coming into contact therewith is prohibited.

Sec. 7-146. Dangerous or encroaching fences. (MC-09-986)

It shall be unlawful for the owner, occupant or person in custody of any premises in the City having a fence thereon, to permit such fence in a state or condition of any such disrepair which is liable to cause injury to any person or to property, or which is liable to collapse, or which encroaches upon or leans upon the premises of another. If one or more sections of a fence and/or posts are removed because of damage, disrepair or otherwise the section(s) and/or post(s) must be replaced with a fence similar in style, appearance and height consistent with the fencing immediately adjacent to, on either side of, the piece being replaced so as to have a consistent line of fence.

Sec. 7-147. Penalty for violation of Article.

Any person violating any of the provisions of this Article shall be subject to a fine of not less than $25.00 or more than $750.00 per day. (MC-96-654), (MC-12-1049)

Sec. 7-148 - 7-160. Reserved.
ARTICLE XII.
MOVING

Sec. 7-161. Permit required; application.
No person shall move any building on, through or over any street, alley, sidewalk or other public place in the City without having obtained a permit therefor from the City. Applications for such permits shall be made in writing to the City and shall state thereon the proposed route and the number of days it is intended that the building should occupy any portion of any street, alley, sidewalk or other public place.

Sec. 7-162. Approval of permit; fee.
Upon the approval of the intended route by the City a fee of $200.00 for each day or fraction thereof that it is intended that the building shall occupy any such portion of any such public place shall be paid to the City and the permit will be issued. (MC-94-617)

Sec. 7-163. Bond required.
Every person applying for a permit under this Article shall submit with his application a cash bond or bond with a lawful corporate surety to be approved by the City, conditioned on his compliance with all the provisions of this Article, and agreeing to pay and holding the City harmless from any claim which may be made against it by reason of the occupation of any street, sidewalk, alley or other public place by the building or structure moved.

Sec. 7-164. Lights and warnings required.
Whenever a street or alley is blocked by a house or structure which is being moved, warnings to that effect shall be placed by the Police Department so as to warn vehicles and persons from entering that portion of the street blocked. The person moving any building through the streets shall keep warning signs or lights on the building at night so as to guard against any person or vehicle from colliding with it.

Sec. 7-165. Interference with utilities.
Whenever it shall be necessary to interfere with wires or cables of a public utility in moving a building the terms of any special or franchise ordinance governing shall apply and the bond therein specified shall be given. If no such terms apply then the City shall estimate the expense of fixing the wires and the bond shall be given to cover this.

Sec. 7-166. Interfering with fire alarm wire.
When any moving building shall approach any fire alarm wire or pole which shall be endangered by the removal of such building it shall be the duty of the mover to notify the Chief of the Fire Department at least 6 hours before reaching such wire or pole so that they may be removed or cared for by the authorities of the municipality.

Sec. 7-167 – 7-180. Reserved.
ARTICLE XIII.
PARABOLIC-DISH TYPE ANTENNAS

Sec. 7-181. Definitions.
Parabolic or dish type communication antennas as used herein shall mean any circular or similar dish-shaped transmitting or receiving antenna for communications or for transmitting or receiving television signals from a satellite.

Sec. 7-182. Residential property.

(a) **No permit required.** No permit shall be required for the installation and operation of a parabolic or dish type antenna where such antenna is totally enclosed within a residential building or where such antenna is one meter or less in diameter and meets all of the following requirements:

1. The maximum height does not exceed 35 feet as measured in accordance with the provisions of the Zoning Ordinance applicable to the Zoning District Classification of the subject property.
2. Shall not be located in a front or side yard of the subject property as such yards are defined in the Zoning Ordinance of the City of McHenry.
3. Shall comply with the remainder of the set-back provisions applicable to such property as provided for by the Zoning Ordinance of the City of McHenry.

(b) **Permit required.** No parabolic or dish type antenna which is not totally enclosed within a building or which, if not so enclosed, is greater than one meter in diameter shall be installed until and unless an application for a construction permit has been filed with the City and approved by the Construction and Neighborhood Services Department. No such application shall be approved unless the construction plans and specifications accompanying said application shall comply with the following requirements:

1. The manufacturer's installation and operational manual, or a copy thereof, shall be filed with the application.
2. That said antenna shall be installed and operated in accordance with the specifications contained in the manufacturer's manual; provided, however, that such installation and operation shall otherwise comply with the terms and provisions contained in this ordinance.
3. The maximum height of the installation from ground level at the site shall not exceed 15 feet.
4. The antenna shall not be located in any front or side yard as such yards are defined for the subject property according to the terms and provisions of the Zoning Ordinance of the City.
5. The antenna and pertinent structures in connection therewith shall comply with the minimum set-back requirements for the subject property as provided in the Zoning Ordinance of the City.
(6) The parabolic or dish type antenna shall not be in excess of 10 feet in diameter.

(7) Such antenna shall be mounted directly upon the ground; the installation or mounting of such antenna on any roof or tower or similar form of structural support is hereby prohibited.

(8) Such antenna shall be screened from the public view by a wood or masonry fence or shrubs having a minimum height of 6 feet. (omission from MC-84-292; included with revision of 3/4/97).

Sec. 7-183. Non-residential property:

(a) No permit required. No permit shall be required for the installation and operation of any parabolic or dish type antenna in a non-residential zone within the City if such antenna is either fully enclosed within the building structure or, if not so enclosed, is one meter in diameter or less in size and otherwise complies with the height and set-back requirements for such property as provided in the Zoning Ordinance of the City.

(b) Permit required. No such antenna whose diameter exceeds one meter and which is not wholly enclosed within a building shall be installed and operated within the City unless and until an application for a permit has been filed with the City and approved by the Construction and Neighborhood Services Department. No permit shall be issued for such antenna unless the following requirements are met:

1. The manufacturer's installation and operational manual, or a copy thereof, shall be filed with the application.

2. That said antenna shall be installed and operated in accordance with the specifications contained in the manufacturer's manual provided, however, that such installation and operation shall otherwise comply with the terms and provisions contained in this ordinance.

3. The maximum height of the installation from ground level at the site shall not exceed 15 feet.

4. The antenna shall not be located in any front or side yard as such yards are defined for the subject property according to the terms and provisions of the Zoning Ordinance of the City.

5. The antenna and pertinent structures in connection therewith shall comply with the minimum set-back requirements for the subject property as provided in the Zoning Ordinance of the City.

6. All the terms and provisions of the Building Code of the City of McHenry are met.

Sec. 7-184. Application fees.
As established in Section 7-3 herein. (MC-02-809)

Secs. 7-185 - 7-190. Reserved.
ARTICLE XIV.
RESIDENTIAL TEARDOWN SITES AND INFILL PROPERTIES
SPECIAL REQUIREMENTS
MC-05-877

Sec. 7-191. Applicability. (MC-17-1147)
All residential teardown sites and infill parcels that meet one of the two conditions below are exempt from Se. 7-195 through Sec. 7-199:
1. The proposed development falls within 25% lot coverage of the adjoining homes.
2. A lot of record with recorded architectural guidelines written in an annexation agreement that is still active.

Sec. 7-192. Definitions.
For the purpose of this section, the following terms shall have the meaning herein described:

Adjoining Properties: Parcel of real estate abutting or across a street or alley from any boundary of the property affected by the application. (MC-17-1147)

Development Department: Shall mean the Construction and Neighborhood Services Department of the City of McHenry.

Infill Parcel: Residentially zoned property that is vacant, underutilized, or contains a building that has been unoccupied for a minimum of ten years. The parcel's boundaries shall have remained consistent for a minimum of ten years.

Lot Coverage: The portion of the lot that is occupied by a principle building and a detached garage where applicable, expressed as a percentage of total lot area. (MC-17-1147)

Teardown Site: Residentially zoned property having an existing older residence on it, which will be razed and removed from the site so that a new residential building can be constructed in its place.

Sec. 7-193. Design Guidelines.
The Design Guidelines for Residential Teardowns and Infill Parcels, prepared by the City of McHenry Construction and Neighborhood Services Department and bearing a date of August 2005, are hereby adopted by reference.

Sec. 7-194. Reserved (MC-17-1148)

Sec. 7-195. Teardown Committee Established.
A Teardown Committee, consisting of five members shall be charged with reviewing the demolition plans, site layout and all building plans for the exterior of a new home on a teardown site or infill parcel. The Committee shall include: 1) the Alderman then holding office in the Ward in which the demolition/construction is proposed; 2) the Chairman of the Planning and Zoning Commission, or his/her designee; 3) the Chairman of the Landmark Commission, or his/her designee; 4) one Staff member from the Construction and Neighborhood Services Department; and 5) a member of the public, appointed by the Mayor with the advice and consent of the City Council.

Sec. 7-196. Duties of Teardown Committee.
The Teardown Committee is charged with reviewing the demolition plans, site layout and building plans for the exterior of a new home on a teardown site or infill parcel. The Committee shall review said plans for:

(a) Conformance with the requirements of this Article.

(b) Conformance with the Design Guidelines for Residential Teardowns and Infill Parcels.

(c) Compatibility with the existing characteristics of the site and surrounding area.
(d) Compatibility with the architecture style and character of existing buildings along the same street.

(e) Conformance with the goals and objectives of the Official Comprehensive Plan, the Downtown Plan, and the Historic Preservation Plan of the City.

Sec. 7-197. Application to Appear Before the Teardown Committee.
Applications to appear before the Teardown Committee shall be on forms provided by the City. Every application shall include as a minimum, the items indicated on the application, and a filing fee of $175.

Sec. 7-198. Teardown Committee Review Process.

(a) Submittal; Meeting date. Upon receipt of a completed original application to appear before the Teardown Committee and six copies, a date shall be established for a public meeting and the copies of the application shall be forwarded to the members of the Teardown Committee.

(b) Notice of Commencement of Demolition or Construction. The applicant shall cause notice of the proposed demolition or construction:

1. Within seven days after submitting a completed application to appear before the Teardown Committee, the applicant must provide notice of the pending demolition or construction, by certified mail, return receipt, to the owner(s) of all properties directly abutting the site or across a street, alley or other public way. A list of these property owners shall be submitted with the application, and must be approved by the City prior to mailing. Current ownership (taxpayer) information can be obtained at the McHenry County Assessor's Office, 667 Ware Road, Woodstock, Illinois 60098, [815]334-4290. Postal Return Receipts (white mailing receipts and green return cards) from the certified mailing shall be provided to the development department within fourteen days after said mailing occurs.

2. Within seven days after submitting a completed application to appear before the Teardown Committee, the applicant must post the subject property, in a prominent place, with a sign announcing such commencement. The size, shape, color and message of such sign shall be as provided by the development department. Such sign shall include notice that the rules and regulations applicable to demolition and construction work are available at the development department. Such sign shall be maintained on the subject property until all work on the subject property has been completed and approved, or until removal of the sign is approved by the Director of Construction and Neighborhood Services Department.

3. No demolition or construction on a teardown site or infill parcel shall occur until thirty (30) days after the notice requirements of this Article have been fulfilled or an application is approved by the Teardown Committee, whichever occurs last. (MC-17-1147)

(c) Public Meeting. The Teardown Committee shall hold a public meeting to consider the application. No meeting shall be held in the absence of a quorum, which shall consist of three members of the Committee. During the meeting, an applicant may present witnesses to speak on behalf of their project and the Committee shall have the right to question the applicant and any witnesses.

(d) Teardown Committee Decisions. The Teardown Committee shall render a decision on an application, passed by a majority of its members in attendance, at the close of the public meeting. The Committee shall approve, approve with conditions, or deny an application based on the criteria herein. The Committee may not defer voting on any application for more than one meeting unless the applicant agrees to any further postponement. Applications approved, approved with conditions, or denied shall be forwarded to the development department and kept on file.
(e) **Resubmission.** No application that has been denied by the Teardown Committee shall be resubmitted within sixty (60) days of the date of denial, except on the grounds of new factual evidence or a change in conditions found to be valid by the Teardown Committee. (MC-17-1147)

**Sec. 7-199. Appeals of Teardown Committee Decision.**
Any applicant aggrieved by a decision of the Teardown Committee may appeal to the City Council.

(a) **Notice of Appeal.** A notice of appeal shall be filed with the development department within thirty days of the decision being appealed. The notice shall include the name, address and telephone number of the person filing the appeal, the address of the property affected by the decision being appealed, identification of the section of the ordinance governing the decision being appealed, a statement of the grounds upon which the appeal is based, the reason given by the Teardown Committee for the decision, a summary of factual evidence upon which the appeal is based, and all plans and specifications of the use affected by the decision being appealed.

(b) **Stay of Proceedings.** The filing of a Notice of Appeal shall stay all proceedings in furtherance of the action appealed from.

(c) **Hearing and Action.** Upon receipt, the development department shall transmit the Notice of Appeal and the complete record of the decision to the City Council. The Council shall fix a reasonable time for a hearing on the appeal and shall give a minimum of ten days notice to the party filing the Notice.

(d) **Approval Criteria for Appeals.** The Council shall reverse the order appealed only if it finds that the decision appealed: 1) was arbitrary or capricious; or 2) was based on an erroneous finding of a material fact; or 3) constituted an abuse of discretion; or 4) was based on erroneous interpretation of this Article.

**Sec. 7-200. Landmark Commission Access to Structures for Salvage Purposes.**
Prior to the demolition of any structure on a teardown site or infill parcel, the property owner shall grant to the City of McHenry Landmark Commission permission to access such structure(s) for the purpose of salvaging items that may be of historical significance. These items may be placed into a museum for display purposes or sold to raise funds for historical preservation activities in the City.

**Sec. 7-201. Reserved** (MC-17-1147)

**Sec. 7-202. Reserved** (MC-17-1147)

**Sec. 7-203. Fencing.**
(a) If a permit issued by the City authorizes demolition or construction of a new structure, then the applicant shall install a six-foot chainlink fence around the perimeter of the structure under construction, around the perimeter of the entire site, or around the perimeter of adjacent structures concurrently under construction, and such installation shall be in a location and manner approved by the development department. The fencing shall be installed not more than seven days, nor less than four days before commencement of any work on the subject property, including mass grading and the installation of site utilities, pursuant to any permit issued by the City. Such fencing shall remain in place until a certificate of occupancy is issued for the structure. The location of the perimeter fencing may be changed during the construction period with the approval of the development department. "No Trespassing" signs shall be mounted on the fencing in conspicuous locations around the site.
(b) Any gate in a perimeter fence must be closed at all times, except to allow ingress and egress to and from the site. Such gate must be locked at all times, other than permitted hours of construction, and at any other time when no work is being performed on the site, for example Sunday or holidays.

(c) Fencing, as provided in this section, shall also be required around any activity, whether a building permit is required or not, where construction or landscaping materials are stored or stockpiled.

(d) In addition to perimeter fencing as required in this section, the permit applicant shall cause safety fencing to be installed around every tree in the parkway abutting the subject property. Such tree fencing shall be located, as far as feasible, at the dripline of the tree, whether on public or private property; provided, however, that this subsection shall not be construed or applied to authorize placement of tree fencing on private property not owned by the applicant, unless proper permission for such tree fencing has been secured from the property owner by the applicant. If placement of tree fencing is not feasible at the dripline of the tree, then such fencing shall be installed in a location approved by the development department.

(e) When a violation of this section is observed, the permittee, general contractor, or property owner shall be notified promptly and shall correct the violation within two hours of receiving notice thereof. If the violation is not corrected, the City shall have the right, but not an obligation, to correct the violation. The costs and fees associated with such corrective action shall be charged to the permittee or property owner, and the City may place a lien on the property to collect such costs. The City shall also have the right to issue an immediate stop work order applicable to the site until compliance is achieved and/or the costs, fees or fines are paid.

Sec. 7-204. Tree Removal Fee.
A fee of $50 per inch caliper shall be paid at the time of permit issuance, for any tree having a caliper of 10" or more, measured 4" from the ground that is removed from a teardown or infill site. The fine for removing any tree not specified on an approved permit shall be $500, plus $250 for every inch caliper.

Sec. 7-205. Reserved (MC-17-1147)

Sec. 7-206. Reserved (MC-17-1147)

Sec. 7-207. Violations; Penalties.
(a) Except as otherwise indicated, any person who violates, disobeys, omits, neglects, or refuses to comply with or resists the enforcement of any of the provisions of this article shall be fined not less than $500, nor more than $1,000. Each day such violation or failure to comply is permitted to exist after notification thereof shall constitute a separate offense.

(b) No certificate of occupancy shall be issued for any construction undertaken in conjunction with the provisions of this article until such time that all penalties and fines have been resolved to the satisfaction of the Director of Construction and Neighborhood Services Department.

Sec 7-208-7-215. Reserved.
ARTICLE XV.
SOLAR ENERGY.

Sec. 7-216. Definitions.
As used in this Article, the following terms shall have the following meanings, unless the context clearly indicates a different meaning:

**Collector:** (same as solar collector).

**Enforcement Officer:** The Building Officer of the City, or any employee authorized by him to act under this ordinance.

**Low slope roof:** A roof with a slope of less than 4 inches vertically for every 12 inches horizontally, or less than 33 centimeters vertically for every meter horizontally.

**Reflector:** Any device designed or intended to reflect the sun's rays to a solar collector or designed to concentrate the sun's rays on a solar collector.

**Snow load:** The greatest weight of snow to be anticipated from any snowfall in the City, to be calculated from United States Weather Bureau statistics.

**Solar cell:** Any device designed or intended to produce electricity directly from the energy of sunlight, without moving parts.

**Solar collector:** Any device designed or intended to collect energy from the sun and use that energy to heat air, other gas or liquid to be transmitted through pipes or ducts for heating or energy purposes. A window letting sunlight directly into a room to be heated is not a solar collector.

**Solar component:** Any solar collector, solar engine, reflector, pipe, duct or other component of a system using solar collectors or solar engines.

**Solar energy engine:** Any device designed or intended to produce motion from heat generated by sunlight; such motion may be by turning a wheel, pulley or gear, or by moving a shaft back and forth. The motion may be produced by a sterling engine, a steam engine, or any mechanical device using heat and light from the sun.

**Solar panel:** A solar collector in the shape of a panel, regardless of the thickness of the panel.

**Wind load:** Pressure of wind against any object or structure, such as a solar collector.
Sec. 7-217. Scope.
This ordinance shall apply to all solar collectors and all component parts of a solar system using solar collectors, installed in the City. Solar energy engines are also regulated by this ordinance, whenever such an engine or any part of such engine is mounted on a roof. This ordinance shall cover not only solar collectors on new buildings being constructed but also solar collectors on existing buildings. No such solar collector shall be installed without complying with the terms of this ordinance.

Sec. 7-218. Permit required.
No solar collector or solar engine shall be installed or constructed without a permit having been issued for the solar collector. Applications shall be accompanied by drawings or blueprints showing the locations and clearances from the roof of all existing and proposed solar collectors, ducts, pipes, controls and other components, including those parts of the system to be installed on the roof or above the roof and those parts of the system to be installed elsewhere in the building. Methods for installing pipes through the roof shall be indicated. The slope of the roof shall be indicated. The application shall be accompanied by specifications for any manufactured components to be installed and shall contain a complete description of any components to be fabricated on or off the site for the installation.

Sec. 7-219. Location; height and set-back.
All solar collectors shall be installed either on the roof of the main building or shall be otherwise incorporated into and made an integral part of the main building itself. The maximum height and set-back regulations of the City Zoning Ordinance shall be observed.

Sec. 7-220. Slope.
No solar collector, solar engine or accessories, pipes or ducts for any solar collector or solar engine shall be installed on any roof having a slope of less than two percent (one-fourth of an inch per foot or 2 centimeters per meter).

Sec. 7-221. Installations on low sloped roofs.
Installations on low sloped roofs shall comply with the following requirements:

(a) Clearances: All collectors, reflectors, engines, pipes, ducts and other components shall have sufficient clearance between the roof and the installation to permit roof repairs to be made and to permit circulation of air to avoid constant dampness, considering the configuration and location of the solar components and the roof. A space of 2 feet or 61 centimeters shall be adequate clearance in all instances, provided that a smaller space shall be permitted if it can be demonstrated that all normal repairs and resurfacings of the roof may be made under the proposed clearances. The clearances required herein shall not apply to vertical pipes installed through the roof surface or installed outside of the outside walls to provide access to solar components.
(b) Load capacity: No solar component shall be installed on any roof unless the roof has sufficient capacity to hold the weight of the roof, the weight of the solar components and the anticipated snow load. The weight of fluid to be used in any panels, pipes or other components will be included in the calculations of load. In determining the anticipated snow load, the effect of the solar components on causing drifting shall be considered. If the rated capacity of the roof structure is at least one and one-half times the weight of the roof components, the solar components and the anticipated snow load, the roof structure shall be deemed to have sufficient load capacity.

(c) Protection from drifting or sliding snow: On any installation where solar collectors, solar engines and reflectors may cause snow to drift on a roof, provisions shall be made by snow fences, chutes or other barriers to prevent snowdrifts from accumulating on the roof. Wherever a solar collector, or other solar component may cause snow to slide, the part of the roof where the snow may accumulate as a result of sliding shall have sufficient capacity to hold the weight of the snow anticipated to accumulate because of sliding. Wherever the location and slope of a solar collector or other solar component may cause snow to slide onto any doorway, sidewalk or other place used by pedestrian traffic, protection in the form of chutes, awnings or other devices shall be provided to prevent any snow from sliding onto any such doorway, sidewalk or other place.

(d) Roof penetration: Wherever any pipe, duct or other solar component penetrates the surface of a roof, the roof shall be protected from leaks in the manner provided for any stack, pipe or conduit penetrating the roof surface.

(e) Roof preparation: Before any solar component is installed, the roof shall be inspected and any repairs and maintenance work needed shall be done to put the roof in leak proof condition.

Sec. 7-222. Installations on roofs other than low sloped roofs.
All of the requirements for installations on low sloped roofs shall apply to installations on roofs other than low sloped roofs, except that in lieu of clearance from the roof, a solar panel may be attached flush to the roof. Such solar panel may be an integral part of the roof, providing a waterproof cover, with a waterproof seal between the panel and the rest of the roof. If such panel is not made an integral part of the roof but is attached flush with the roof, the top and sides of the panel shall be sealed where they meet the roof surface or shingles, to prevent water from getting under the panel.

Sec. 7-223. Access.
Any roof over three stories above the ground shall be provided with a means of access other than an outside ladder against an outside wall. No solar components shall be installed in a location so as to interfere with walkways on any roof.

Sec. 7-224. Leak proof components.
Each solar component which may contain any liquid or gas shall be designed and constructed to prevent the leakage of any liquid or gas under any combination of temperature and pressure possible either during use or when the system is not in use.

Sec. 7-225. Wind pressure.
Each solar collector, solar panel and solar engine shall be securely anchored to withstand the maximum wind pressure anticipated, considering the effects, if any, of the solar components in channeling wind, and without considering the weight of any liquid in the components.
Sec. 7-226. Inspections and repairs.
Each solar collector, reflector, solar engine and all solar components shall be inspected at least once each year. Such inspections shall be at the owners expense, and may be made by any qualified person selected by the owner. The inspection shall include looking for any evidence of dampness on the roof due to shading, lack of air circulation or leaks, and shall include examining the structural parts securing all components. A certified report of such inspection shall be filed annually by, or on behalf of the owner/applicant with the Building Officer on or before March 1 of each year.

Sec. 7-227. Innovative designs.
Nothing in this ordinance shall be interpreted as prohibiting any innovative design. Any design not specifically permitted by this ordinance may be installed, upon a showing that the proposed system of solar components will achieve the safety objectives and structural objectives of the provisions of this ordinance.

Sec. 7-228. Adjoining property.
Nothing herein contained nor any permit issued hereunder, shall be constructed to restrict or limit the use and development of any adjoining or other premises.

Secs. 7-229 - 7-240. Reserved.

ARTICLE XVI.
STORM SEWERS (MC-89-474)

Sec. 7-241. Drainage required.
Roofs, paved areas, yards, courts and courtyards shall be drained into a storm sewer system or a combined sewer system where such systems are available.

Sec. 7-242. Inspection and approval.
All storm drain construction, including connection to the municipal storm sewer system, shall be subject to the inspection and approval of the Director of Public Works, and no installation shall be covered in such manner as to prevent reasonable inspection until 48 hours after notice has been given to the Director of Public Works that such construction is ready for inspection.

Sec.7-243-7-250. Reserved.
ARTICLE XVII.
SUBSTANDARD AND DANGEROUS BUILDINGS
(MC-10-1020)

Sec. 7-251-255. Reserved (MC-10-1020)

Sec. 7-256. Abatement of Chronic Nuisance Properties. (MC-10-1019)

A. Any certain property within the City that becomes a chronic nuisance property is in violation of this Article and is subject to its remedies.

B. Any person in charge who permits property under his or her ownership or control to be a public nuisance property shall be in violation of this Article and subject to its remedies.

Sec. 7-257. Definitions.

A. Chronic nuisance property: Property upon which two or more of the behaviors listed below have occurred during any 180-day period, as a result of any two separate factual events that have been independently investigated by any law enforcement agency unless expressly permitted by this ordinance.*

1. Disorderly Conduct as defined in 720 ILCS 5/26-1.
2. Unlawful Use of Weapons as defined in 720 ILCS 5/24-1 et seq.
4. Discharge of a Firearm as defined in 720 ILCS 5/24-1.2 and 1.5.
5. Gambling as defined in 720 ILCS 5/28-1.
6. Possession, Manufacture or Delivery of Controlled Substances as defined in 720 ILCS 570/40 et seq.
7. Assault or Battery or Any Related Offense as defined in 720 ILCS 5/12-1 et seq.
8. Sexual Abuse or Related Offenses as defined in 720 ILCS 5/12-15 et seq.
9. Public Indecency as defined in 720 ILCS 5/11-9 et seq.
10. Prostitution as defined in 720 ILCS 5/11-14 et seq.
11. Criminal Damage to Property as defined in 720 ILCS 5/21-1 et seq.
12. Possession, Cultivation, Manufacture or Delivery of Cannabis as defined in 720 ILCS 550/1 et seq.
13. Illegal consumption or Possession of Alcohol as defined in 235 ILCS 5/1 et seq.
14. Violation of any City ordinance or State of Illinois statute controlling or regulating the sale or use of alcoholic beverages.

* Cross Reference-City of McHenry Zoning Ordinance Article III General District Regulations Q. Medical Cannabis. (MC-14-1094)
B. Control: The ability to regulate, restrain, dominate, counteract or govern conduct that occurs on that property.

C. Owner: Any person, agent, firm or corporation having any legal or equitable interest in the property. Owner includes but is not limited to: (1) a mortgagee in possession in whom is vested (a) all or part of the legal title to the property or (b) all or part of the beneficial ownership and the right to the present use and enjoyment of the premises; or (2) an occupant who can control what occurs on the property.

D. Permit: To suffer, allow, consent to, acquiesce by failure to prevent, or expressly ascent or agree to the doing of an act.

E. Person: Any natural person, association, partnership or corporation capable of owning or using property in the City.

F. Person in charge: Any person in actual or constructive possession of a property including but not limited to an owner, occupant of property under his or her domain, ownership or control.

G. Property: Any real property, including land in that which is affixed, incidental or pertinent to land, including but not limited to any premises, room, house, building or structure or any separate part or portion thereof whether permitted or not.

Sec. 7-258. Remedy.

A. In the event the Administrative Law Judge determines property to be a chronic nuisance property, he may order that the property be closed and secured against all use and occupancy for a period of not less than 30 days, but not more than 180 days, or the Administrative Law Judge may employ any other remedy deemed by him to be appropriate to abate the nuisance.

B. In addition to the remedy provided in Section 7-258-A, the Administrative Law Judge may impose upon the owner of the property a civil penalty in the amount of up to $100 per day, payable to the City, for each day the owner had actual knowledge that the property was a public nuisance property and permitted the property to remain public nuisance property.

C. In determining what remedy or remedies shall be allowed, the Administrative Law Judge may consider evidence of other conduct that has occurred on the property, including but not limited to:

1. The disturbance of neighbors.
2. The recurrence of loud and obnoxious noises.
3. Repeated consumption of alcohol in public.
4. The repeated sale or possession of controlled substances on the premises.
Sec. 7-259. Abatement of Nuisance.

The City may commence an action to abate public nuisance as described hereinabove. Upon being satisfied by affidavits or other sworn evidence that an alleged public nuisance exists, the Administrative Law Judge may, without notice, enter a temporary restraining order or a preliminary injunction to enjoin any defendant from maintaining such nuisance and may enter an order restraining any defendant from removing or interfering with all property used in connection with the public nuisance.

Sec. 7-260. Procedure.

When the Chief of Police receives two or more police reports documenting the occurrence of nuisance activity on or within a property, the Chief of Police shall independently review such reports to determine whether they describe criminal acts. Upon such findings, the Chief may:

A. Notify the person in charge in writing that the property has been determined to be a chronic nuisance property. The notice shall contain the following information.

1. The street address or a legal description sufficient for identification of the property.

2. A statement that the Chief of Police has information that the property may be a chronic nuisance property, with a concise description of the nuisance activities that may exist, or that have occurred. The Chief of Police shall offer the person in charge an opportunity to propose a course of action that the Chief of Police agrees will abate the nuisance activities giving rise to the violation.

3. Demand that the person in charge respond to the Chief of Police within 10 days to discuss the nuisance activities.

B. After complying with the notification procedures described herein when the Chief of Police receives a police report documenting the occurrence of a third nuisance activity at or within a property and determines that the property has become a chronic nuisance property, the Chief of Police shall:

1. Notify the person in charge in writing that the property has been determined to be a chronic nuisance property. The notice shall contain the following information:

   a. The street address or legal description sufficient for identification of the property.

   b. A statement that the Chief of Police has determined the property to be chronic nuisance property with a concise description of the nuisance activities leading to his/her findings.

   c. Demand that the person in charge respond within 10-days to the Chief of Police and propose a course of action that the Chief of Police agrees will abate the nuisance activities giving rise to the violation.

2. Service shall be made either personally or by certified mail, return receipt requested, addressed to the person in charge at the address of the property believed to be a chronic nuisance property, or such other place which is likely to give the person in charge notice of the determination by the Chief of Police.
3. A copy of the notice shall be served on the owner at such address as shown in the McHenry County tax records for the property, and/or the occupant at the address of the property, if these persons are different than the person in charge and shall be made either personally or by first class mail, postage prepaid.

4. A copy of the notice shall also be posted at the property after 10 days has elapsed from the service or mailing of the notice to the person in charge, and the person in charge has not contacted the Chief of Police.

5. The failure of any person to receive notice that the property may be a chronic nuisance property shall not invalidate or otherwise affect the proceedings under this Article.

6. If after the notification, but prior to the commencement of legal proceedings by the City pursuant to this Article, a person in charge stipulates with the Chief of Police that the person in charge will pursue a course of action the parties agree will abate the nuisance activities giving rise to the violation, the Chief of Police may agree to postpone legal proceedings for a period of not less than 10 days nor more than 30 days, except in the case of a nuisance activity where a search warrant was executed at the property. If the agreed course of action does not result in the abatement of the nuisance activity or if no agreement concerning abatement is reached within 30 days, the City may commence a legal proceeding to abate the nuisance.

7. Concurrent with the notification procedures set forth herein, the Chief of Police shall maintain copies of the notice, as well as any other documentation, which supports legal proceedings.

C. When a person in charge makes a response to the Chief of Police as required above, any conduct or statements made in connection with the furnishing of that response shall not constitute an admission that any nuisance activities have or are occurring. This Section 7-260-C does not require the exclusion of any evidence that is otherwise admissible or offered for any other purpose.

D. The Chief of Police shall have the authority to delegate procedural responsibilities to enforce this Article to another member of the Police Department, while maintaining oversight of the process.

Sec. 7-261. Commencement of Action, Burden of Proof.

A. In an action seeking closure of a chronic nuisance property, the City shall have the initial burden of showing the preponderance of the evidence that the property is a chronic nuisance property.

B. It is a defense to an action seeking the closure of chronic nuisance property that the owner of the property at the time in question could not, in the exercise of reasonable care or diligence, determine that the property had become a public nuisance property, or could not, in spite of the exercise of reasonable care and diligence, control the conduct leading to the finding that the property is a chronic nuisance property.

C. In establishing the amount of any civil penalty requested, the Administrative Law Judge may consider any of the following factors if they need to be found appropriate, and shall cite those found applicable:
1. The actions or lack of action taken by the person in charge to mitigate or correct the problem at the property.

2. Whether the problem at the property was repeated or continuous.

3. The magnitude or gravity of the problem.

4. The cooperation of the person in charge with the City.

5. The cost of the City investigating and correcting or attempting to correct the condition.

Sec. 7-262. Emergency Closing Procedure.

A. In the event that it is determined that the property is an immediate threat to the public safety and welfare, the City may apply to the Administrative Law Judge for such interim relief as is deemed by the Chief of Police to be appropriate. In such an event, the notification provision set forth in Section 7-257 need not be complied with; however, the City shall make a diligent effort to notify the person in charge prior to a hearing before the Administrative Law Judge.

B. In the event the Administrative Law Judge finds that the property constitutes a chronic nuisance property as defined in this Article, the Administrative Law Judge may order the remedy set out above. In addition, in the event that he also finds the person in charge had knowledge of activities or conditions of the property constituting or violating this Article and permitted the activities to occur, the Administrative Law Judge may assess a civil fine as provided in this Article.

C. The Administrative Law Judge may authorize the City to physically secure the property against use or occupancy in the event that the owner fails to do so within the time specified by the court. In the event the City is authorized to secure the property, all costs reasonably incurred by the City to affect a closure shall be made and assessed as a lien against the property. If used herein, “costs” mean these costs actually incurred by the City for the physical securing of the property.

D. The City shall prepare a statement of cost and thereafter submit said statement to the court of its review. If no objection of the statement is made within the period described by the court, a lien in said amount may be recorded against said property.

E. Any person who is assessed the cost of closure and/or civil penalty by the Administrative Law Judge shall be personally liable for the payment thereof by the City.

F. A tenant is entitled to their reasonable relocation costs, as those are determined by the court if without actual notice, the tenant moved in the property, after either:

1. The owner or tenant received notice as described herein of the Chief of Police’s determination as described above.

2. Unknown owner or other agent received notice of an action brought pursuant to this Section.

3. Any person who is assessed with costs of closure and/or civil penalty by the court shall be personally liable for the payment thereof to the City.
ARTICLE XVIII.
WIND ENERGY CONVERSION SYSTEMS (WECS)

Sec. 7-271. Definition.
"Wind Energy Conversion Systems (WECS)" shall mean any device that converts wind power to another form of energy, such as electricity or heat (also referred to by such common names as Wind Charger, Wind Turbine, or Wind Mill).

Sec. 7-272. Permitted in all zoning districts.
WECS shall be considered a permitted use in all zoning districts within the City and shall comply with the terms and provisions of the Zoning Ordinance of the City applicable to the subject property and with the terms and provisions of this ordinance, whichever are the more stringent.

Sec. 7-273. Application for permit.
No WECS shall be installed or operated within the City unless a written application shall first have been made to the City and a permit issued to allow such construction and operation. The applicant requesting a permit for a WECS shall furnish the City scaled drawings and other information with sufficient detail to show full compliance with the terms and provisions of this ordinance, including but not limited to, a plot plan of the premises showing lot lines, the precise location of all buildings and structures on the subject premises, the precise location of the proposed WECS device, and the location of all buildings and structures having a height in excess of 15 feet on all residential properties located within 60 feet of the WECS and all non-residential properties located within 100 feet of the WECS.

Sec. 7-274. Height.
The maximum height of a WECS located on residentially zoned property shall not be in excess of 60 feet nor more than 75% of the distance from the closest property line, whichever is less. The maximum height of a WECS located on non-residentially zoned property shall not be in excess of 100 feet nor more than 75% of the distance from the closest property line, whichever is less. The height shall be measured from the base of the WECS structure to the rotor-hub, top of the tower or the tip of the blade in its vertical position, whichever is higher.

Sec. 7-275. Set-backs.
No part of a WECS may be located within, or above, any front yard or side yard of the subject property as such yard is defined in the Zoning Ordinance of the City.

Sec. 7-276. Minimum design standards.
All WECS shall meet the following minimum design standards:

(a) An automatic braking device capable of halting operation in high winds (40 mph or greater) shall be incorporated within the system.

(b) The WECS shall be designed, constructed and operated so as not to create electro-magnetic interference with any radio, television or communications transmissions or receptions.
(c) The operation of any WECS at a noise level which either annoys, injures or endangers the comfort, repose, health or safety of others is prohibited and is hereby declared to be a public nuisance and hazard.

(d) The WECS shall be designed and constructed so as to prevent climbing of the structure by unauthorized persons. As a minimum requirement, the first 12 feet of the structure shall be unclimbable by design or shall be enclosed by a 6-foot high non-climbable fence with secured access.

(e) The WECS shall be designed and installed to withstand natural lightening strikes.

(f) The WECS electrical equipment and connections shall comply with all laws and ordinances.

Sec. 7-277. Designation of agent for service of notice.
The aforesaid application for a permit for a WECS shall also specify the name and address of the applicant's agent for the purpose of receiving notice from the City pursuant to the terms of this ordinance.

Sec. 7-278. Dismantling of WECS.
Any WECS which fails to comply with any law, or ordinance of the City, shall cease operating immediately upon receipt of notice of such non-compliance and shall be brought into compliance within 30 days after receipt of such notice or shall be dismantled. Any WECS which ceases to operate for any 12 consecutive months shall be dismantled. In the event that the WECS is not dismantled within 30 days after notice is served upon or mailed to the applicant's aforesaid agent, the City shall be deemed to have been empowered and authorized by the applicant and owner to enter upon the premises on which such WECS is located without any prior or further notice, to dismantle such WECS, to dispose of such dismantled WECS in any manner the City deems convenient and to file a lien in the McHenry County Recorder of Deeds' Office against the subject premises in the amount of the City's costs associated with the dismantling and disposition of such WECS.

Secs. 7-279-7-290. Reserved.
MUNICIPAL CODE
CHAPTER 7.50
SIGNS
(MC-12-1058)

Sec. 7.50.1. Purpose
The purpose of this section is to regulate commercial and noncommercial signs and advertising displays designed to be visible outdoors in a manner that without restricting the content thereof:

1. recognizes the mass communications needs of both businesses and other parties
2. protects property values and neighborhood character
3. creates a more attractive business climate
4. promotes pedestrian and traffic safety by reducing sign distractions, obstructions, and other hazards.
5. protects the City’s unique and rural character

Sec. 7.50.2. General Provisions

A. Applicability.
No sign as defined herein shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered except in conformance with the provisions of this section and after issuance of a Sign Permit by the City, except as provided under Exempt Signs and Exempt Changes to Signs herein.

B. Exempt Signs.
The types of signs listed below and any change thereto that does not convert them into non-exempt signs, shall be exempt from:

- the requirement for a Sign Permit; and
- the Sign Standards provided in Table 1.

All other provisions shall apply to the following signs except as otherwise provided herein:

1) City-Sponsored Event Signs.
   Not to exceed 3 square feet in area. Such signs may be located in the public right-of-way.

2) Election Campaign Signs.
   One per street frontage per lot that:
   a. is not illuminated

3) Garage Sale Signs.
   Not exceeding 2 square feet in area displayed for no more than 4 consecutive days and no more than 4 days in any 90-day period.

4) Government and Utility Signs.
   Such signs may be located in the public right-of-way.

5) Government-Mandated Signs.
   Such signs may be located in the public right-of-way.

6) Help Wanted Signs.
   One per business, not to exceed 5 square feet and only in the window of an establishment.
7) Memorials.

8) Name Plates.
   Not to exceed 2 square feet in area.

9) Non-Profit Organization Displays.
   One per street frontage, not to exceed 32 square feet in size and 8 feet in height, for a maximum of 15 days before and 3 days after the event.

10) Real Estate Signs.
    Real estate signs, as defined herein, that:

    Residential
    a. advertise 1 to 5 residential units or no more than 1 vacant residential lot; and
    b. do not exceed 5 square feet in area; and
    c. are displayed a minimum of 5 feet from all lot lines; and
    d. are removed one week after the consummation of the sale or rental of all property to which the sign pertains.

    Non-residential
    a. not more than one sign is posted per street frontage per lot; and
    b. do not exceed 32 square feet in area; and
    c. do not to have more than two facings with the angle for any “V” shaped sign not exceeding 60-degrees; and
    d. does not exceed six-feet in height; and
    e. are displayed a minimum of 5 feet from all lot lines; and
    f. are removed one week after the consummation of the sale or rental of all property to which the sign pertains.

   No other real estate signs are exempt.

11) Scoreboards.

12) Seasonal Decorations.
    a. Seasonal decorations shall be installed not more than 45 days before a holiday and shall be removed within 45 days after such holiday; and
    b. comply with city adopted building and electric codes.

13) Under Canopy Signs.
    One per tenant, not to exceed 4 square feet, with a maximum width of 75% of the canopy projection, a minimum vertical clearance of 8 feet, and shall not project more than 1 foot below.

14) Warning Signs.
    A maximum of 2 No-Trespassing, No-Dumping, No-Hunting signs or the like per lot, each no larger than 2 square feet in area.

15) Window Signs (except interior neon window signs; (see Section IX (B) (9) and Table 1).
    Shall not have an aggregate area greater than 50 percent of the total display window area of a business.
176 Contractor Signs
   a. not to exceed 18 X 24-inches (three square feet in area); and
   b. displayed while work is actively being conducted on site; and
   c. located a minimum of five feet from all property lines; and
   d. no more than one sign permitted per street frontage per zoning lot.

17) Sandwich Board Signs
   a. Maximum of one per business or per business frontage; and
   b. Maximum size of 24” X 36”; and
   c. Sign must be removed at the end of the business day; and
   d. Shall not impede pedestrian traffic or cause pedestrians to have to walk in the street.
   e. Sign must be placed within ten (10) feet of the building. (MC-14-1089)

C. Exempt Changes to Signs
   No Sign Permit shall be required for the following changes to exempt or non-exempt signs, but such changes
   must conform to all applicable sign regulations of this Ordinance:

   1) A change in the copy on a Display Board sign.
   2) Painting, cleaning, repairs, maintenance, or face replacement of a sign not involving
      structural change and made necessary by breakage or deterioration but not by a change in
      advertiser.

D. Prohibited Signs
   The following signs and displays as defined herein are prohibited in all zoning districts, subject only to the
   exceptions stated herein:

   1) Flashing signs
   2) All Moving Signs. Certain moving signs may also constitute a public nuisance. See Sections 3-3 and
      3-4 of the City of McHenry Municipal Code (MC-09-981)
   3) Projecting signs, except in the C-4 Downtown Commercial District.
   4) Roof-mounted signs.
   5) Signs on otherwise vacant land other than real estate signs, construction signs, or outdoor advertising
      signs, as defined and regulated herein.
   6) Vehicle signs.
   7) Signs using visible neon tubing or light emitting diodes, except for interior window signs (see
      Section IX (B) (9) and Table 1).
   8) Pennants, streamers, balloons, helium filled and inflatable objects, search lights, beacon lights,
      except as otherwise permitted by or exempted from these regulations, but not to include public
      notice signs required under this Ordinance.
   9) Any sign advertising a product, service, business and the like, that is not located on the premises
      upon which the sign is located.
   10) Video screen signs.
   11) All other signs not expressly permitted by this Ordinance.
   12) Flashing, blinking or strobe lights visibly located either inside or outside the building and used to
       attract attention to a product, service or business which may cause a distraction.
E. Nonconforming Signs

1) Temporary Signs
   All non-exempt temporary signs shall be either removed or brought into full conformity with the requirements of this Ordinance within 45 days of the adoption thereof or of any amendment thereto.

2) Other Signs (MC-06-892; MC-15-1111)
   All other non-exempt signs lawfully existing, or holding Sign Permits issued, prior to the date of adoption of this Ordinance, but which are not in conformance with these regulations, may be continued as nonconformities until such time as at least one of the following thresholds are met:
   
   - A property on which a nonconforming sign is located is vacant for a period of 90 consecutive days (this does not apply to individual units of multiple tenant buildings but rather to the entire property); or
   - A property has any change in use; or
   - A permit for the replacement, alteration, enlargement, or structural change of any kind (other than for change of face) is requested; or
   - The nonconforming sign is identified as “unsafe” by the Zoning Administrator.

Further, no existing nonconforming sign may otherwise be replaced with another nonconforming sign. Nonconforming signs shall be subject to all the requirements governing the continuation of nonconforming structures as provided in the regulations governing Nonconformities in the Ordinance.

F. Maintenance and Repair Required
   The appearance and safety of a sign shall be maintained at all times. The sign shall be repainted as necessary to prevent rust, corrosion, rotting, or other deterioration in the appearance or structural safety of the sign. The source of illumination shall be kept in safe working order at all times.

G. Attachments to Be Secured
   All letters, figures, and characters on a sign shall be safely and securely attached to the sign structure.

H. Service Station/Automobile Repair Shop Signs and Displays
   In addition to other signs and displays permitted herein, the following displays are permitted as accessory to automobile service stations:

   1) Product Displays and Temporary Signs
      Items for sale on the premises openly displayed within 20 feet of the principal building but not within any required yard, as well as under pump island canopies or between pumps within the area of the pump island base.
      Up to 2 temporary signs within 20 feet of the principal building advertising products for sale on the premises with a combined sign area not greater than 30 square feet.
2) Pricing Signs
   Free standing signs providing only pricing information that have a sign area not greater than 12 square feet and that conform to all other requirements for main free standing signs in commercial areas in Table 18.

I. Neon Signs.
Neon Signs are only permitted in non-residential zoning districts on interior windows in accordance with the following provisions and Table 1.

1) Only one neon sign is permitted per window pane;
2) Visible Neon tubing and use of light emitting diode (LED) technology shall not be used to outline windows and doors, accentuate or trim architectural features or outline borders of signs or buildings. (MC-14-1089)
3) Neon signs shall not cover more than 50% of any window pane.

J. New Business Grand Opening Signs. In addition to other signs and displays permitted herein, the following shall be applicable solely for grand opening signs for new businesses, as defined herein. This section does not apply to grand re-openings. Any business, as defined herein, conducting a grand re-opening must comply with the temporary sign regulations in Table 1 of the Sign Ordinance:

1. Grand opening sign permits must be obtained within one-hundred eighty (180) days of receipt of a certificate of occupancy or temporary certificate of occupancy;
2. Grand opening signs are permitted one-time for a maximum of fourteen (14) consecutive calendar days;
3. One banner, maximum of thirty-two (32) square feet, located a minimum of five (5) feet from all property lines shall be permitted;
4. Two (2) feather banners, in accordance with the regulations in Table 1 of the Sign Ordinance, are permitted;
5. One (1) inflatable (e.g. balloon, dancing figure) is permitted;
6. In accordance with Sec. 7-3 Table B-1 Non-Residential Construction (D)(24)(C)A a non-refundable permit fee of $100 in addition to a temporary/portable sign permit deposit of $100 is required for all grand opening sign permits. (MC-14-1089)

Sec. 7.50.3. Administration

A. Permits.

1) Contents of Sign Permit Application
   An application for a Sign Permit shall be made upon forms provided by the Zoning Administrator. In addition landscapes plan as outlined in Chapter VIII. Landscaping and Screening in the Zoning Ordinance shall be filed for all free-standing/monument signs.

2) Issuance of Sign Permits
   The Zoning Administrator shall issue a Sign Permit for any sign for which a complete and accurate Sign Permit Application has been filed when he or she has determined that the sign is in compliance with this and other applicable City ordinances.

3) Suspension, Revocation, and Denial
   A Sign Permit shall become void if the sign authorized thereby has not been completely installed within 6 months of the date the Permit was issued.
The Zoning Administrator shall give written notice to the applicant of denial of a Sign Permit Application together with the reasons for the denial. The Zoning Administrator may suspend or revoke, in writing to the permittee, any Sign Permit issued on the basis of misstatement of fact.

4) Removal of Unsafe, Abandoned, or Unlawful Signs (MC-10-1023; MC-15-1111)
   Any sign as defined herein that no longer identifies a business, activity, event, service conducted or product, service, or entertainment sold on the premises where the sign is located, shall be considered abandoned. An abandoned sign shall be removed in its entirety by the property owner within 90 consecutive days after such business, activity, event, or service ceases operation, or product, service or entertainment is no longer sold on the premises. In lieu of removing an abandoned sign in its entirety, a property owner must remove all identification on the sign pertaining to the former business and shall install a blank, “neutral color” panel “consistent with the existing sign structure” in the area containing the sign’s message.

If upon inspection the Zoning Administrator finds that a sign is unsafe, or in any way not in compliance with City ordinances, he or she shall issue a written order to the property owner stating the nature of the violation and requiring the repair, replacement, or removal of the sign within three days of the date of the order.

If after three days of issuance, an order has not been complied with, or if a sign constitutes an immediate hazard to the public safety, the matter shall be referred to and addressed in accordance with the provisions of Chapter 2.25 Administrative Adjudication of the Municipal Code.

B. Relief.
   Petitions for relief from the sign regulations herein shall be heard and decided by the City Council. Submission requirements shall be as determined by the Council, and no public notice shall be required. There shall be a $175 application fee. (MC-07-907). The Council shall grant such relief only by a vote of a majority of its members and only if it finds that such relief:

   1) will not be materially detrimental to the public welfare or injurious to other property in the vicinity;
   2) will not impair an adequate supply of light and air to adjacent property, increase the danger of fire, endanger public safety, or substantially impair property values in the neighborhood;
   3) shall not give the property owner or business an unfair advantage over a similar business; and
   4) will not cause a hazard to the public’s safety by being distracting because of size, location, or being located within rights-of-way.

Sec. 7.50.4. Sign Standards
   All exempt and non-exempt signs shall conform to the following standards, except as otherwise provided herein:

A. Location and Placement.

   1) Within Public Right-of-Way
      No sign or associated light fixture shall be located within, project into, or overhang a public right-of-way, such as a sign upon a tree or utility pole therein, except as otherwise permitted herein.
Except:

Temporary signs posted by non-for-profit, charitable or philanthropic organizations located within the City of McHenry, advertising a particular event subject to the following conditions. If all conditions listed herein are met City Council approval shall not be required. If any one of the conditions listed herein cannot be met or some variance of any condition is being requested City Council approval if required. (MC-14-1095)

a. reserved (MC-14-1095)
b. A sign permit is obtained; and
c. The required $30.00 temporary sign deposit is made; and
d. The size of each sign cannot exceed 18 X 24 – inches (three square feet); and
e. May be displayed up to two weeks prior to the event and must be removed no later than two days following the event; and
f. A city issued permit sticker is displayed on each sign; and
g. The overlap on the display of two or more temporary signage permits shall not exceed one week; and
h. One sign may be posted at each the following ten locations:
   • Chapel Hill and Route 120 (S/W Corner Only)
   • Richmond Road and Elm Street (South side of Elm Street only)
   • Crystal Lake Road and Elm Street (North side of Elm Street only)
   • Ringwood Road and Elm Street (One corner of intersection only)
   • Ridge Road (west city limits) and Route 120 (In close proximity to City welcome sign)
   • Richmond Road and Diamond Drive (One corner only)
   • Richmond Road and Blake Blvd. (One corner only)
   • Richmond Road and McCullom Lake Road (One corner only)
   • Crystal Lake and Bull Valley Road (One corner only)
   • Bull Valley Road and South Route 31 (One corner only)

2) Obstructions
   No sign may obstruct a fire escape, door, window, or other entrance or exit, or any window surface required for ventilation by any City code.

3) Traffic Hazards
   No sign may by reason of location, or location and size, obstruct the vision of drivers or obstruct or detract from the visibility or effectiveness of any traffic signal or control device.

4) Proximity to Electric Wires
   No metal sign shall be located within a vertical distance of 8 feet, or a horizontal distance of 4 feet, of electric wires or conductors, even if such wires or conductors are insulated or otherwise protected.

5) Clearance for Metal Electrical Signs
   A minimum sign clearance of 1.5 feet shall be maintained for all metal signs with electrical wiring.

6) Vision Clearance
   Any sign located within the vision clearance triangle as defined herein shall have a minimum sign clearance of 8 feet unless the sign height is 2.5 feet or less.
B. Illumination

1) Bare Bulb or Flame Illumination
   Illumination by bare bulbs or flames is prohibited, except that bare bulbs are permitted on changing signs or on theater marquees.

2) Projecting Light Fixtures
   Gooseneck reflectors or other arms projecting from the sign mounted with lights to illuminate the sign are permitted on freestanding and wall signs.

3) Constant Illumination
   Sign illumination shall be constant in intensity and color.

4) Non-Glaring
   The light for any illuminated sign shall be shaded, shielded, or directed so as not to cause glare in surrounding properties or in public streets.

5) Traffic Hazards
   No direct or reflected light from a light source for an illuminated sign shall create a traffic hazard for operators of motor vehicles.

6) Neon
   No sign shall use visible neon tubing, except for interior window signs. (see Section IX (B) (9) and Table 1).

C. Sign Design

1) Resemblance to Traffic Devices
   No sign shall by reason of shape, color, content, or use of lighting be similar in appearance to any traffic signal or traffic sign in a way that may interfere with traffic movement or safety.

2) Obscenity
   No sign or display shall contain words or pictures of obscene, indecent, or immoral character that offend the public morals and decency of the City.

3) Changing Electronic Message and Display Board Signs, as defined herein are permitted in accordance with the following provisions in addition to those set forth in Table 1 of the Sign Ordinance:
   1. Changing electronic message and display board signs must be free standing. Changing electronic message wall signs are expressly prohibited;
   2. All electronic messages displayed must be provided with automatic dimming software or solar sensors to control brightness for nighttime viewing and varying daytime lighting conditions;
   3. All electronic or manually displayed messages on the sign shall only direct attention to a business, product, service or entertainment conducted, sold or offered on the premises on which the sign is located. Community emergency alerts such as inclement weather, or amber alerts, are exempt;
   4. All electronic messages displayed must be programmed so the electronic message change occurs instantaneously, without use of scrolling, flashing, blinking, or other similar transitions. All electronic message signs must contain static messages only, changed only through dissolve or fade transitions, but which may otherwise not have movement or the appearance or optical illusion of movement varying light intensity, including any part of the board, design or pictorial segment. (MC-14-1089)

4) Permit Number
   The Sign Permit number shall be displayed in a conspicuous place on every non-exempt sign.
D. Construction Standards.

1) Building and Electrical Codes Apply
   All signs shall conform to the Buildings and Building Regulations Ordinance of the City, including the Electrical Code adopted therein. Any required Building or Electrical Permits shall be obtained at the same time as the Sign Permit. Conductors for all illuminated signs shall be enclosed in rigid conduit or other approved raceways and shall be controlled with an external disconnect. All sign circuit conduit shall where possible be concealed from public view.

2) Wind Pressure and Dead Load Requirements
   All non-exempt signs shall be designed and constructed to withstand a wind pressure of not less than 30 pounds per square foot of surface area and to receive dead loads as required in the City Building Regulations Ordinance or other City ordinances.

3) Structural Safety
   All non-exempt signs shall be designed and constructed in a safe manner and shall be free of any exposed extra bracing, angle iron, guy wires, or cables.

4) Glass Requirements
   Any glass used on a non-exempt sign shall be heavy safety glass at least 1/4 inch thick. All single pieces of glass over 3 square feet in area shall be wired glass.

5) Framework
   All non-exempt signs shall be designed so that all frameworks for the lateral support of the sign, other than supporting poles for a free standing sign, shall be contained within or behind the face of the sign, or within the building to which it is attached, in such a manner as not to be visible to public view.

E. Other Standards.

All non-exempt signs shall conform to the applicable standards in Table 1.
<table>
<thead>
<tr>
<th>All Uses</th>
<th>Sign Type</th>
<th>Number Permitted</th>
<th>Max Area (Sq. Ft)</th>
<th>Max Ht (ft)</th>
<th>Min Setback (ft)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Directional</td>
<td>Wall or FS</td>
<td>1 per entrance/exit location</td>
<td>5</td>
<td>3</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>Wall or FS</td>
<td>Other Locations</td>
<td>10</td>
<td>3</td>
<td>-</td>
</tr>
<tr>
<td>Real Estate</td>
<td>Wall or FS</td>
<td>1</td>
<td>32</td>
<td>8</td>
<td>5</td>
</tr>
<tr>
<td>Construction</td>
<td>Wall or FS</td>
<td>1</td>
<td>32</td>
<td>8</td>
<td>5</td>
</tr>
</tbody>
</table>

**RESIDENTIAL USES**

<table>
<thead>
<tr>
<th>Development Entrance</th>
<th>Wall or FS</th>
<th>1 Per Entrance [a]</th>
<th>32</th>
<th>6</th>
<th>5</th>
</tr>
</thead>
<tbody>
<tr>
<td>Home Occupation</td>
<td>Wall</td>
<td>1 [j]</td>
<td>1</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**INSTITUTIONAL USES & ASSEMBLY USES (MC-12-1059)**

| Business             | Wall or FS | 1                | 32 | 6 | 5 |

**COMMERCIAL USES**

<table>
<thead>
<tr>
<th>Business</th>
<th>Wall</th>
<th>2</th>
<th>Wall - 1.5 sf. per foot of business frontage [i]</th>
<th>-</th>
<th>-</th>
</tr>
</thead>
<tbody>
<tr>
<td>Canopy</td>
<td></td>
<td></td>
<td>Canopy - not to exceed 2/3 face of canopy</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>FS [k]</td>
<td>1</td>
<td>0.5 sf. per foot of lot Frontage, 200 sf. Max.</td>
<td>15</td>
<td>5</td>
<td></td>
</tr>
<tr>
<td>Projecting</td>
<td>1 (C-4 Dist. Only)</td>
<td>5</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Menu Board</td>
<td>Wall</td>
<td>1 (drive-thru only)</td>
<td>32</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>FS</td>
<td></td>
<td>32</td>
<td>8 [h]</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Temporary [c]</td>
<td>Wall</td>
<td>1</td>
<td>32</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>FS</td>
<td></td>
<td>32</td>
<td>8 [h]</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Neon or LED</td>
<td>Wall</td>
<td>1 [g]</td>
<td>0.25 sf. per foot of business frontage [g] [i]</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

**Shopping Centers**

<table>
<thead>
<tr>
<th>Sign Type</th>
<th>Number Permitted</th>
<th>Max Area (Sq. Ft)</th>
<th>Max Ht (ft)</th>
<th>Min Setback (ft)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Development Entrance</td>
<td>FS</td>
<td>1 [d]</td>
<td>Developments with 100,000 sf. or less - 100 sf. max</td>
<td>15</td>
</tr>
<tr>
<td></td>
<td>1 [d]</td>
<td>Developments with more than 100,000 sf. - 250 sf. Max.</td>
<td>25</td>
<td>7</td>
</tr>
</tbody>
</table>

**Business**

| In-Line Tenant [I]/ Single-User Out Building (MC-14-1095) | Wall | 2 [e] | 1.5 sf. Per foot of business frontage [i] | - | - |
| Canopy                                               |      |       | not to exceed 2/3 face of canopy       | - | - |
| FS                                                   | 1    | 32    |                                          | 6 | 7 |

| Multi-User Out Building | Wall | 1[e][f] | 1.5 sf. Per foot of business frontage [i] | - | - |
| Canopy                                                               | - | - |
| FS                                                   | 1    | 32    |                                          | 6 | 7 |

**Neon or LED**

| Wall | 1 [g] | 0.25 sf. Per foot of business frontage [i] | - | - |
## Menu Board

| In-Line Tenants / Wall 1 (drive-thru only) | FS | 32 | - | - |
| Single-User Out Building (MC-14-1095)     |    | 32 | 8 | [b] |
| Temporary [c] Wall 1                     |    | 32 | - | - |
| Temporary [c] FS                         |    | 32 | 8 | [h] | 5 |

## OFFICE, INDUSTRIAL

<table>
<thead>
<tr>
<th>Development Entrance</th>
<th>FS</th>
<th>1 per street Entrance</th>
<th>100</th>
<th>6</th>
<th>5</th>
</tr>
</thead>
<tbody>
<tr>
<td>Business Wall 1</td>
<td></td>
<td>1.5 sf. per foot of business frontage (i)</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Business FS 1</td>
<td></td>
<td>0.5 sf. per foot of lot frontage 100 sf. max.</td>
<td>6</td>
<td>5</td>
<td>-</td>
</tr>
<tr>
<td>Temporary [c] Wall 1</td>
<td></td>
<td>32</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Temporary [c] FS</td>
<td></td>
<td>32</td>
<td>8</td>
<td>[h]</td>
<td>5</td>
</tr>
<tr>
<td>Neon or LED Wall 1.5</td>
<td></td>
<td>0.25 sf. per foot of business frontage [g] [i]</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

## BUSINESS PARK

<table>
<thead>
<tr>
<th>Development Entrance</th>
<th>FS</th>
<th>1 per street entrance</th>
<th>140</th>
<th>15</th>
<th>5</th>
</tr>
</thead>
<tbody>
<tr>
<td>Business Wall 1</td>
<td></td>
<td>1.5 sf. per foot of business frontage</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Business FS 1</td>
<td></td>
<td>0.5 sf. per foot of lot frontage 100 sf. max.</td>
<td>6</td>
<td>5</td>
<td>-</td>
</tr>
<tr>
<td>Temporary [c] Wall 1</td>
<td></td>
<td>32</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Temporary [c] FS</td>
<td></td>
<td>32</td>
<td>8</td>
<td>[h]</td>
<td>5</td>
</tr>
<tr>
<td>Neon or LED Wall 1.5</td>
<td></td>
<td>0.25 sf. per foot of business frontage [g] [i]</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

## HEALTH CARE

<table>
<thead>
<tr>
<th>Development Entrance</th>
<th>FS</th>
<th>1 per street entrance</th>
<th>140</th>
<th>15</th>
<th>5</th>
</tr>
</thead>
<tbody>
<tr>
<td>Business Wall 1</td>
<td></td>
<td>1.5 sf. per foot of business frontage</td>
<td>6</td>
<td>5</td>
<td>-</td>
</tr>
<tr>
<td>Business FS 1</td>
<td></td>
<td>32</td>
<td>6</td>
<td>5</td>
<td>-</td>
</tr>
<tr>
<td>Temporary [c] Wall 1</td>
<td></td>
<td>32</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Temporary [c] FS</td>
<td></td>
<td>32</td>
<td>8</td>
<td>[h]</td>
<td>5</td>
</tr>
<tr>
<td>Neon or LED Wall 1.5</td>
<td></td>
<td>0.25 sf. per foot of business frontage [g] [i]</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

## BED AND BREAKFAST

| Business Wall 4      |    | - | - | - |
| Business FS 3        |    | 5 | - | - | - |

### NOTES:

[a] Shall be non-illuminated and contain only the name of the subdivision, development or apartment complex.
[b] Shall be located in a side or year yard only.
[c] Shall be allowed for a maximum of 4-occasions per year, with a maximum display period of 30-days each occasion and a maximum cumulative total of 60-days per calendar year. A minimum of 30-days must elapse between each occasion, unless otherwise permitted herein. (MC-14-1089)
[d] Shopping centers with frontage on two streets may substitute one sign per street frontage, with a maximum height of eight-feet, 100 sf. in area and setback a minimum 7-feet from property line. For purposes of calculating total square footage of shopping center developments stated herein gross floor area, as defined below, shall be utilized.

Floor Area, Gross:
A measure of floor area, as defined herein, used for purposes of calculating floor area ratio, conversions of existing structures, and maximum size of business establishments. Gross floor area is floor area excluding only:
1. areas devoted to off-street parking or off-street loading, including aisles, ramps, and maneuvering space.
2. attic or half-story space having headroom of 7 feet or less
3. exterior balconies and open porches
4. space on the roof used for mechanical equipment
5. basements where half or more of the ceiling height is below grade. (MC-14-1095)

[e] Tenants located in a corner unit shall be allowed two wall signs.
[f] Tenants located in a multi user out building shall be allowed one (1) additional wall sign. (MC-14-1095)
The additional wall sign shall be of the exact same appearance as the tenant’s main business sign on the front façade, shall be located on the rear (opposite of the front) façade of the tenant space, and shall be 1/2 of the sign area of the main business sign on the front façade.
[g] Only one neon sign is permitted per window pane; see additional regulations in Section IX (B)(9)
[h] Feather Banners, as defined herein, shall be permitted with a height not-to-exceed twelve (12) feet measured from ground level. (MC-14-1089)
[i] Business Frontage - The linear length of the front wall of a single business, excluding walls that abut loading areas and service drives exclusively.
[j] Home Occupation Sign—shall be affixed to door or window and only permitted if required by Illinois State law and proof of such is required; Cross Reference Article IV Residential Districts (A)(1) in Zoning Ordinance.
[k] For the C-4 zoning district only no minimum setback is required.
[l] In-line tenants located within shopping centers are not permitted to have a freestanding sign. In-line tenants, located within shopping centers, shall be permitted one wall sign per 20 feet of business frontage with a minimum of one wall sign (if a tenant has less than 20 feet of business frontage) (MC-14-1095)

Sec. 7.50.5. Sign Definitions

SIGN: Any visual or graphic device designed through use of words, numbers, characters, or symbols to inform or attract attention and which is designed to be visible from outside any building or structure in which, upon which, or attached to which it may be located. Window displays of merchandise and signs of less that ½ square foot in area that are part of such displays and are not affixed to windows shall not be considered signs for purposes of this Ordinance.

SIGN AREA: The total exposed surface on each facing devoted to a sign’s message, including all ornamentation, embellishment, and symbols but excluding any supporting structure that does not form part of the sign proper or of the display. The area of a sign consisting of individual letters or symbols against a wall shall be the sum of the areas within rectangular envelopes completely enclosing each separate letter or symbol or attached group thereof.

SIGN, BILLBOARD: A permanent off-site advertising sign containing a message, commercial or otherwise, unrelated to any use or activity on the subject property on which the sign is located, excluding other off-site permitted signs.

SIGN, BUSINESS: A sign directing attention to a business, profession, commodity, service, entertainment, person, cause, event, or organization conducted, sold, offered, operating or having premises upon the same lot.

SIGN, BUSINESS NEW: Any business not previously occupying the current space that requires a certificate of occupancy prior to opening to the public. Change of ownership and construction projects requiring a new occupancy certificate are excluded (i.e., additions, alterations, etc.). New businesses are those which have never been located within the City of McHenry Corporate limits or alternatively businesses which have previously been located within the City’s corporate limits but have moved to a different address within the City. (MC-14-1089)
SIGN, CANOPY: A sign, other than an under canopy sign, attached to or constructed in or on a canopy.

SIGN, CHANGING ELECTRONIC MESSAGE: A sign with a message copy or other display that is produced and periodically changed electronically or electrically that is attached to another sign, or to the support structure thereof. The message copy or display shall be limited to public service announcements, time and temperature, and goods or services available on the premises, and shall consist of words, letters, numbers and punctuation only. Illumination shall be of a constant intensity, and shall not blink, flash or give the appearance of movement.

SIGN CLEARANCE: The distance to grade from the lowest edge of a sign excluding any pole or support structure attached to the ground.

SIGN, CITY SPONSORED EVENT: Signs advertising an event sponsored by the City, such as band concerts, Farmer’s Market, Park Department programs, and the like.

SIGN, CONSTRUCTION: A non-illuminated sign displayed prior to or during construction and removed thereafter that identifies a building under construction together with such information as the owner, the manager, the contractor and subcontractors, the architect and engineer, the source of financing, the projected date of completion, the major tenants, and related information.

SIGN, DEVELOPMENT ENTRANCE: A sign identifying the name of a development and/or the names of tenants occupying spaces within a development.

SIGN, DIRECTIONAL: A sign that serves solely to direct pedestrian or vehicular traffic or parking within a premise or to provide related instructions or facility information but that which contains no advertising other than the name and logo of the business on the premises.

SIGN, DISPLAY BOARD: A sign on which letters are changed manually and that is attached to another sign, to the support structure thereof, or to a wall for the purpose of displaying advertising or other notices.

SIGN, ELECTION/CAMPAIGN: A non-permanent sign posted on private property to show support of a political candidate or item.

SIGN FACING: The surface of a sign upon, against, or through which the message is displayed or illustrated.

SIGN, FEATHER BANNER: A light weight portable advertising medium, mounted on a pole that resembles a sail and not exceeding twelve (12) feet in height. (MC-14-1089)
SIGN,_FLASHING: A sign which contains an intermittent or flashing light source or which includes the illusion of intermittent or flashing light by means of animation or an externally mounted intermittent light source. Changing Electronic Message Signs as defined herein are not considered flashing signs.

SIGN, FREE-STANDING: A sign supported by one or more poles, uprights, pylons, or braces on the ground and not attached to a building. A freestanding sign shall have not more than two sign facings, each of which shall be identical or nearly identical. The angle for any “V” shaped freestanding signs shall not exceed 60 degrees.

SIGN, GARAGE SALE: A temporary sign announcing the sale of used goods on private property.

SIGN, GOVERNMENT MANDATED: Street address numerals and other signs or exterior displays required to be maintained by government order or regulation, provided that the content and size thereof does not exceed that required by such order or regulation.

SIGN, GOVERNMENT AND UTILITY: Informational signs or displays maintained by a government body or public utility, including traffic or parking regulatory devices, legal notices, warnings of hazards, and similar displays.

SIGN HEIGHT: The vertical distance measured from the curb level as defined herein of the closest public street to a sign to the highest point of the sign, including all structural supports and embellishments. Where a sign is equally close to more than one public street, the mean average of the curb levels of each street shall be used to determine sign height.

SIGN, HELP WANTED: A temporary sign offering employment on the premises.

SIGN, ILLUMINATED: A sign illuminated by a source of artificial light having the principal purpose of furnishing illumination for the sign whether or not said source is part of the structure of the sign.

SIGN, IN-LINE TENANT: A sign associated with a principal use located within a shopping center as part of a single commercial group, whether or not located on the same lot on a premise, and connected by party walls, partitions, canopies, or other structural members to other principal uses and which shares a common parking area with other in-line tenants within the same shopping center. (MC-14-1095)

SIGN, MEMORIAL: A sign including but not limited to memorials, headstones, tablets, building plaques, or other similar type signage, which does not advertise a business or use.

SIGN, MENU BOARD: A sign used to display a selection of goods or services offered at a business establishment for the convenience of drive-up or walk-up customers, such as at a drive-in restaurant.
SIGN, MOVING: A sign that uses movement, by either natural or mechanical means, or change of lighting, either natural or artificial, to depict action to create a special effect of scene; or signs that rotate or have parts that move or rotate, excluding the scrolling of a static message onto or off a sign board in one direction per message, time and temperature and clock hands.

SIGN, MULTI-USER OUT BUILDING: A sign erected on any structure permanently affixed to the land and constructed or used for the shelter, enclosure, or protection of persons located within a shopping center, occupied by more than one principal use and either located on a separate lot or located at the outer edge of a shopping center and having its own dedicated parking area separated from and in addition to the parking area dedicated to the in-line shopping center tenants. (MC-14-1095)

SIGN, NAME PLATE: A non-illuminated sign that states only the names, addresses, and trades or professions of one or more businesses or occupants of the lot where the sign is placed.

SIGN, NONCONFORMING: A sign that complied with the provisions of this code when first installed but is no longer in compliance due to the adoption of subsequent Zoning Code or Municipal Code text amendments.

SIGN, NON-PROFIT: Non-profit organization displays which may include but is not limited to the flag, pennant, or insignia of any governmental unit or religious, civic, educational, or philanthropic organization, and temporary signs, announcing special events or campaigns or such organizations.

SIGN, PROJECTING: A sign attached to the wall of a building having a face that is not parallel to such wall or that extends more than 12 inches from the face of the wall or higher than the highest point of the roof or the top of the parapet, whichever is higher.

SIGN, REAL ESTATE: A non-illuminated sign used to offer for sale, lease, or rent the property upon which or within which the sign is placed or to announce an open house or that the property has been sold.

SIGN, ROOF: A sign erected or maintained upon or over a roof with its principal support on the roof structure. A sign that is erected or maintained upon but projects no more than 12 inches from the face of that portion or a mansard roof that is vertical or approximately vertical and that does not extend above the highest point on the vertical portion of the roof, shall be considered a wall sign and not a roof sign.

SIGN, SCOREBOARD: A structure designed to display information including but not limited to scores, team names, date and time, or similar sports information which is incorporated into a stadium or athletic field.
SIGN, SEASONAL DECORATIONS:
Decorations temporarily displayed in connection with a local festivity approved by the City Council, or a state or national holiday.

SIGN, SINGLE-USER OUT BUILDING:
A sign on any structure permanently affixed to the land and constructed or used for the shelter, enclosure, or protection of persons located within a shopping center, occupied by one principal use and either located on a separate lot or located at the outer edge of a shopping center and having its own dedicated parking area separated from and in addition to the common parking area dedicated to the in-line shopping center tenants. (MC-14-1095)

SIGN, TEMPORARY:
Any sign that can be placed on a lot in a non-permanent, but structurally safe manner or that is securely attached to a building façade for the purpose of advertising a grand opening, special sale, event, store closing, subdivision or development, and the like, including but not limited to banners, portable signs and sandwich boards.

SIGN, UNDER CANOPY:
A sign placed under a building canopy indicating the name of the business, service, or tenant only.

SIGN, VEHICLE:
Signs placed on, affixed to, or within parked motor vehicles and/or trailers that are parked on a public right-of-way, public property, or private property so as to be conspicuously visible from a public right-of-way where the apparent purpose is to advertise a product or direct persons to a business or activity located on the same property, excluding signs relating to the sale, lease, or rental of the vehicle or which identify a firm operated during the normal course of business.

SIGN, VIDEO SCREEN:
A sign which produces movement, a movie, a video or some display by electronic means on a screen face, electronic panel or monitor.

SIGN, WALL:
A sign erected upon or parallel to an outside building wall which does not extend more than 12 inches from the face of the wall or higher than the highest point of the roof or the top of the parapet, whichever is higher. A wall sign shall have one sign facing.

SIGN, WARNING:
A sign posted on private property including but not limited to “no trespassing”, “no dumping”, or “no hunting”, which may also warn people of danger on the property.

SIGN, WINDOW, PERMANENT:
A sign placed inside a window and designed to be visible from outside a building with the purpose of identifying for a period of 30 days or more the proprietor or name of a business.

SIGN, WINDOW, TEMPORARY:
One or more signs placed inside or upon a window and designed to be visible from outside a building with the purpose of attracting attention for a period of less than 30 days.
Sec. 7.75-1. TCI of Illinois Franchise Agreement in effect (MC-99-719)
A Franchise Agreement between the City of McHenry and TCI of Illinois, Inc., was passed, approved and adopted by Ordinance No. MC-99-719 on April 14, 1999, and shall continue to be in effect until the date of its expiration as stated in the Agreement.
Sec. 8-1.0 Purpose.
This Ordinance is enacted pursuant to the police powers granted to this City by the Illinois Municipal Code. The purpose of this Ordinance is to maintain this City’s eligibility in the National Flood Insurance Program; to minimize potential losses due to periodic flooding including loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare; and to preserve and enhance the quality of surface waters, conserve economic and natural values and provide for the wise utilization of water and related land resources. This Ordinance is adopted in order to accomplish the following specific purposes:

Sec. 8-1.1 To meet the requirements of Rivers, Lakes and Streams Act.

Sec. 8-1.2 To assure that new development does not increase the flood or drainage hazards to others, or create unstable conditions susceptible to erosion;

Sec. 8-1.3 To protect new buildings and major improvements to buildings from flood damage;

Sec. 8-1.4 To protect human life and health from the hazards of flooding;

Sec. 8-1.5 To lessen the burden on the taxpayer for flood control projects, repairs to flood-damaged public facilities and utilities, and flood rescue and relief operations;

Sec. 8-1.6 To make federally subsidized flood insurance available for property in the City by fulfilling the requirements of the National Flood Insurance Program;

Sec. 8-1.7 To comply with the rules and regulations of the National Flood Insurance Program codified as 44 CFR 59-79, as amended;

Sec. 8-1.8 To protect, conserve, and promote the orderly development of land and water resources;

Sec. 8-1.9 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.

Sec. 8-1.10 Reserved.

* This Chapter 8 - Development in Special Flood Hazard Areas was formerly Article VIII of Chapter 7 adopted 3-16-81; Ord. No. O-81-254; amended in entirety March 4, 1992, Ord. No. MC-92-570; revised MC-92-579.

** Cross references - Planning and Zoning generally, Ch. 17; water and sewers, Ch. 26.
Sec. 8-2.0 Definitions.
For the purposes of this Ordinance, the following definitions are adopted:

Sec. 8-2.1 "Accessory Structure" A non-habitable structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.

Sec. 8-2.2 "Act" An act in relation to the regulation of the rivers, lakes, and streams of the State of Illinois.

Sec. 8-2.3 "Applicant" Any person, firm, corporation or agency which submits an application.

Sec. 8-2.4 "Appropriate Use" Only uses of the designated floodway that are permissible and will be considered for permit issuance. The only uses that will be allowed are as specified in Section 8-2.0.

Sec. 8-2.5 "Base Flood" 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 frequency flood event. Application of the base flood elevation at any location is as defined in Section 8-5.0 of this ordinance.

Sec. 8-2.5a "Base Floor Elevation (BFE" The elevation in relation to mean sea level of the crest of the base flood.

Sec. 8-2.5b "Basement" That portion of the building having its floor subgrade (below ground level) on all sides.

Sec. 8-2.5c "Building" A walled and roofed structure, including gas or liquid storage tank, that is principally above ground, including manufactured homes, prefabricated buildings, and gas or liquid storage tanks. This term also includes recreational vehicles and travel trailers installed on a site for more than 180 days per year.

Sec. 8-2.6 "Channel" Any river, stream, creek, brook, branch, natural or artificial depression, ponded area, flowage, slough, ditch, conduit, culvert, gully, ravine, wash, or natural or man-made drainageway, which has a definite bed and banks or shoreline, in or into which surface or groundwater flows, either perennially or intermittently.

Sec. 8-2.7 "Channel Modification" Alteration of a channel by changing the physical dimensions or materials of its bed or banks. Channel modification includes damming, rip-rapping or other armoring, widening, deepening, straightening, relocating, lining and significant removal of native vegetation from the bottom or banks. Channel modification does not include the clearing of dead or dying vegetation, debris, or trash from the channel. Channelization is a severe form of channel modification typically involving a significant change in the channel cross-section and typically involving relocation of the existing channel (e.g. straightening).
Sec. 8-2.8 "Compensatory Storage" An artificially excavated, hydraulically equivalent volume of storage within the SFHA used to balance the loss of natural flood storage capacity when artificial fill or structures are placed within the flood plain. The uncompensated loss of natural flood plain storage can increase off-site floodwater elevations and flows.

Sec. 8-2.9 "Conditional Approval of a Designated Floodway Map Change" Preconstruction approval by IDNR/IDNR/OWR and the Federal Emergency Management Agency (FEMA) of a proposed change to the floodway map. This preconstruction approval, pursuant to this Part, gives assurances to the property owner that once an Appropriate Use is constructed according to permitted plans, the floodway map can be changed, as previously agreed, upon review and acceptance of as-built plans.

Sec. 8-2.10 "Conditional Letter of Map Revision (CLOMR)" A letter which indicates that the Federal Emergency Management Agency will revise base flood elevations, flood insurance rate zones, flood boundaries or floodway as shown on an effective Flood Hazard Boundary Map or Flood Insurance Rate Map, once the as-built plans are submitted and approved.

Sec. 8-2.11 "Control Structure" A structure designed to control the rate of flow that passes through the structure, given a specific upstream and downstream water surface elevation.

Sec. 8.2.11a “Critical Facility” Any facility which is critical to the health and welfare of the population and, if flooded, would create an added dimension to the disaster. Damage to these critical facilities can impact the delivery of vital services, can cause greater damage to other sectors of the community, or can put special populations at risk. Examples of critical facilities where flood protection should be required include: emergency services facilities (such as fire and police stations), schools, hospitals, retirement homes and senior care facilities, major roads and bridges, critical utility sites (telephone switching stations or electrical transformers), and hazardous material storage facilities (chemicals, petrochemicals, hazardous or toxic substances). Examples of critical facilities where flood protection is recommended include: sewage treatment plants, water treatment plants, and pumping stations.

Sec. 8-2.12 "Dam" All obstructions, wall embankments or barriers, together with their abutments and appurtenant works, if any, constructed for the purpose of storing or diverting water or creating a pool. Dams may also include weirs, restrictive culverts or impoundment structures. Underground water storage tanks are not included.

Sec. 8.2.12a “Designated Floodway” The channel, including on-stream lakes, and that portion of the floodplain adjacent to a stream or watercourse, generally depicted on the FEMA FIRM map, which is needed to store and convey the existing 100-year frequency flood discharge with no more than a 0.1 foot increase in state due to the loss of flood conveyance or storage, and no more than a 10 percent increase in velocities.
The floodways are designated for on the countywide Flood Insurance Rate Map of McHenry County prepared by FEMA and dated November 16, 2006. When two floodway maps exist for a waterway, the more restrictive floodway limit shall prevail.

The floodways for those parts of unincorporated McHenry County that are within the extraterritorial jurisdiction of the City that may be annexed into the City are designated for the Fox River, Boone Creek and Lakeland Park Drainage Ditch on the countywide Flood Insurance Rate Map prepared by FEMA and dated November 16, 2006.

To locate the designated floodway boundary on any site, the designated floodway boundary should be scaled off the designated floodway map and located on a site plan, using reference marks common to both maps. Where interpretation is needed to determine the exact location of the designated floodway boundary, IDNR/OWR should be contacted for the interpretation.

Sec. 8-2.13 "Development" Any man-made change to real estate, including:

(a) Construction, reconstruction, repair, or placement of a building or any addition to a building.

(b) Installing a manufactured home on a site, preparing a site for a manufactured home, or installing a travel trailer or recreational vehicle on a site for more than 180 days. If the travel trailer or recreational vehicle is on site for less than 180 days, it must be fully licensed and ready for highway use.

(c) Drilling, mining, installing utilities construction of roads, bridges, storage of equipment or materials, or similar projects.

(d) Demolition of a structure or redevelopment of a site.

(e) Clearing of land as an adjunct of construction.

(f) Construction or erection of levees, walls, fences, dams; or culverts, channel modification; filling, dredging, grading, excavating, paving, or other non-agricultural alterations of the ground surface; storage of materials; deposit of solid or liquid waste.

(g) Any other activity of man that might change the direction, height, or velocity of flood or surface water, including extensive vegetation removal.

(h) Substantial improvement of an existing building.

Development does not include routine maintenance of existing buildings and facilities such as re-roofing or re-surfacing of roads when there is no increase in elevation, or gardening, plowing, and similar agricultural practices that do not involve filling, grading or construction of levees.
Sec. 8-2.14 "IDNR/OWR" Illinois Department of Transportation, Division of Water Resources.

Sec. 8-2.15 "Elevation Certificates" A form published by the Federal Emergency Management Agency that is used to certify the elevation to which a building has been elevated.

Sec. 8-2.16 "Erosion" The general process whereby soils are moved by flowing water or wave action.

Sec. 8-2.17 "Exempt Organizations" Organizations which are exempt from this ordinance per the ILCS including state, federal or local units of government.

Sec. 8-2.17a “Existing Manufactured Home Park or Subdivision” A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) has been completed before April 1, 1990.

Sec. 8-2.17b “Expansion to an Existing Manufactured Home Park or Subdivision" The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads.

Sec. 8-2.18 "FEMA" Federal Emergency Management Agency and its regulations at 44 CFR 59-79 as amended.

Sec. 8-2.19 "Flood" A general and temporary condition of partial or complete inundation of normally dry land areas from overflow of inland or tidal waves, or the unusual and rapid accumulation or runoff of surface waters from any source.

Sec. 8-2.20 "Flood Frequency" A period of years, based on a statistical analysis, during which a flood of a stated magnitude may be expected to be equaled or exceeded.

Sec. 8-2.21 "Flood Fringe" That portion of the flood plain outside of the designated floodway. See commentary on designated floodway.

Sec. 8-2.22 "Flood Insurance Rate Maps (FIRM)” A map prepared by the Federal Emergency Management Agency that depicts the Special Flood Hazard Area (SFHA) within a community. This map includes insurance rate zones and flood plains and may or may not depict floodways.

Sec. 8-2.22a “Flood Insurance Study” An examination, evaluation and determination of flood hazards and if appropriate, corresponding water surface elevations.
Sec. 8-2.23 "Flood Plain" 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. Flood plains may also include detached Special Flood Hazard Areas, ponding areas, etc. The flood plain is also known as the Special Flood Hazard Area (SFHA).

The flood plains are those lands within the jurisdiction of the City that are subject to inundation by the base flood or 100-year frequency flood. The SFHA's of the City are generally identified as such on panel numbers 17111C0205J, 17111C0206J, 17111C0207J, 17111C0208J, 17111C0209J, 17111C0217J, 17111C0220J, 17111C0226J, 17111C0230J of the countywide Flood Insurance Rate Map prepared for McHenry County by the Federal Emergency Management Agency and dated November 16, 2006.

The SFHA's of those parts of unincorporated McHenry County that are within the extraterritorial jurisdiction of the City or that may be annexed into the City are generally identified as such on panel number 17111 CIND 0A of the countywide Flood Insurance Rate Map prepared for McHenry County by the Federal Emergency Management Agency and dated November 16, 2006.

Sec. 8-2.24 "Floodproofing" Any combination of structural and non-structural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Sec. 8-2.25 "Floodproofing Certificate" A form published by the Federal Emergency Management Agency that is used to certify that a building has been designed and constructed to be structurally dry floodproofed to the flood protection elevation.

Sec. 8-2.26 "Flood Protection Elevation (FPE)" The elevation of the base flood or 100-year frequency flood plus one foot of freeboard at any given location in the SFHA.

Sec. 8-2.26a “Floodway” See Designated Floodway.

Sec. 8-2.27 "Freeboard" An increment of elevation added to the base flood elevation to provide a factor of safety for uncertainties in calculations, unknown localized conditions, wave actions and unpredictable effects such as those caused by ice or debris jams.

Sec. 8-2.27.1 Historic Structure" Any structure that is:

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

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

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

Sec. 8-2.28 "Hydrologic and Hydraulic Calculations" Engineering analysis which determine expected flood flows and flood elevations based on land characteristics and rainfall events.

Sec. 8-2.28a “IDNR/PWR” Illinois Department of Natural Resources, Office of Water Resources

Sec. 8-2.29 "Letter of Map Amendment (LOMA)" Official determination by FEMA that a specific structure is not in a 100-year flood plain; amends the FIRM.

Sec. 8-2.30 "Letter of Map Revision (LOMR)" Letter that revises base flood or 100-year frequency flood elevations, flood plains, or floodways, as shown on an effective FIRM.

Sec. 8-2.30a “Lowest Floor” The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure usable solely for parking of vehicles, building access or storage, in an area other than a basement area is not considered a building’s lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

Sec. 8-2.31 "Manufactured Home" A structure, transportable in one or more sections, which is built on a permanent chassis and is designated for use with or without a permanent foundation when connected to the required utilities. The term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on site for more than 180 consecutive days. The term manufactured home does not include a "recreational vehicle”.

Sec. 8-2.32 "Manufactured Home Park or Subdivision" A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Sec. 8-2.33 "Mitigation" Mitigation includes those measures necessary to minimize the negative effects which flood plain development activities might have on the public health, safety and welfare. Examples of mitigation include excavation of compensatory storage, soil erosion and sedimentation control, and channel restoration. Mitigation may also include those activities taken to reduce a structure’s susceptibility to flooding.

Sec. 8.2.33a “NAVD 88” National American Vertical Datum of 1988. NAVD 88 supersedes the National Geodetic Vertical Datum of 1929.
Sec. 8-2.34 “Natural” When used in reference to channels means those channels formed by the existing surface topography of the earth prior to changes made by man. A natural stream tends to follow a meandering path; its flood plain is not constrained by levees; the area near the bank has not been cleared, mowed or cultivated; the stream flows over soil and geologic materials typical of the area with no substantial alteration of the course of cross-section of the stream caused by filling or excavating. A modified channel may regain some natural characteristics over time as the channel meanders and vegetation is re-established. Similarly, a modified channel may be restored to more natural conditions by man through re-grading and re-vegetation

Sec. 8-2.34a “New Construction” New Construction means structures for which the start of construction commenced on or after the effective date of a flood plain management regulation adopted by a community and includes any subsequent improvements to such structures.

Sec. 8-2.35 “New Manufactured Home Park or Subdivision” Manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) has been completed on or after April 1, 1990.

Sec. 8-2.36 “Ordinary High Water Mark (OHWM)” The point on the bank or shore up to which the presence and action of surface water is so continuous so as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation or other easily recognized characteristics.

Sec. 8-2.37 “Public Flood Control Project” A flood control project which will be operated and maintained by a public agency to reduce flood damages to existing buildings and structures which includes a hydrologic and hydraulic study of the existing and proposed conditions of the watershed. Nothing in this definition shall preclude the design, engineering, construction or financing, in whole or in part, of a flood control project by persons or parties who are not public agencies.

Sec. 8-2.38 “Public Bodies of Water” All open public streams and lakes capable of being navigated by watercraft, in whole or in part, for commercial uses and purposes, and all lakes, rivers, and streams which in their natural condition were capable of being improved and made navigable, or that are connected with or discharge their waters into navigable lakes or rivers within, or upon the borders of the State of Illinois, together with all bayous, sloughs, backwaters, and submerged lands that are open to the main channel or body of water directly accessible thereto.

Sec. 8-2.38a “Recreational Vehicle or Travel Trailer” A vehicle which is:

(a) Built on a single chasis;

(b) 400 sf or less when measured at the largest horizontal projection;
(c) Designed to be self-propelled or permanently towable by a light duty truck; and

(d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

Sec. 8.2.38b “Regional Permits” Regional permits are offered for pre-approved projects which are considered minor projects that are permissible per IDNR/OWR Part 3708 rules for Northeastern Illinois designated floodways. A complete listing of the terms and conditions for specific project types can be obtained from the IDNR/OWR website.

Sec. 8.2.39 "Registered Land Surveyor" A land surveyor registered in the State of Illinois under The Illinois Land Surveyors Act.

Sec. 8.2.40 "Registered Professional Engineer" An engineer registered in the State of Illinois, under The Illinois Professional Engineering Act.

Sec. 8.2.41 Reserved

Sec. 8.2.42 "Repair, Remodeling or Maintenance" Development activities which do not result in any increases in the outside dimensions of a building or any changes to the dimensions of a structure.

Sec. 8.2.42a “Repetitive Loss” 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 flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

Sec. 8.2.43 "Retention/Detention Facility" A retention facility stores stormwater runoff without a gravity release. A detention facility provides for storage of stormwater runoff and controlled release of this runoff during and after a flood or storm.

Sec. 8.2.44 "Riverine SFHA” Any SFHA subject to flooding from a river, creek, intermittent stream, ditch, on-stream lake system or any other identified channel. The term does not include areas subject to flooding from lakes, ponding areas, areas of sheet flow, or other areas not subject to overbank flooding.

Sec. 8.2.45 "Runoff" The water derived from melting snow or rain falling on the land surface, flowing over the surface of the ground or collected in channels or conduits.

Sec. 8.2.46 "Sedimentation" The processes that deposit soils, debris, and other materials either on other ground surfaces or in bodies of water or watercourses.

Sec. 8.2.47 "Special Flood Hazard Area (SFHA)” See **Flood Plain**.
Sec. 8-2.47a “Start of Construction” Includes substantial improvement, and means the date the building permit was issued, 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.

Sec. 8-2.47b “Statewide Permits” Statewide permits are offered for pre-approved projects that are considered minor projects which are permissible per the IDNR/OWR Part 3700 rules. A complete listing of the statewide permits and permit requirements can be obtained from the IDNR/OWR website.

Sec. 8-2.48 "Structure" See Building.

Sec. 8-2.48a “Substantial Damage” 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. For term Repetitive Loss Buildings see Repetitive Loss.

Sec. 8-2.49 "Substantial Improvement" Any reconstruction, rehabilitation, addition or improvement of a structure, taking place subsequent to the adoption of this ordinance in which the cumulative percentage of improvement equals or exceeds 50 percent of the market value of the structure before the improvement or repair started.

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 building. This term includes structures which have incurred repetitive loss or substantial damage, regardless of the actual work done.

The term does not, however, include either:

(a) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or

(b) any alteration of an “historic structure” listed on the National Register of Historic Places or the Illinois Register of Historic Places, provided that the alteration will not preclude the structure’s continued designation as an historic structure.

Sec. 8-2.50 "Transition Section" Reaches of the stream or floodway where water flows from a narrow cross-section to a wide cross-section or vice versa.
Sec. 8-2.51 “Violation” The failure of a structure or other development to be fully compliant with the community’s flood plain management regulations. A structure or other development without the elevation certificate, other certification, or other evidence of compliance is presumed to be in violation until such time as that documentation is provided.

Sec. 8-3.0 How to use this ordinance

The Building Officer shall be responsible for fulfilling all of the duties listed in Section 8-4.0.

To fulfill those duties, the Building Officer first should use the criteria listed in Section 8-5.0, Base Flood Elevations, to determine whether the development site is located within a floodplain. Once it has been determined that a site is located within a floodplain, the Building Officer must determine whether the development site is within a flood fringe, a designated floodway, or within a SFHA or flood plain on which no floodway has been identified. If the site is within a flood fringe, the Building Officer shall require that the minimum requirements of Section 8-6.0 be met. If the site is within a floodway, the Building Officer shall require that the minimum requirements of Section 8-7.0 be met. If the site is located within a SFHA or flood plain for which no detailed study has been completed and approved, the Building Officer shall require that the minimum requirements of Section 8-8.0 be met.

In addition, the general requirements of Section 8-9.0 shall be met for all developments meeting the requirements of Section 8-6.0, 8-7.0, or 8-8.0. The Building Officer shall assure that all subdivision proposals shall meet the requirements of Section 8-10.0.

If a variance is to be granted for a proposal, the Building Officer shall review the requirements of Section 8-11.0 to make sure they are met. In addition, the Building Officer shall complete all notification requirements.

In order to assure that property owners obtain permits as required in this Ordinance, the Building Officer may take any and all actions as outlined in Section 8-13.0.

Sec. 8-4.0 Duties of the Building Officer.

The Building Officer shall be responsible for the general administration and enforcement of this Ordinance which shall include the following:

Sec. 8-4.1 Determining the flood plain designation. Check all new development sites to determine whether they are in a Special Flood Hazard Area (SFHA). If they are in a SFHA, determine whether they are in a floodway, flood fringe or a flood plain on which a detailed study has not been conducted and which drains more than one (1) square mile.
Check whether the development is potentially within an extended SFHA (with a drainage area less than one square mile), indicating that the development would have adverse impacts regarding storage, conveyance, or inundation which would be the basis for the applicant being required to delineate the floodplain and floodway and be subject to the remaining Sections of this ordinance.

**Sec. 8-4.2** Professional engineer review. If the development site is within a floodway or in a flood plain on which a detailed study has not been conducted and which drains more than one (1) square mile, the permit shall be referred to a registered professional engineer (P.E.) under the employ or contract of the City for review to ensure that the development meets the requirements of Section 8-7.0 or Section 8-8.0. In the case of an Appropriate Use, the P.E. shall state in writing that the development meets the requirements of Section 8-7.0.

**Sec. 8-4.3** Dam safety requirements. Dams are classified as to their size and their hazard damage potential in the event of failure. The construction or major modification of all Class I (high hazard) and Class II (moderate hazard) dams requires an IDNR/OWR dam safety permit. Some Class III (low hazard) dams require an IDNR/OWR dam safety permit, depending on the drainage area to the dam, the height of the dam and the impounding capacity behind the dam. Most off-channel detention basins that have an embankment are non-jurisdictional Class III dams. It is not required that IDNROWR sign off on all non-jurisdictional Class III dams.

A consulting engineer with dam safety knowledge can estimate a hazard classification and determine if an IDNR/OWR dam safety permit is required. A permit application submittal must be made to IDNR/OWR for the construction or major modification of jurisdictional dams. Regulated dams may include weirs, restrictive culverts or impoundment structures.

**Sec. 8-4.4** Other permit requirements. Ensure that any and all required federal, state and local permits are received prior to the issuance of a flood plain development permit.

**Sec. 8-4.5** Plan review and permit issuance. Ensure that all development activities within the SFHAs of the jurisdiction of the City meet the requirements of this ordinance and issue a flood plain development permit in accordance with the provisions of this ordinance and other regulations of this community when the development meets the conditions of this ordinance.

**Sec. 8-4.6** Inspection review. Inspect all development projects before, during and after construction to assure proper elevation of the structure and to ensure they comply with the provisions of this Ordinance. Schedule on an annual basis an inspection of the flood plain and document the results of the inspection.

**Sec. 8-4.6a** Damage Determinations. Make damage determinations of all damaged buildings in the SFHA after a flood to determine substantially damaged structures which must comply with Section 8.9.0.
Sec. 8-4.7 Elevation and floodproofing certificates. Maintain in the permit files including:

(a) an Elevation Certificate certifying the elevation of the lowest floor (including basement) of a residential or non-residential building subject to Section 8.9.0; and/or

(b) the elevation to which a non-residential building has been floodproofed, using a Floodproofing Certificate, for all buildings subject to Section 8-9.0 of this ordinance.

Sec. 8-4.8 Records for public inspection. Maintain for public inspection and furnish upon request base designated floodway maps, copies of federal or state permit documents, variance documentation, Conditional Letter of Map Revision, Letter of Map Revision, Letter of Map Amendment, and "as built" elevation and floodproofing and/or elevation certificates for all buildings constructed subject to this ordinance.

Sec. 8-4.9 State permits. Ensure that construction authorization has been granted by the IDNR, for all development projects subject to Sections 8-7.0 and 8-8.0 of this ordinance, unless enforcement responsibility has been delegated to the City. However, the following review approvals are not delegated to the City and shall require review or permits from IDNR/OWR:

(a) Organizations which are exempt from this ordinance, as per the ILCS;

(b) IDNR/OWR projects, dams or impoundment structures as defined in Section 8-2.12 and all other state, federal or local unit of government projects, including projects of the City and County, except for those projects meeting the requirements of Sec. 8-7.9.

(c) An engineer's determination that an existing bridge or culvert crossing is not a source of flood damage and the analysis indicating the proposed flood profile, per Section 8-7.5(e).

(d) An engineer's analysis of the flood profile due to Section 8-7.5(d);

(e) Alternative transition sections and hydraulically equivalent compensatory storage as indicated in Section 8-7.5(a, b and h);

(f) Permit issuance of structures within, under or over publicly navigable rivers, lakes and streams;

(g) Any changes in the mapped floodway or published flood profiles.

Sec. 8-4.10 Cooperation with other agencies. Cooperate with state and federal flood plain management agencies to improve base flood or 100-year frequency flood and floodway data and to improve the administration of this ordinance. Submit data to IDNR/OWR and FEMA for proposed revisions of a designated map within six months whenever a modification of the floodplain may change the base flood elevation or result in a change in the floodplain map. Submit reports as required for the National Flood Insurance Program. Notify FEMA of any proposed amendments to this ordinance.
Sec. 8-4.11 Promulgate regulations. Promulgate rules and regulations as necessary to administer and enforce the provisions of this ordinance, subject however to the review and approval of IDNR/OWR and FEMA for any ordinance changes.

Sec. 8-5.0 Base flood elevation

This Ordinance's protection standard is based on the Flood Insurance Study for the City. If a base flood elevation or 100-year frequency flood elevation is not available for a particular site, then the protection standard shall be according to the best existing data available from federal, state or other sources. When a party disagrees with the best available data, they shall submit a detailed engineering study needed to replace existing data with better data and submit it to IDNR/OWR and FEMA for review and consideration prior to any development of the site.

Sec. 8-5.1 The base flood or 100-year frequency flood elevation for the SFHSAs of Fox River, Boone Creek, and the Lakeland Park drainage ditch, shall be as delineated on the 100-year flood profiles in the Flood Insurance Study of the City prepared by FEMA and dated November 16, 2006, and such amendments to such study and maps as may be prepared from time to time.

Sec. 8-5.2 The base flood or 100-year frequency flood elevation for the SFHAs of those parts of unincorporated McHenry County that are within the extra-territorial jurisdiction of the City, or that may be annexed into the City shall be as delineated on the 100-year flood profiles in the Flood Insurance Study of McHenry County prepared by FEMA and dated November 16, 2006, and such amendments or revisions to such study and maps as may be prepared from time to time.

Sec. 8-5.3 The base flood or 100-year frequency flood elevation for each SFHA delineated as an "AH Zone" or "AO Zone" shall be that elevation (or depth) delineated on the Flood Insurance Rate Map of McHenry County.

Sec. 8-5.4 The base flood or 100-year frequency flood elevation for each of the remaining SFHAs delineated as an "A Zone" on the Flood Insurance Rate Map of McHenry County shall be according to the best existing 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.

When no base flood or 100-year frequency flood elevation exists, the base flood or 100-year frequency flood elevation for a riverine SFHA shall be determined from a backwater model, such as HEC-II, HEC-RAS or a dynamic model such as HIP.

The flood flows used in the hydraulic models shall be obtained from a hydrologic model, such as HEC-HMS, HEC-I, TR-20 or HIP, or by techniques presented in various publications prepared by the United States Geological Survey for estimating peak flood discharges.
For a non-riverine SFHA, the Base Flood Elevation shall be the historic Flood of Record plus three (3) feet, unless calculated by a detailed engineering study.

For an unmapped extended SFHA (with drainage area less than one square mile) which has been identified by the Building Officer pursuant to Section 8.4, the base flood elevation shall be determined by the applicant utilizing a method as approved in Section 8.5.

**Sec. 8-6.0 Occupation and use of flood fringe areas**

Development in and/or filling of the flood fringe will be permitted if protection is provided against the base flood or 100-year frequency flood by proper elevation, and compensatory storage and other applicable provisions of this ordinance are met. No use will be permitted which adversely affects the capacity of drainage facilities or systems. Developments located within the flood fringe shall meet the requirements of this section, along with the requirements of Section 8-9.0.

**Sec. 8-6.1 Development permit.** No person, firm, corporation, or governmental body not exempted by state law shall commence any development in the SFHA without first obtaining a development permit from the Building Officer.

**Sec. 8-6.2 Application for a development permit shall be made on a form provided by the Building Officer.** The application shall be accompanied by drawings of the site, drawn to scale, showing property line dimensions and legal description of the property and sealed by a licensed engineer, architect or land surveyor; existing grade elevations using the North American Vertical Datum of 1988, and all changes in grade resulting from excavation or filling; the location and dimensions of all buildings and additions to buildings. For all proposed buildings, the elevation of the lowest floor (including basement) and lowest adjacent grade shall be shown on the submitted plans and the development will be subject to the requirements of Section 8-9.0 of this ordinance.

**Section 8-6.3** Upon receipt of a development permit application, the Building Officer shall compare the elevation of the site to the base flood or 100-year frequency flood elevation of the site to the base flood or 100-year frequency flood elevation. Any development located on land that can be shown to be higher than the base flood elevation of the current Flood Insurance Rate Map and which has not been filled after the date of the site’s first Flood Insurance Rate Map without a permit as required by this ordinance is not in the SFHA and, therefore, not subject to the requirements of this ordinance. Conversely, any development located on land shown to be below the base flood elevation and hydraulically connected, but show on the current Flood Insurance Rate Map is subject to the provisions of this ordinance. The Building Official 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.
Sec. 8-6.4 A soil erosion and sedimentation control plan for disturbed areas shall be submitted. This plan shall include a description for the sequence of grading activities and the temporary sediment and erosion control measures to be implemented to mitigate their effects. This plan shall also include a description of final stabilization and revegetation measures, and the identification of a responsible party to ensure post-construction maintenance.

Sec. 8-6.5 The Building Officer shall be responsible for obtaining from the applicant, copies of all other local, state and federal permits, approvals or waivers that may be required for this type of activity. The Building Officer shall not issue a permit unless all other local, state and federal permits have been obtained.

Sec. 8-6.6 Preventing increased damages. No development in the flood fringe shall create a threat to public health and safety.

Sec. 8-6.7 If fill is being used to elevate the site above the base flood or 100-year frequency flood elevation, the applicant shall submit sufficient data and obtain a Letter of Map Revision (LOMR) from FEMA for the purpose of removing the site from the flood plain.

Sec. 8-6.8 Compensatory storage. Whenever any portion of a flood plain is authorized for use, the volume of space which will be occupied by the authorized fill or structure below the base flood or 100-year frequency flood elevation shall be compensated for and balanced by a hydraulically equivalent volume of excavation taken from below the base flood or 100-year frequency flood elevation. The excavation volume shall be at least equal to 1.5 times the volume of storage lost due to the fill or structure. In the case of streams and watercourses, such excavation shall be made opposite or adjacent to the areas so filled or occupied. All flood plain storage lost below the existing 10-year flood elevation shall be replaced below the proposed 10-year flood elevation. All flood plain storage lost above the existing 10-year flood elevation shall be replaced above the proposed 10-year flood elevation. All such excavations shall be constructed to drain freely and openly to the watercourse.

Sec. 806.9 Construction of the Lowest Floor below the Base Flood Elevation (BFE).
A person who has obtained a Letter of Map Revision Based on Fill that removes a site in the flood fringe from the floodplain due to the use of fill to elevate the site above the BFE, may apply for a permit from the City to construct the lowest floor of a residential building below the BFE in the flood fringe. The Building Officer shall not issue such a permit unless the applicant has complied with all the criteria set forth in the following subsection.

(a) Compensatory storage shall be provided per Section 8-6.8

(b) The elevation of the lowest opening in the basement wall (i.e., window wells, access ways) shall be at or above the Flood Protection Elevation (FPE).
(c) The lowest adjacent grade to the foundation shall be at or above the FPE, for a minimum distance of ten (10) feet beyond the outside face of the structure. However, if site conditions are such that this requirement cannot be met, the Building Officer may waive the ten (10) foot minimum setback if an Illinois Registered Professional Engineer certify that an alternative method to protect the building from damage due to hydrostatic pressures has been met. The certifications shall be in the form of a detailed soils and structural design analysis, which shall be submitted to the Building Officer for review. The Building Officer may require such additional documentation as necessary to prove that the proposed shorter setback distance will keep the structure reasonably safe. In no case shall the setback distance be less than four (4) feet.

(d) The grade around the perimeter of the structure, measured at a distance of twenty (20) feet from the structure, shall be above the BFE. However, if site conditions are such that this requirement cannot be obtained, the Building Officer may waive the twenty (20) foot minimum setback distance if an Illinois Registered Professional Engineer certifies that an alternative method to protect the building from damages due to hydrostatic pressures have been met. A detailed soils analysis and structural design proving that a shorter setback distance will keep the structure reasonably safe from flooding, shall be submitted to the City for review. In no case shall the setback distance be less than four (4) feet.

(e) The ground around the building shall be compacted fill that meets all requirements of this subsection and is at least five (5) feet thick under the basement floor slab. Nothing in this subsection shall be interpreted to require the removal or replacement of fill that was placed as part of a LOMR-F, if such fill consists of material, including soils of similar classification and degree permeability, such as those classified as CH, CL, SC or ML according to ASTM standard D-2487, Classification of Soils for Engineering Purposes.

(f) The fill material must be homogeneous and isotropic; that is, the soil must be all of one material, and the engineering priorities must be in the same direction.

(g) All fill material and compaction shall be designed, certified and inspected by an Illinois Registered Professional Engineer, as warranted by the site conditions.

(h) The basement floor shall be at an elevation that is no more than five (5) below the BFE.

(i) There shall be a granular drainage layer beneath the floor slab, and minimum of one quarter (¼) horsepower sump pump with a backup power supply shall be provided to remove seepage flow. The pump shall be rated at four (4) times the estimated seepage rate and shall discharge above the BFE and away from the building in order to prevent flooding of the basement or uplift of the floor under the effect of the seepage pressure.

(j) The drainage system shall be equipped with a positive means of preventing backflow.

(k) All foundation elements shall be designed to withstand hydrostatic pressure in accordance with accepted engineering practices.
(l) If the applicant is unable to meet all of the requirements set forth in the preceding paragraphs of this subsection, the Building Officer may allow the construction of a basement below the BFE only if the applicant demonstrates that the proposed fill and structure meet the guidelines and requirements set forth in FEMA Technical Bulletin 10-01 and are reasonably safe from flooding. In order to demonstrate that the proposed structure is reasonably safe from flooding, the applicant shall submit a detailed engineering analysis of the proposed fill and foundation wall. The engineered basement study shall be completed in accordance with the latest edition of FEMA Technical Bulletin 10-01, with the analysis of the fill being prepared by an Illinois Registered Professional Engineer.

(m) In order to provide the required compensatory storage on site, in no case shall the depth of excavation in the front and side yards of the lot exceed eighteen (18) inches, as measured from the previously existing natural grade. The rear yard shall be permitted to have a greater depth of excavation, if necessary. All such excavation shall be constructed to drain freely and openly to the watercourse or storm sewer system. The use of mechanical means to drain the compensatory storage area will not be permitted.

Sec. 8-7.0 Occupation and use of identified floodways

This section applies to proposed development, redevelopment, site modification or building modification within a designated floodway. The designated floodway for the Fox River, Boone Creek, and the Lakeland Park drainage ditch shall be as delineated on the countywide Flood Insurance Rate Map of McHenry County and referenced in Section 8-2.41. Only those uses and structures will be permitted which meet the criteria in this section. All floodway modifications shall be the minimum necessary to accomplish the purpose of the project. The development shall also meet the requirements of Section 8-9.0.

Sec. 8-7.1 Development permit. No person, firm, corporation or governmental body not exempted by state law shall commence any development in a floodway without first obtaining a development permit from the Building Officer and IDNR/OWR.

Sec. 8-7.2 Application for a development permit shall be made on a form provided by the Building Officer. The application shall include the following information:

(a) Name and address of applicant;

(b) Site location (including legal description) of the property, drawn to scale, on the designated floodway map, indicating whether it is proposed to be in an incorporated or unincorporated area;

(c) Name of stream or body of water affected;

(d) Description of proposed activity;

(e) Statement of purpose of proposed activity;
(f) Anticipated dates of initiation and completion of activity;

(g) Name and mailing address of the owner of the subject property if different from the applicant;

(h) Signature of applicant or the applicant's agent;

(i) If the applicant is a corporation, the president or other authorized officer shall sign the application form;

(j) If the applicant is a partnership, each partner shall sign the application form;

(k) If the applicant is a land trust, the trust officer shall sign the name of the trustee by him (her) as trust officer. A disclosure affidavit shall be filed with the application, identifying each beneficiary of the trust by name and address and defining the respective interests therein;

(l) Plans of the proposed activity shall be provided which include as a minimum:

   (i) A vicinity map showing the site of the activity, name of the waterway, boundary lines, names of roads in the vicinity of the site, graphic or numerical scale, and north arrow;

   (ii) A plan view of the project and engineering study reach showing existing and proposed conditions including principal dimensions of the structure or work, elevations, using the North American Vertical Datum of 1988, adjacent property lines and ownership, drainage and flood control easements, location of any channels and any existing or future access roads, distance between proposed activity and navigation channel (when the proposed construction is near a commercially navigable body of water), designated floodway limit, flood plain limit, specifications and dimensions of any proposed channel modifications, location and orientation of cross-sections, north arrow, and a graphic or numerical scale;

   (iii) Cross-section views of the project and engineering study reach showing existing and proposed conditions including principal dimensions of the work as shown in plan view, existing and proposed elevations, normal water elevation, 10-year frequency flood elevation, 100-year frequency flood elevation, and graphic or numerical scales (horizontal and vertical).

   (iv) A soil erosion and sedimentation control plan for disturbed areas. This plan shall include a description for the sequence of grading activities and the temporary sediment and erosion control measures to be implemented to mitigate their effects. This plan shall also include a description of final stabilization and revegetation measures, and the identification of a responsible party to ensure post-construction maintenance.

   (v) A copy of the designated floodway map, marked to reflect any proposed change in the designated floodway location.
(m) Any and all other local, state and federal permits or approval letters that may be required for this type of development.

(n) Engineering calculations and supporting data shall be submitted showing that the proposed work will meet the permit criteria of Section 8-7.4.

(o) If the designated floodway delineation, base flood or 100 year frequency flood elevation will change due to the proposed project, the application will not be considered complete until IDNR/OWR has indicted conditional approval of the designated floodway map change. No structures may be built until a Letter of Map Revision has been approved by FEMA.

(p) The application for a structure shall be accompanied by drawings of the site, drawn to scale showing property line dimensions and existing ground elevations and all changes in grade resulting from any proposed excavation or filling, and flood plain and floodway limits; sealed by a registered professional engineer, licensed architect or registered land surveyor; the location and dimensions of all buildings and additions to buildings; and the elevation of the lowest floor (including basement) of all proposed buildings subject to the requirements of Section 8-9.0 of this ordinance.

(q) If the proposed project involves a channel modification, the applicant shall submit the following information:

   (i) A discussion of the purpose of and need for the proposed work;

   (ii) A discussion of the feasibility of using alternative locations or methods to accomplish the purpose of the proposed work;

   (iii) An analysis of the extent and permanence of the impacts each feasible alternative identified in Section 8.7 would have on the physical and biological conditions of the body of water affected;

   (iv) An analysis of the extent and permanence of the impacts each feasible alternative identified in 8-7.5 (d)(i) of this Section would have on the physical and biological conditions of the body of water affected; and

   (v) An analysis of the impacts of the proposed project, considering cumulative effects on the physical and biological conditions of the body of water affected.

Sec. 8-7.3 The Building Officer shall be responsible for obtaining from the applicant copies of all other local, state, and federal permits and approvals that may be required for this type of activity.

   The Building Officer shall not issue the development permit unless all required federal and state permits have been obtained. A Registered Professional Engineer, under the employ or contract of the City shall review and approve applications reviewed under this Section.
Sec. 8-7.4 Preventing increased damages and a list of Appropriate Uses. The only development in a floodway which will be allowed are Appropriate Uses, which will not cause a rise in the base flood elevation, and which will not create a damaging or potentially damaging increase in flood heights or velocity or be a threat to public health and safety and welfare or impair the natural hydrologic and hydraulic functions of the floodway or channel, or permanently impair existing water quality or aquatic habitat. Construction impacts shall be minimized by appropriate mitigation methods as called for in this ordinance. Only those Appropriate Uses listed in 17 Ill. Adm. Code Part 3708 will be allowed.

The approved Appropriate Uses are as follows:

(a) Flood control structures, dikes, dams and other public works or private improvements relating to the control of drainage, flooding, erosion, or water quality or habitat for fish and wildlife.

(b) Structures or facilities relating to the use of, or requiring access to, the water or shoreline, such as pumping and treatment facilities and facilities and improvements related to recreational boating, commercial shipping and other functionally water dependent uses;

(c) Storm and sanitary sewer outfalls;

(d) Underground and overhead utilities;

(e) Recreational facilities such as playing fields and trail systems including any related fencing (at least 50% open when viewed from any one direction) built parallel to the direction of flood flows, and including open air pavilions and toilet facilities (four-stall maximum) that will not block flood flows nor reduce floodway storage;

(f) Detached garages, storage sheds, or other non-habitable accessory structures that will not block flood flows, nor reduce floodway storage;

(g) Bridges, culverts, roadways, sidewalks, railways, runways and taxiways and any modification hereto;

(h) Parking lots built at or below existing grade where either:

   (i) the depth of flooding at the 100-year frequency flood event will not exceed 1.0'; or

   (ii) the applicant of a short-term recreational use facility parking lot formally agrees to restrict access during overbank flooding events and accepts liability for all damage caused by vehicular access during all overbank flooding events;

(i) Designated floodway regrading, without fill, to create a positive non-erosion slope toward a watercourse.
(j) Flood proofing activities to protect previously existing lawful structures including the construction of water tight window wells, elevating structures, or construction of floodwalls around residential, commercial or industrial principal structures where the outside toe of the floodwall shall be no more than ten (10) feet away from the exterior wall of the existing structure, and, which are not considered substantial improvements to the structure.

(k) The replacement, reconstruction or repair of a damaged building, provided that the outside dimensions are not increased, and if the building was damaged to fifty percent (50%) or more of the market value before the damage occurred, the building will be protected from flooding to the flood protection elevation.

(l) Modifications to an existing building that would not increase the enclosed floor area of the building below the 100-year frequency flood elevation, and which will not block flood flows including but not limited to, fireplaces, bay windows, decks, patios, and second story additions. If the building is improved to fifty percent (50%) or more of the market value before the modification occurred (i.e. a substantial improvement), the building will be protected from flooding to the flood protection elevation.

**Sec. 8-7.4a** Appropriate uses do not include the construction or placement of any new structures, fill, building additions, building on stilts, excavation or channel modifications done to accommodate otherwise non-appropriate uses in the floodway, fencing (including landscaping or planting designed to act as a fence) and storage of materials except as specifically defined above as an Appropriate Use.

**Sec. 8-7.5** Within the designated floodway, the construction of an Appropriate Use, will be considered permissible provided that the proposed project meets the following engineering and mitigation criteria and is so stated in writing with supporting plans, calculations and data by a registered professional engineer and provided that any structure meets the protection requirements of Section 8.9 of this ordinance:

(a) Preservation of Flood Conveyance, so as not to increase flood stages upstream. For appropriate uses other than bridge or culvert crossings, on-stream structures or dams, all effective designated floodway conveyance lost due to the project will be replaced for all flood events up to and including the 100-year frequency flood. In calculating effective designated floodway conveyance, the following factors shall be taken into consideration:

   (i) Designated floodway conveyance, “K” + (1.486/n)(AR^{2/3}) where “n” is Manning’s roughness factor, “A” is the effective flow area of the cross-section, and “R” is the ratio of the area to the wetted perimeter. (See Ven Te Chow, *Open Channel Hydraulics*, McGraw-Hill, New York 1959)

   (ii) The same Manning's "n" value shall be used for both existing and proposed conditions unless a recorded maintenance agreement with a federal, state, or local unit of government can assure the proposed conditions will be maintained or the land cover is changing from a vegetative to a non-vegetative land cover.
Transition sections shall be provided and used in calculations of effective designated floodway conveyance. The following expansion and contraction ratios shall be used unless an applicant's engineer can prove to IDNR/OWR through engineering calculations or model tests that more abrupt transitions may be used with the same efficiency:

1. When water is flowing from a narrow section to a wider section, the water should be assumed to expand no faster than at a rate of one foot horizontal for every four feet of the flooded stream's length.

2. When water is flowing from a wide section to a narrow section, the water should be assumed to contract no faster than at a rate of one foot horizontal for every one foot of the flooded stream's length.

3. When expanding or contracting flows in a vertical direction, a minimum of one foot vertical transition for every ten feet of stream length shall be used.

4. Transition sections shall be provided between cross-sections with rapid expansions and contractions and when meeting the designated floodway delineation on adjacent properties.

5. All cross-sections used in the calculations shall be located perpendicular to flood flows.

Preservation of floodway storage so as not to increase downstream flooding.

(i) Compensatory storage shall be provided for any designated floodway storage lost due to the proposed work from the volume of fill or structures placed and the impact of any related flood control projects.

(ii) Compensatory storage for fill or structures shall be equal to at least 1.5 times the volume of flood plain storage lost.

(iii) Artificially created storage lost due to a reduction in head loss behind a bridge shall not be required to be replaced.

(iv) The compensatory designated floodway storage shall be placed between the proposed normal water elevation and the proposed 100-year flood elevation. All designated floodway storage lost below the existing 10-year flood elevation shall be replaced below the proposed 10-year flood elevation. All designated floodway storage lost above the existing 10-year flood elevation shall be replaced above the proposed 10-year flood elevation. All such excavations shall be constructed to drain freely and openly to the watercourse.
(v) If the compensatory storage will not be placed at the location of the proposed construction, the applicant's engineer shall demonstrate through a determination of flood discharges and water surface elevations that the compensatory storage is hydraulically equivalent.

(vi) There shall be no reduction in floodway surface area as a result of a floodway modification, unless such modification is necessary to reduce at existing structure.

(c) Preservation of floodway velocities so as not to increase stream erosion or flood heights.

For all Appropriate Uses, except bridges or culverts or on-stream structures, the proposed work will not result in an increase in the average channel or designated floodway velocities or stage, for all flood events up to and including the 100-year frequency event.

In the case of bridges or culverts or on-stream structures built for the purpose of backing up water in the stream during normal or flood flows, velocities may be increased at the structure site if scour, erosion and sedimentation will be avoided by the use of rip-rap or other design measures.

(d) Construction of new bridges or culvert crossings and roadway approaches. The proposed structure shall not result in an increase of upstream flood stages greater than 0.1 foot when compared to the existing conditions for all flood events up to and including the 100-year frequency event; or the upstream flood stage increases will be contained within the channel banks (or within existing vertical extensions of the channel banks) such as within the design protection grade of existing levees or flood walls or within recorded flood easements. If the proposed construction will increase upstream flood stages greater than 0.1 feet, the developer must contact IDNR/OWR to obtain a permit for a dam or waiver.

(i) The engineering analysis of upstream flood stages must be calculated using the flood study flows, and corresponding flood elevations for tailwater conditions for the flood study specified in Section 8-5.0 of this Ordinance. Bridges and culverts must be analyzed using any commonly accepted FEMA approved hydraulic models

(ii) Lost floodway storage must be compensated for per Section 8-7.5(b).

(iii) Velocity increases must be mitigated per Section 8-7.5(c)

(iv) If the crossing is proposed over a public water that is used for recreational or commercial navigation, an IDNNR/OWR permit must be received.

(v) The hydraulic analysis for the backwater caused by the bridge showing the existing condition and proposed regulatory profile must be submitted to IDNR/OWR for concurrence that a CLOMR is not required by Section 8-7.4.
(vi) All excavations for the construction of the crossing shall be designed per Section 8-7.5(h).

(e) Reconstruction or modification of existing bridges, culverts, and approach roads.

(i) The bridge or culvert and roadway approach reconstruction or modification shall be constructed with no more than 0.1 foot increase in backwater over the existing flood profile for all flood frequencies up to and including the 100-year event, if the existing structure is not a source of flood damage.

(ii) If the existing bridge or culvert and roadway approach is a source of flood damage to buildings or structures in the upstream flood plain, the applicant's engineer shall evaluate the feasibility of redesigning the structure to reduce the existing backwater, taking into consideration the effects on flood stages on upstream and downstream properties.

(iii) The determination as to whether or not the existing crossing is a source of flood damage and should be redesigned must be prepared in accordance with 17 Ill Adm Code Part 3708 (Floodway Construction in Northeastern Illinois) and submitted to IDNR/OWR for review and concurrence before a permit is issued.

(f) On-stream structures built for the purpose of backing up water.

Any increase in upstream flood stages greater than 0.0 foot when compared to the existing conditions, for all flood events up to and including the 100-year frequency event shall be contained within the channel banks (or within existing vertical extensions of the channel banks) such as within the design protection grade of existing levees or flood walls or within recorded flood easements.

A permit or letter indicating a permit is not required must be obtained from IDNR/OWR for any structure built for the purpose of backing up water in the stream during normal or flood flow.

All dams and impoundment structures as defined in Section 8-2.12 shall meet the permitting requirements of 17 IL Adm. Code Part 3702 (Construction and Maintenance of Dams). If the proposed activity involves a modification of the channel or floodway to accommodate an impoundment, it shall be demonstrated that:

(i) The impoundment is determined to be in the public interest by providing flood control, public recreation, or regional stormwater detention;

(ii) The impoundment will not prevent the migration of indigenous fish species, which require access to upstream areas as part of their cycle, such as for spawning.

(iii) The impoundment will not cause or contribute to degraded water quality or habitat conditions. Impoundment design should include gradual bank slopes, appropriate bank stabilization measures and a pre-sedimentation basin.
(iv) A non-point source control plan has been implemented in the upstream watershed to control the effects of sediment runoff as well as minimize the input of nutrients, oil and grease, metals and other pollutants. If there is more than one municipality in the upstream watershed, the municipality in which the impoundment is constructed should coordinate with upstream municipalities to ensure comprehensive watershed control.

(v) The project otherwise complies with the requirements of Section 8-7.0

(g) Flood proofing of existing habitable, residential and commercial structures. If construction is required beyond the outside dimensions of the existing building, the outside perimeter of the floodproofing construction shall be placed no further than 10 feet from the outside of the building. Compensation of lost storage and conveyance will not be required for floodproofing activities.

(h) Excavation in the floodway. When excavation is proposed in the design of bridges and culvert openings, including the modifications to and replacement of existing bridge and culvert structures, or to compensate for lost conveyance for other Appropriate Uses, transition sections shall be provided for the excavation. The following expansion and contraction ratios shall be used unless an applicant's engineer can prove to IDNR/OWR through engineering calculations or model tests that more abrupt transitions may be used with the same efficiency:

(i) When water is flowing from a narrow section to a wider section, the water should be assumed to expand no faster than at a rate of one foot horizontal for every four feet of the flooded stream's length;

(ii) When water is flowing from a wide section to a narrow section, the water should be assumed to contract no faster than at a rate of one foot horizontal for every one foot of the flooded stream's length; and

(iii) When expanding or contracting flows in a vertical direction, a minimum of one foot vertical transition for every ten feet of stream length shall be used.

(iv) Erosion/scour protection shall be provided inland upstream and downstream of the transition sections.

(i) If the proposed activity involves a channel modification, it shall be demonstrated that:

(i) There are no practicable alternatives to the activity which would accomplish its purpose with less impact to the natural conditions of the body of water affected. Possible alternatives include levees, bank stabilization, flood proofing of existing structures, removal of structures from the flood plain, clearing the channel, high flow channel, or the establishment of a stream side buffer strip or green belt. Channel modification is acceptable if the purpose is to restore natural conditions and improve water quality and fish and wildlife habitat.
(ii) Water quality, habitat, and other natural functions would be significantly improved by the modification and not significant habitat area may be destroyed, or the impacts are offset by the replacement of an equivalent degree of natural resource values.

(iii) The activity has been planned and designed and will be constructed in a way which will minimize its adverse impacts on the natural conditions of the body of water affected, consistent with the following criteria:

1. The physical characteristics of the modified channel shall match as closely as possible those of the existing channel in length, cross-section, slope and sinuosity. If the existing channel has been previously modified, restoration of more natural physical conditions should be incorporated into channel modification design, where practical.

2. Hydraulically effective transitions shall be provided at both the upstream and downstream ends of the project designed such that they will prevent erosion.

3. One-sided construction of a channel shall be used when feasible. Removal of streamside (riparian) vegetation should be limited to one side of the channel, where possible, to preserve the shading and stabilization effects of the vegetation.

4. Clearing of stabilizing vegetation shall be limited to that which is essential for construction of the channel.

5. Channel banks shall be constructed with a side slope no steeper than 3:1 horizontal to vertical, wherever practicable. Native vegetation and gradual side slopes are the preferred methods for bank stabilization. Where high velocities or sharp bends necessitate the use of alternative stabilization measures, soil bio-engineering techniques, natural rock or rip-rap are preferred approaches. Artificial materials such as concrete, gabions, or construction rubble should be avoided unless there are no practicable alternatives.

6. All disturbed areas associated with the modification shall be seeded or otherwise stabilized as soon as possible upon completion of construction. Erosion blanket or an equivalent material shall be required to stabilize disturbed channel banks prior to establishment of the vegetative cover.

7. If the existing channel contains considerable bottom diversity such as deep pools, riffles and other similar features, such features shall be provided in the new channel. Spawning and nesting areas and flow characteristics compatible with fish habitat shall also be established, where appropriate.

8. A sediment basin shall be installed at the downstream end of the modification to reduce sedimentation and degradation of downstream water quality.
(9) New or relocated channels should be built in the dry, and all items of construction, including vegetation, should be completed prior to diversion of water into the new channel.

(10) There shall be no increases in stage or velocity as the channel enters or leaves the project site for any frequency flood unless necessitated by a public flood control project or unless such an increase is justified as part of a habitat improvement or erosion control project.

(11) Unless the modification is for a public flood control project, there shall be no reduction in the volume of floodwater storage outside the floodway as a result of the modification; and

(iv) The project otherwise complies with the requirements of Section 8-7.0.

(j) Seeding and stabilization plan. For all activities located in a floodway, a seeding and stabilization plan shall be submitted by the applicant.

(k) Soil erosion and sedimentation measures. For all activities in the floodway, including grading, filling, and excavation, in which there is potential for erosion of exposed soil, soil erosion and sedimentation control measures shall be employed consistent with the following criteria:

(i) The construction area shall be minimized to preserve the maximum vegetation possible. Construction shall be scheduled to minimize the time soil is exposed and unprotected. In no case shall the existing natural vegetation be destroyed, removed, or disturbed more than 15 days prior to the initiation of improvements.

(ii) Temporary and/or permanent soil stabilization shall be applied to denuded areas as soon as possible. As a minimum, soil stabilization shall be provided within 15 days after final grade is reached on any portion of the site, and within 15 days to denuded areas which may not be at final grade but will remain undisturbed for longer than 60 days.

(iii) Sedimentation control measures shall be installed before any significant grading or filling is initiated on the site to prevent the movement of eroded sediments off site or into the channel. Potential sediment control devices include filter fences, straw bale fences, check dams, diversion ditches, and sediment traps and basins.

(iv) A vegetated buffer strip of at least 25 feet in width shall be preserved and/or re-established, where possible, along existing channels. Construction vehicle use of channels shall be minimized. Temporary stream crossings shall be constructed where necessary, to minimize erosion. Necessary construction in or along channels shall be re-stabilized immediately.
(v) Soil erosion and sedimentation control measures shall be designed and implemented consistent with “Procedures and Standards for Urban Soil Erosion and Sedimentation Control in Illinois” (1988) also known as the “Green Book” and “The Illinois Urban Manual” (NRCS, 1995)

(I) Public flood control projects. For public flood control projects, the permitting requirements of this section will be considered met if the applicant can demonstrate to IDNR/OWR through hydraulic and hydrologic calculations that the proposed project will not singularly or cumulatively result in increased flood heights outside the project right-of-way or easements for all flood events up to and including the 100-year frequency event.

(m) General criteria for analysis of flood elevations:

(i) The flood profiles, flows and floodway data in the designated floodway study, referenced in Section 8-5.0, must be used for analysis of the base conditions. If the study data appears to be in error or conditions have changed, IDNR/OWR shall be contacted for approval and concurrence on the appropriate base conditions data to use.

(ii) If the 100-year designated floodway elevation at the site of the proposed construction is affected by backwater from a downstream receiving stream with a larger drainage area, the proposed construction shall be shown to meet the requirements of this section for the 100-year frequency flood elevations of the designated floodway conditions and conditions with the receiving stream at normal water elevations.

(iii) If the applicant learns from IDNR/OWR, local governments, or a private owner that a downstream restrictive bridge or culvert is scheduled to be removed, reconstructed, modified, or a regional flood control project is scheduled to be built, removed, constructed or modified within the next five years, the proposed construction shall be analyzed and shown to meet the requirements of this section for both the existing conditions and the expected flood profile conditions when the bridge, culvert or flood control project is built.

(n) Conditional Letter of MapRevision.

(i) If the Appropriate Use would result in a change in the designated floodway location or the 100-year frequency flood elevation, the applicant shall submit to IDNR/OWR and to FEMA all the information, calculations and documents necessary to be issued a conditional designated floodway map revision and receive from IDNR/OWR a conditional concurrence of the designated floodway change before a permit is issued.

(ii) The final designated floodway map will not be changed by FEMA until as-built plans or record drawings of initial filling, grading, dredging, or excavating activities are submitted and accepted by FEMA and IDNR/OWR.
(iii) In the case of non-government projects, the municipality in incorporated areas and the county in unincorporated areas shall concur with the proposed conditional designated floodway map revision before IDNR/OWR approval can be given.

(iv) No filling, grading, dredging or excavating shall take place until a conditional approval is issued.

(v) After initial filling, grading, dredging, or excavating, no activities shall take place until a final Letter of Map Revision (LOMR) is issued by FEMA with concurrence from IDNR/OWR.

(o) Professional engineer's supervision. All engineering analyses shall be performed by or under the supervision of a registered professional engineer.

(p) For all activities in the floodway involving construction within 25 feet of the channel, the following criteria shall be met:

(i) A natural vegetation buffer strip shall be preserved within at least 25 feet of the ordinary high water mark of the channel.

(ii) Where it is impossible to protect this buffer strip during the construction of an Appropriate Use, a vegetated buffer strip shall be established upon completion of construction.

(q) After receipt of conditional approval of the designated floodway change and issuance of a permit and a Conditional Letter of Map Revision, construction as necessary to change the designated floodway designation may proceed but no buildings or structures or other construction that is not an Appropriate Use may be placed in that area until the designated floodway map is changed and a final Letter of Map Revision is received. The designated floodway map will be revised upon acceptance and concurrence by IDNR/OWR and FEMA of the "as built" plans.

Sec. 8-7.6 Development Activities in delegated communities requiring state review. For those projects listed below located in a designated floodway, the following criteria shall be submitted to IDNR/OWR for their review and concurrence and/or permit prior to the issuance of a permit by a community or county delegated state permitting authority in the floodway:

(a) An engineer's analysis of the flood profile due to a proposed bridge pursuant to Section 8-7.5(d).

(b) An engineer's determination that an existing bridge or culvert crossing is not a source of flood damage and the analysis indicating the proposed flood profile, pursuant to Section 8-7.5(e).

(c) Alternative transition sections and hydraulically equivalent storage pursuant to Section 8-7.5 (a, b and h).
(d) The construction of any IDNR/OWR projects, dams (as defined in Section 8-2.12) and all other state, federal or local units of government projects, including projects of the municipality or county.

(e) An engineer’s determination that a proposed bridge affected by backwater from a downstream receiving stream may be built with a smaller opening.

(f) Projects which revise or establish the floodway and/or flood profiles.

(g) Projects in public bodies of water.

Sec. 8-7.7 Other permits.

(a) In addition to the other requirements of this ordinance, a development permit for a site located in a floodway shall not be issued unless the applicant first obtains a permit or written documentation that a permit is not required from IDNR/OWR.

(b) No correspondence from IDNR/OWR shall be required if the project meets the requirements of Regional Permit 3.

(c) No permit from IDNR/OWR shall be required if IDNR/OWR has delegated this responsibility to the City.

Sec. 8-7.8 Permits for Dams.

(a) Any work involving the construction, modification or removal of a dam as defined in Section 8-2.12 per 17 IL Adm Code Part 3702 (Rules for Construction of Dams) shall obtain an IDNR/OWR permit prior to the start of construction of a dam.

(b) If the Building Officer finds a dam that does not have an IDNR/OWR permit, the Building Officer shall immediately notify the IDNR/OWR Bartlett Office.

(c) If the Building Officer finds a dam which is believed to be in unsafe condition, the Building Officer shall immediately notify the owner of the dam, IDNR/OWR Bartlett Office, and the Illinois Emergency Management Agency (IEMA).

Sec. 8-7.9 Activities that do not require a registered professional engineer's review. The following activities may be permitted without a registered professional engineers review. Such activities shall still meet the other requirements of this ordinance, including the mitigation requirements.

(a) Regional Permit 3 which authorizes, for example, underground and overhead utilities, storm and sanitary sewer outfalls, sidewalks, patios, athletic fields, playground equipment and streambank protection activities.
Sec. 8-8.0 Occupation and use of SFHA areas where floodways are not identified.

In SFHA or flood plains, (including AE Zones, AH Zones, AO Zones, and Un-numbered A Zones) where no floodways have been identified and no base flood or 100-year frequency flood elevations have been established by FEMA, and draining more than a square mile, no development shall be permitted unless the cumulative effect of the proposals, when combined with all other existing and anticipated uses and structures, shall not significantly impede or increase the flow and passage of the floodwaters nor significantly increase the base flood or 100-year frequency flood elevation.

Sec. 8-8.1 Development permit. No person, firm, corporation, or governmental body, not exempted by state law, shall commence any development in a SFHA or flood plain without first obtaining a development permit from the Building Officer. Application for a development permit shall be made on a form provided by the Building Officer. The application shall be accompanied by drawings of the site, drawn to scale showing property line dimensions; and existing grade elevations and all changes in grade resulting from excavation or filling, sealed by a licensed engineer, architect or surveyor; the location and dimensions of all buildings and additions to buildings; and the elevation of the lowest floor (including basement) of all proposed buildings subject to the requirements of Section 8-9.0 of this Ordinance.

The application for a development permit shall also include the following information:

(a) A detailed description of the proposed activity, its purpose, and intended use;

(b) Site location (including legal description) of the property, drawn to scale, on the designated floodway maps, indicating whether it is proposed to be in an incorporated or unincorporated area;

(c) Anticipated dates of initiation and completion of activity;

(d) Plans of the proposed activity shall be provided which include as a minimum:

   (i) A vicinity map showing the site of the activity, name of the waterway, boundary lines, names of roads in the vicinity of the site, graphic or numerical scale, and north arrow;

   (ii) A plan view of the project and engineering study reach showing existing and proposed conditions including principal dimensions of the structure or work, elevations using the North American Vertical Datum of 1988, adjacent property lines and ownership, drainage and flood control easements, distance between proposed activity and navigation channel (when the proposed construction is in or near a commercially navigable body of water), flood plain limit, location and orientation of cross-sections, north arrow, and a graphical or numerical scale;
(iii) Cross-section views of the project perpendicular to the flow of floodwater and engineering study reach showing existing and proposed conditions including principal dimensions of the work as shown in plan view, existing and proposed elevations, normal water elevation, 10-year frequency flood elevation, 100-year frequency flood elevation, and graphical or numerical scales (horizontal and vertical); and

(iv) A soil erosion and sedimentation control plan for disturbed areas. This plan shall include a description of the sequence of grading activities and the temporary sediment and erosion control measures to be implemented to mitigate their effects. This plan shall also include a description of final stabilization and revegetation measures, and the identification of a responsible party to ensure post-construction maintenance.

(e) Engineering calculations and supporting data shall be submitted showing that the proposed work will meet the criteria of Section 8-8.4.

(f) Any and all other local, state and federal permits or approvals that may be required for this type of development.

Sec. 8-8.2 Based on the best available existing data according to federal, state or other sources, the Building Officer shall compare the elevation of the site to the base flood or 100-Year frequency flood elevation.

(a) Should no elevation information exist for the site, the developer's engineer shall calculate the elevation according to Section 8-5.4.

(b) Any development located on land that can be shown to have been higher than the base flood elevation of the current Flood Insurance Rate Map identification is not in the SFHA and, therefore, not subject to the requirements of this ordinance.

(c) The Building Officer 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.

(d) The Building Officer shall be responsible for obtaining from the applicant copies of all other federal, state and local permits, approvals, or waivers that may be required for this type of activity. The Building Officer shall not issue the development permit unless all required federal, state, and local permits have been obtained.

Sec. 8-8.3 Reserved
Sec. 8-8.4 Preventing increased damages. No development in the SFHA, where a floodway has not been determined shall create a damaging or potentially damaging increase in flood heights or velocity or threat to public health, safety and welfare or impair the natural hydrologic and hydraulic functions of the floodway or channel, or impair existing water quality or aquatic habitat. Construction impacts shall be minimized by appropriate mitigation methods as called for in this ordinance.

Sec. 8-8.5 Within all riverine SFHA's where the floodway has not been determined, the following standards shall apply:

(a) The developer shall have a Registered Professional Engineer state in writing and show through supporting plans, calculations and data that the project meets the engineering requirements of Section 8-7.5(a) through (1) for the entire flood plain as calculated under the provisions of Section 8-5.4 of this Ordinance.

   (i) As an alternative, the developer should have an engineering study performed to determine a floodway and submit that engineering study to IDNR/OWR and FEMA for acceptance as a designated floodway.

   (ii) Upon acceptance of the floodway by IDNR/OWR and FEMA, the developer shall then demonstrate that the project meets the requirements of Section 8-7.0 for the designated floodway. The floodway shall be defined according to the definition in Section 8-2.41 of this Ordinance.

(b) A development permit shall not be issued unless the applicant first obtains an IDNR/OWR permit or a determination has been made that an IDNR/OWR permit is not required.

(c) Permits for Dams.

   (i) Any work involving the construction, modification or removal of a dam as defined in Section 8-2 Il Adm Code Part 3702 (Rules for Construction of Dams) shall obtain an IDNR/OWR permit prior to the start of construction of a dam.

   (ii) If the Building Officer finds a dam that does not have an IDNR/OWR permit, the Building Officer shall immediately notify the IDNR/OWR Bartlett office.

   (iii) If the Building Officer finds a dam which is believed to be unsafe condition, the Building Officer shall immediately notify the owner of the dam, the IDNR/OWR Bartlett office, and the Illinois Emergency Management Agency.

(d) The following activities may be permitted without a Registered Professional Engineer's review or calculation of a base flood elevation and designated floodway. Such activities shall still meet the other requirements of this ordinance:
(i) Bridge and culvert crossings of streams in rural areas meeting conditions of IDNR/OWR Statewide Permit Number 2

(ii) Barge fleeting facilities meeting conditions of IDNR/OWR Statewide Permit No 3

(iii) Aerial utility crossings meeting conditions of IDNR/OWR Statewide Permit No. 4

(iv) Minor boat docks meeting conditions of IDNR/OWR Statewide Permit No 5

(v) Minor, non-obstructive activities meeting conditions of IDNR/OWR Statewide Permit No 6; activities (not involving fill or positive change in grade) are covered by this permit.

(vi) Outfall structures and drainage ditch outlets meeting conditions of IDNR/OWR Statewide Permit No 7

(vii) Underground pipeline and utility crossings meeting the conditions of IDNR/OWR Statewide Permit No 8

(viii) Bank stabilization projects meeting the conditions of IDNR/OWR Statewide Permit No 9

(ix) Accessory structures and additions to existing residential buildings meeting the conditions of IDNR/OWR Statewide Permit No 10

(x) Minor maintenance dredging activities meeting conditions of IDNR/OWR Statewide Permit No 11

(xi) Bridge and culvert replacement structures and bridge widenings meeting conditions of IDNR/OWR Statewide Permit No 12

(xii) Temporary construction activities meeting conditions of IDNR/OWR Statewide Permit No 13

(xiii) Special Uses of Public Waters meeting conditions of IDNR/OWR Statewide Permit No 14

(ix) Any development determined by IDNR/OWR to be located entirely within a flood fringe area shall be exempt from state floodway permit requirements.

**Sec. 8-8.5a** The flood carrying capacity within any altered or relocated watercourse shall be maintained.
Sec. 8-8.6 Compensatory storage.

(a) Whenever any portion of a flood plain is authorized for use, the volume of space which will be occupied by the authorized fill or structure below the base flood or 100-year frequency flood elevation shall be compensated for and balanced by a hydraulically equivalent volume of excavation taken from below the base flood or 100-year frequency flood elevation.

(b) The excavation volume shall be at least equal to 1.5 times the volume of storage lost due to the fill or structure.

(c) In the case of streams and watercourses, such excavation shall be made opposite or adjacent to the areas so filled or occupied.

(d) All flood plain storage lost below the existing 10-year a flood elevation shall be replaced below the proposed 10-year flood elevation. All flood plain storage lost above the existing 10-year flood elevation shall be replaced above the proposed 10-year flood elevation. All such excavations shall be constructed to drain freely and openly to the watercourse.

Sec. 8-9.0 Permitting requirements applicable to all flood plain areas.

In addition to the requirements found in Sections 8-6.0, 8-7.0 and 8-8.0 for development in flood fringes, designated floodways, and SFHA or flood plains where no floodways have been identified, the following requirements shall be met.

Sec. 8-9.1 Public health standards.

Sec. 8-9.2 No developments in the SFHA shall include locating or storing chemicals, explosives, buoyant materials, animal wastes, fertilizers, flammable liquids, pollutants, or other hazardous or toxic materials below the FPE unless such materials are stored in a floodproofed and anchored storage tank and certified by a professional engineer or floodproofed building constructed according to the requirements of section 8-9 of this ordinance.

Sec. 8-9.2a Public utilities and facilities such as sewer, gas and electric shall be located and constructed to minimize or eliminate flood damage.

Sec. 8-9.2b Public sanitary sewer systems and water supply systems shall be located and constructed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

Sec. 8-9.3 New and replacement water supply systems, wells, sanitary sewer lines and on-site waste disposal systems may be permitted providing all manholes or other above ground openings located below the FPE arewatertight.
Sec. 8-9.2c All other activities defined as development shall be designed so as not to alter flood flows or increase potential flood damages.

Sec. 8-9.4 Carrying capacity and notification. For all projects involving channel modification, fill, or stream maintenance (including levees), the flood carrying capacity of the watercourse shall be maintained. In addition, the City shall notify adjacent communities in writing 30 days prior to the issuance of a permit for the alteration or relocation of the watercourse.

Sec. 8-9.5 Protecting buildings. All buildings located within a 100-year flood plain also known as a SFHA, shall be protected from flood damage below the flood protection elevation. This building protection criteria applies to the following situations:

(a) Construction or placement of a new building or alteration or addition to an existing building valued at more than one thousand dollars ($1,000) or seventy (70) square feet.

(b) Substantial improvements or structural alterations made to an existing building that increase the floor area by more than 20% or equal or exceed the market value by fifty percent (50%). Alteration shall be figured cumulatively subsequently to the adoption of this ordinance. If substantially improved, the existing structure and the addition must meet the flood protection standards of this section.

(c) Repairs made to a substantially damaged building. These repairs shall be figured cumulatively subsequent to the adoption of this ordinance. If substantially damaged the entire structure must meet the flood protection standards of this section.

(d) 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.

(e) Installing a travel trailer or recreational vehicle on a site for more than 180 days per year; and

(f) Repetitive loss to an existing building as defined in Section 8-2. This building protection requirement may be met by one of the following methods.

Sec. 8-9.6 A residential or non-residential building, when allowed, may be constructed on permanent land fill in accordance with the following:

(a) The lowest floor, (including basement) shall be at or above the flood protection elevation; and

(b) The fill shall be placed in layers no greater than six inches deep before compaction and should extend at least ten (10) feet beyond the foundation of the building before sloping below the flood protection elevation; and
(c) The top of the fill shall be above the flood protection elevation. However, the ten (10) foot minimum may be waived if a structural engineer certifies an alternative method to protect the building from damages due to hydrostatic pressures; and

(d) The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap or other structural measure; and

(e) The fill shall be composed of rock or soil and not incorporate debris or refuse materials; and

(f) The fill shall not adversely affect the flow or surface drainage from or onto neighboring properties, and when necessary, stormwater management techniques such as swales or basins shall be incorporated.

Sec. 8-9.7 A residential or non-residential building may be elevated in accordance with the following:

(a) The building or improvements shall be elevated on crawl space, stilts, piles, walls, or other foundation that is permanently open to flood waters and not subject to damage by hydrostatic pressures of the base flood or 100-year frequency flood. Designs must either be certified by a registered professional engineer or architect or the permanent openings, one on each wall, shall be not more than one foot above existing grade, and consist of a minimum of two openings. The openings must have 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

(b) The foundation and supporting members shall be anchored and aligned in relation to flood flows and adjoining structures so as to minimize exposure to known hydrodynamic forces such as current, waves, ice and floating debris; and

(c) All areas below the flood protection elevation shall be constructed of materials resistant to flood damage. The lowest floor (including basement) and all electrical, heating, ventilating, plumbing, and air conditioning equipment and utility meters shall be located at or above the flood protection elevation. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the flood protection elevation.

   (i) The lowest floor (including basement) and all electrical, heating, ventilating, plumbing, and air conditioning equipment and utility meters shall be located at or above the flood protection elevation; and

   (ii) Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the flood protection elevation provided they are waterproofed; and

(d) The areas below the flood protection elevation may only be used for the parking of vehicles, building access or storage in an area other than a basement and not later modified or occupied as habitable space; and
(e) In lieu of the above criteria, the design methods to comply with these requirements may be certified by registered professional engineer or architect.

(f) Manufactured homes and travel trailers to be installed on a site for more than 180 days, shall be elevated to or above the flood protection elevation; and, shall be anchored to resist flotation, collapse, or lateral movement by being tied down in accordance with the Rules and Regulations for the Illinois Mobile Home Tie-Down Act issued pursuant to 77 IL Adm. Code Part 870. In addition, all manufactured homes shall meet the following elevation requirements:

   (i) In the case of manufactured homes placed or substantially improved (1) outside of a manufactured home park or subdivision, (2) in a new manufactured home park or subdivision, (3) in an expansion to an existing manufactured home park or subdivision, or (4) in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage from a flood, the top of the lowest floor shall be elevated to or above the flood protection elevation.

   (ii) In the case of manufactured homes placed or substantially improved in an existing manufactured home park or subdivision, the manufactured home shall be elevated to that either the top of the lowest floor is above the base flood elevation or the chasis is at least 36 inches in height above grade and supported by reinforced piers or other foundations of equivalent strength, whichever is less.

(g) Recreational vehicles or travel trailers shall be required to meet the elevation and anchoring requirements of Subsection 8-9.7b above unless:

   (i) They are on site for fewer than 180 consecutive days; and

   (ii) They are fully licensed, ready for highway use, and used only for recreation, camping, travel or seasonal use rather than as a permanent dwelling. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utility and service devices, and has no permanently attached additions.

**Sec. 8-9.8A.** Only a non-residential building may be structurally dry floodproofed (in lieu of elevation) provided that:

(a) A registered professional engineer or architect shall certify that the building has been structurally dry floodproofed below the flood protection elevation, the structure and attendant utility facilities are watertight and capable of resisting the effects of the base flood or 100-year frequency flood.

(b) The building design shall take into account flood velocities, duration, rate of rise, hydrostatic and hydrodynamic forces, the effects of buoyancy, and impacts from debris or ice.
(c) Floodproofing measures shall be operable without human intervention and without an outside source of electricity (Levees, berms, floodwalls and similar works are not considered floodproofing for the purpose of this subsection).

Sec. 8-9.8B A building may be constructed with a crawlspace located below the flood protection elevation provided that the following conditions are met:

(i) 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; and

(ii) 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 (1) foot above grade; and

(iii) The interior grade of the crawlspace below the flood protection elevation must not be more than two (2) feet below the lowest adjacent exterior grade; and

(iv) The interior height of the crawlspace measured from the interior grade of the crawl to the top of the foundation wall must not exceed four (4) feet at any point; and

(v) 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; and

(vi) Portions of the building below the flood protection elevation must be constructed with materials resistant to flood damage; and

(vii) Utility systems within the crawlspace must be elevated above the flood protection elevation.

Sec. 8-9.8C Construction of new or substantially improved critical facilities shall be located outside the limits of the floodplain. Construction of new critical facilities shall be permissible within the floodplain if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor (including basement) elevated or structurally dry floodproofed to the 500-year flood frequency elevation or three feet above the level of the 100-year flood frequency elevation, whichever is greater. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities.

Sec. 8-9.8D Tool sheds and detached garages and other minor accessory structures on an existing single-family platted lot, may be constructed with the lowest floor below the flood protection elevation in accordance with the following:
(a) The building is not used for human habitation.

(b) All areas below the base flood or 100-year frequency flood elevation shall be constructed with waterproof material. Structures located in a designated floodway shall be constructed and placed on a building site so as not to block the flow of flood waters and shall also meet the Appropriate Use criteria of Section 8-7.0. In addition, all other requirements of Section 8-6, 8-7 and 8-8 must be met.

(c) The structure shall be anchored to prevent flotation.

(d) Service facilities such as electrical and heating equipment shall be elevated or floodproofed to the flood protection elevation; and

(e) The building shall be valued at less than $10,000 and be less than 500 square feet in floor size; and

(f) The building shall be used only for the storage of vehicles or tools and may not contain other rooms, workshops, greenhouses or similar uses and cannot be modified later into another use; and

(g) The building shall meet the permanent opening criteria of Section 8-9.7(a);

(h) All flammable or toxic materials (gasoline, paint, insecticides, fertilizers, etc.) shall be stored above the flood protection elevation; and

(i) The lowest floor elevation should be documented and the owner advised of the flood insurance implications.

Sec. 8-9.9 Existing buildings located within a designated floodway shall also meet the more restrictive Appropriate Use standards included in Section 8-7.4. Non-conforming structures located in a designated floodway may remain in use and may only be enlarged, replaced or structurally altered in accordance with Section 8-7.5. A non-conforming structure damaged by flood, fire, wind or other natural or man-made disaster may be restored unless the damage exceeds fifty percent (50%) of its market value before it was damaged, in which case it shall conform to this ordinance.

Sec. 8-10.0 Other development requirements.

The City Council shall take into account flood hazards, to the extent that they are known in all official actions related to land management, use and development.

Sec. 8-10.1 New subdivisions, manufactured home parks, annexation agreements, and Integrated Development Districts (IDDs) within the SFHA shall be reviewed to assure that the proposed developments are consistent with Sections 8-6.0, 8-7.0, 8-8.0 and 8-9.0 of this ordinance and the need to minimize flood damage. Plats or plans for new subdivisions, manufactured home parks and IDD’s shall include a signed statement by a Registered Professional Engineer that the plat or plans account for changes in the drainage of surface waters in accordance with the Plat Act.
Sec. 8-10.2 Proposals for new subdivisions, manufactured home parks, travel trailer parks, IDD’s and additions to manufactured home parks and additions to subdivisions shall include base flood or 100-year frequency flood elevation data and floodway delineations.

(a) Where this information is not available from an existing adopted study, the applicant's engineer shall be responsible for calculating the base flood or 100-year frequency flood elevation per Section 8-5.4 and the floodway delineation per the definition in Section 8-2.41.

Sec. 8-10.3 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 flood plains shall be included within parks or other public grounds.

Sec. 8-10.4 The City Council shall not approve any IDD or plat of subdivision located outside the corporate limits unless such agreement or plat is in accordance with the provisions of this ordinance.

Sec. 8-11.0 All other activities defined as development shall be designed so as not to alter flood flows or increase potential flood damages.

Sec. 8-11.1 Variances.

No variances shall be granted to any development located within a designated floodway as defined in Section 8.2.12a.

(a) Whenever the standards of this ordinance place undue hardship on a specific development proposal, the applicant may apply to the City Council for a variance.

(b) The City Council shall review the applicant’s request for a variance and shall submit its recommendation to the City Council. The City may attach such conditions to granting a variance as it deems necessary to further the flood protection intent of this ordinance.

Sec. 8-11.2 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 SFHA; and

(b) An exceptional hardship would result if the variance were not granted; and

(c) The relief requested is the minimum necessary; and

(d) There will be no additional threat to public health, safety, beneficial stream uses and functions, especially aquatic habitat, or creation of a nuisance; and
(e) There will be no additional public expense for flood protection, lost environmental stream uses and functions, rescue or relief operations, policing, or repairs to streambeds and banks, roads, utilities, or other public facilities; and

(f) The provisions of Sections 8-6 and 8-8 of this ordinance shall still be met;

(g) The activity is not in a designated floodway; and

(h) The applicant’s circumstances are unique and do not establish a pattern inconsistent with the intent of the NFIP; and

(i) The granting of the variance will not alter the essential character of the area involved including existing stream uses; and

(j) All other required state and federal permits or waivers have been obtained.

Sec. 8-11.3 The Building Officer shall notify an applicant in writing that a variance from the requirements of Section 8-9.0 that would lessen the degree of protection to a building will:

(a) Result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage; and

(b) Increase the risks to life and property; and

(c) Require that the applicant proceed with knowledge of these risks and that the applicant will acknowledge in writing that he assumes the risk and liability.

Sec. 8-11.4 Variances requested in connection with restoration of an historic site or historic structure as defined in Subsection 8-2-27.1, Historic Structures, may be granted using criteria more permissive than the requirements of Section 8-11.1 and 8-11.2, subject to the conditions that:

(a) The repair or rehabilitation is the minimum necessary to preserve the historic character and design of the structure; and,

(b) The repair or rehabilitation will not result in the structure being removed as a certified historic structure.

Sec. 8-12.0 Disclaimer of liability.

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods may occur or flood heights may be increased by man-made or natural causes.
This ordinance does not imply that development, either inside or outside of the SFHA, will be free from flooding or damage.

This ordinance does not create liability on the part of the City, or any officer or employee thereof for any flood damage that results from reliance on this ordinance or any administrative decision made lawfully thereunder.

**Sec. 8-13.0.** Penalty.

If such owner fails after ten days notice to correct the violation:

(a) The City may make application to the Circuit Court of McHenry County, Illinois for an injunction requiring conformance with this ordinance or make such other order as the Court deems necessary to secure compliance with the ordinance.

(b) Any person who violates this Ordinance shall, upon conviction thereof, be fined not less than Fifty Dollars ($50.00) or more than One-Thousand Dollars ($1,000.00) for each offense.

(c) A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

(d) The City shall record a notice of violation on the title to the property.

**Sec. 8-13.1** The Building Officer 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.

(a) The Building Officer is authorized to issue an order requiring suspension of the subject development. The stop-work order shall be in writing, shall 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.

(b) No site development permit shall be permanently suspended or revoked until a hearing is held by the City Council. Written notice of such hearing shall be served on the permittee and shall state:

(i) the grounds for complaint or reasons for suspension or revocation; and

(ii) the time and place of hearing.

(c) At such hearing, the permittee shall be given an opportunity to present evidence on his/her behalf.

(d) At the conclusion of the hearing, the City Council shall determine whether the permit shall be suspended or revoked.
Sec. 8-13.3 Nothing herein shall prevent the City from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

Sec. 8-14.0 Abrogation and greater restrictions.

This ordinance is not intended to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. Where this ordinance and other ordinance, easements, covenants, or deed restrictions conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

This Ordinance is intended to repeal the original ordinance or resolution which was adopted to meet the National Flood Insurance Program regulations, but is not intended to repeal the resolution which the City passed in order to establish initial eligibility for the program.

Sec. 8-15.0 Separability.

The provisions and sections of this ordinance shall be deemed separable and the invalidity of any portion of this ordinance shall not affect the validity of the remainder.
Sec. 9-1. Definitions.  
As used in this Chapter:

*Juke box* means any music vending machine, contrivance, or device which, upon the insertion of a coin, slug, token, plate, disc, or key into any slot or other opening, or by the payment of any price, operates or may be operated, for the emission of songs, music or similar amusement.

*Mechanical amusement device* means any machine which upon the insertion of a coin, slug, token, plate, or disc, may be operated by the public generally for use as a game, entertainment, or amusement, whether or not a prize is offered, and whether or not skill in manipulation predominates over chance or luck. It shall include such devices as marble machines, skill ball, pin-ball machines, mechanical grab machines and all games, operations, or transactions similar thereto under whatever name they may be indicated.

Sec. 9-2. License required.**  
Any person displaying for public patronage or keeping for operation any juke box or mechanical device as herein defined, shall be required to obtain a license from the City, upon payment of a license fee and upon application, inspection, and issuance of such license as provided in Chapter 12; not-for-profit corporations shall, however, be exempt from the payment of the license fee. The regulations and requirements of this Section 9-2 shall not apply to video gaming terminals authorized and licensed by the State of Illinois pursuant to the Illinois Video Gaming Act and its rules and Section 9-10 of this Chapter. (MC-93-597; MC-12-1053)

Sec. 9-3. Investigation of application.  
The Chief of Police shall investigate the location wherein it is proposed to operate such machine, ascertain if the person is of good moral character, and report his findings to the City Clerk.

Sec. 9-4. Approval of electrical devices.  
Any device incorporating electrical equipment shall bear the underwriters seal of approval and shall not be licensed or permitted to operate until this shall have been ascertained.

Sec. 9-5. License fees. (MC-92-586)  
A. The annual license fee for each juke box or mechanical amusement device shall be $50.00 per each juke box and $50.00 per each mechanical amusement device for the first 20 mechanical amusement devices at one location.

B. An Arcade license fee covering all mechanical amusement devices at one location in excess of 20 devices shall be $200.00, and shall be reviewed annually.

* Cross Reference - Amusements generally, Chap. 5.
** Cross Reference - Licenses generally, Chap. 12.
Sec. 9-6. License expiration; sticker display.
The licenses required by this Chapter shall expire on April 30th of each year. The City Clerk shall furnish a license issued hereunder which shall be displayed on the premises at all times.

Sec. 9-7. Gambling devices prohibited.* (MC-12-1053)
Nothing in this Chapter shall in any way be construed to authorize, license or permit any gambling device whatsoever or any mechanism that has been judicially determined to be a gambling device, or in any way contrary to law, or that may be contrary to any future laws of the State of Illinois, except video gaming terminals licensed by the City and State of Illinois and Section 9-10 of this Chapter. (MC-12-1053)

Sec. 9-8. Number of licenses for certain mechanical amusement devices limited.
No more than four mechanical amusement devices used as games may be licensed for use at any given business location in the City during any license year, provided however that additional licenses may be issued for use at any such location if the gross revenues from such devices at such location does not at any time exceed twenty five per cent of the licensee's gross revenues from the sale of other services, goods or products at such location.

Sec. 9-9. When unlimited number of mechanical amusement device licenses permitted.
In addition to the licenses authorized by Section 9-8 hereof, an unlimited number of mechanical amusement devices may be licensed for use at one business location within the City during any business year; the following rules and regulations apply to such business operation:

1. It shall be unlawful to permit the premises to remain open between the hours of midnight and 10:00 a.m. Within fifteen minutes after the legal hour for closing, all customers shall be off the premises.

2. No food or beverages of any kind shall be sold on the premises.

3. It shall be unlawful to possess or consume alcoholic beverages on the premises.

4. Children of school age (whether enrolled in school or not) shall not be permitted on the premises during regular school hours, including lunch times and recesses.

5. No person under the age of sixteen (16) years shall be permitted on the premises at any time unless supervised by an adult person at such business location.

6. No person who is subject to the curfew laws of the State of Illinois or to the curfew ordinances of the City of McHenry, shall be permitted to remain on the premises later than fifteen (15) minutes prior to the time that such curfew goes into effect.

No license may be issued under the provisions of this Section unless the location at which such license is to be used is first approved by formal action of the Mayor and City Council. Any person or entity who obtains any license under the provision of the Section thereby acknowledges that the Mayor and City Council may, in their sole discretion, repeal this Section in its entirety, and also that the annual renewal of any such license shall not be construed as a vested right, but shall be subject to the sole discretion of the Mayor and City Council. No person or entity obtaining any license hereunder may sell or dispose of any such license.

* Cross Reference - Gambling generally, Sec. 14-29.
Sec. 9-10  Video Gaming Terminals. (MC-12-1053) (MC-17-1143)

A. License Required: No person shall have or keep a video gaming terminal or device in any place or public resort unless same is licensed by the City, pursuant to this Section 9-10.

B. Applications for licenses, as provided herein, shall be made to the City Clerk and all applicants shall conform to the general provisions set forth in Chapter 12. Licenses Generally of the Municipal Code, as well as the State of Illinois, through the Illinois Gaming Board, and pursuant to the Illinois Video Gaming Act and the rules and regulations implemented thereto.

C. Annual License Fee: The annual license fee payable to the City for a licensed private business shall be $500 for each video gaming terminal or device; licensed Veterans club shall be $100 for each video gaming terminal or device; and $1,000 for each terminal operator per location.

D. Replacement of License: Whenever a licensed video gaming terminal is replaced during the fiscal year a replacement license must be purchased; the licensee will pay a $2.00 transfer fee.

E. Issuance: The applicant must obtain federal and state licenses and exhibit proof of said licenses prior to the issuance of a license pursuant to this Section 9-10. Upon approval of the application by the State of Illinois and payment of the license fee in accordance with Section 9-10(C) of this Chapter, the City shall issue one license for each gaming terminal. (MC-12-1053)
Sec. 10-1. In General.
It shall be unlawful to light or maintain any fire in the City except in accordance with the provisions of this Article. The term “fire” as used in this Article shall not be construed to mean or include a fire in a furnace, stove, boiler, or fireplace.

Sec. 10-2. Proximity to structures, flammables.
Notwithstanding any provision herein, it shall be unlawful to light or maintain any fire in the City so close to any building or structure, or any flammable material other than that to be burned so as to cause a fire hazard.

Sec. 10-3. Prohibited burning. (MC-01-777)
The open burning of any materials or substances is hereby prohibited within the City limits, except for a fire kindled for outdoor cooking, recreational burning, and controlled burning for prairie or forest ecology management purposes, subject to the conditions and limitations contained herein.

Sec. 10-4. Outdoor cooking. (MC-01-777)
A fire kindled for outdoor cooking shall be allowed within the City limits, provided such fire is contained in a permanent fireplace, portable grill or other appliance designed for the preparation of food and used in the manner it was intended by its manufacturer.

Sec. 10-5. Recreational burning. (MC-01-777; MC-02-812)
Recreational burning shall be permitted within the City limits, subject to the conditions and limitations contained herein.

(a) Definitions. Recreational burning shall be defined as follows:
1. A fire within an enclosed portable fireplace designed for outdoor use.
2. A bonfire used for ceremonial purposes and conducted by responsible individuals or organizations, but only upon special permit issued by the City. Unless otherwise approved by the City, a bonfire shall not exceed five feet by five feet in size, shall not burn longer than three hours, and shall not be closer than fifty feet from any structure. Adequate provision shall be made to prevent the fire from spreading to within fifty feet of any structure.

Cross Reference - Where non-flammable building materials are required, Sec. 7-124; electrical regulations, Sec. 7-125 et seq.; interfering with fire alarm wires, Sec. 7-166; false fire alarms, Sec. 14-4(c); fires in parks, Sec. 16-33; burning prohibited on streets, Sec. 21-19.

Cross Reference - Burning prohibited on streets, Sec. 21-19.
(b) Conditions. Recreational burning shall be subject to the following conditions:

1. Unless otherwise authorized by the City Council, recreational fires shall occur on private property and at no time shall a person start or maintain any fire in any street, sidewalk, park or public right-of-way.
2. A recreational fire shall be attended at all times by an adult.
3. A garden hose connected to a water supply or other fire extinguishing equipment shall be readily available for use.
4. Only seasoned dry firewood shall be used for a recreational fire, provided, however, a small amount of paper and/or brush may be used to start the fire as kindling.
5. The fire shall be extinguished when unattended.
6. Any smoke from a recreational fire shall not flow into an adjacent or nearby building.
7. If at any time, the fire is found to be a nuisance to persons on neighboring properties, the fire shall be immediately extinguished.

Sec. 10-6. Controlled burning. (MC-01-777)
Controlled burning of areas within the City for prairie or forest ecology management shall be allowed provided that all necessary permits from the Illinois Environmental Protection Agency and any other agency charged with such review are properly secured and submitted to the City at least forty-eight hours prior to the date of such burning.

Secs. 10-7—10-31. Reserved.

ARTICLE II. FIREWORKS AND EXPLOSIVES***

Sec. 10-32. Definition of fireworks.
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, the type of balloons which require fire underneath to propel the same, 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 effect; 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 twenty-five hundredths 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 twenty hundredths grains of explosive mixture; the sale and use of which shall be permitted at all times. (MC-90-529)

*** Cross Reference - Fireworks and explosives in parks, Sec. 16-29.
Sec. 10-33. Use prohibited without license.****
It shall be unlawful to discharge or set off any squib, rocket, cracker, torpedo, grenade, gun, revolver, pistol, cap, or cartridge, or other combustible firecrackers or fireworks of any kind, without first obtaining a license therefore as is provided herein.

Sec. 10-34. Public displays.
The public exhibition of fireworks or pyrotechnics shall not be given unless a permit therefore shall be first secured from the City Council and all such public displays and exhibitions shall be under the supervision of a competent person as approved by the City Council. The conduct of such exhibition shall be superintended by the Chief of Police or a member of the Police Department assigned by the Chief of Police to this duty.

Sec. 10-35. Sale, storage and possession prohibited.
No person shall store, exhibit or have in his possession with intent to give away, or sell, or offer for sale within the City, any squib, rocket, cracker, torpedo, grenade or other combustible firecracker or fireworks of any kind, or similar fireworks device.

Sec. 10-36. Exemption for signaling devices.
The prohibition against the use and sale of fireworks and explosives as defined herein shall not apply to the sale, storage or use of railroad track torpedoes, or other signaling devices used by railroads or by other persons in the interest of public safety.

**** Cross Reference - Licenses generally, Ch. 12.
Sec. 10.50-1. Purpose.
It is the purpose of this Chapter to provide for the regulation of the nature and frequency of garage sales, in order to insure public safety, provide proper parking control and to prevent any annoyance or harm which might otherwise occur from the uncontrolled operation of such sales in districts not zoned for commercial use.

Sec. 10.50-2. Definition.
For purposes of this Chapter, the term "garage sale" shall mean and include all sales of tangible personal property conducted on premises in the City that are zoned for residential use, regardless of the name by which such sale may be called.

Sec. 10.50-3. License required; fee; display.
It shall be unlawful for any person, firm or corporation to conduct any garage sale in the City of McHenry without first filing with the City Clerk the information hereinafter specified and obtaining from the City Clerk a license to do so, to be known as a "garage sale license." Each license issued pursuant to this Chapter shall be prominently displayed on the premises upon which the garage sale is conducted throughout the entire period of the licensed sale. No fee shall be charged for such license.

Sec. 10.50-4. Information to be filed.
The information to be filed with the City Clerk pursuant to this Chapter shall be as follows:

(a) Name of the person, firm, group, corporation, association, or organization conducting said sale.

(b) The address at which said sale is to be conducted.

(c) The date(s) of the sale.

(d) The number of days of the proposed sale.

(d) The hours of the sale.

(e) The number of garage sales held on the premises during the current calendar year.
Sec. 10.50-5. Number of sales.
No more than two garage sales shall be conducted on the same premises by the same household within any calendar year.

Sec. 10.50-6. Time limitations.
No garage sale shall be conducted over a period of more than three consecutive calendar days, nor shall any such sale begin before 8:30 a.m. or continue later than 5:00 p.m. on any given day.

Sec. 10.50-7. Types of merchandise.
Garage sales shall be limited to the sale of household goods and furnishings which have been in use in the dwelling unit located on the premises on which such sales are conducted. No person, firm or corporation shall, at any garage sale, sell at retail any goods purchased or acquired in wholesale lots.

Sec. 10.50-8. Signs.
Any person, firm or corporation licensed under the provisions of this Chapter may erect two signs advertising the licensed sale. One such sign shall be located on the premises where the sale is to take place, and the other shall be located at the nearest major intersection to the sale premises, giving directions to the sale. All signs shall be removed no later than three hours after conclusion of the sale.

Sec. 10.50-9. Persons and sales excepted.
The provisions of this Chapter shall not apply to or affect the following persons or sales:

(a) Persons selling goods pursuant to an order or process of a court of competent jurisdiction.

(b) Persons acting in accordance with their powers and duties as public officials.

(c) Any persons selling or advertising for sale an item or items of personal property which are specifically named or described in the advertisement and which separate items do not exceed three (3) in number with only one of any type of item permitted. (MC-13-1079)

(d) Any sale which falls within the provisions of ILCS.

(e) Any sale conducted by a charitable or religious organization where the sale is being held entirely as a fund-raising activity for said organization.
MUNICIPAL CODE
CHAPTER 11
HEALTH AND SANITATION*

ARTICLE I. IN GENERAL
(MC-07-929)

Sec 11-1-11-15. Reserved.

ARTICLE II. FOOD AND FOOD HANDLERS**
DIVISION 1. GENERALLY

Sec. 11-16. "Food dealer" defined.
The term "food dealer" as used in this Article, shall be construed to mean and include every person engaged in
the business of selling food at retail for human consumption, either on or off the premises where sold.

Sec. 11-17. "Food" includes beverages.
The term "food" as used in this Division shall be construed to include beverages.

Sec. 11-18. Enforcement.
The County Health Department shall, by agreement with the City, be responsible for the enforcement of this
Article, except those provisions relating to municipal licenses.***

Sec. 11-19. License required; procedure; fee; penalty.
(a) License required. It shall be unlawful for any food dealer to engage in, or do business in the City
without having first secured a license therefor. Application for such license shall be made in compliance
with the general provisions of this Code relating thereto and shall state therein the kind of food intended
to be sold or handled. The annual fee for such license shall be Thirty Dollars ($30.00). (MC-92-584)

(b) Penalty for violation of Section. Any person, firm or corporation violating any provision of this Section
shall be fined not less than $25.00 nor more than $500.00 for each offense committed on each day
during, or on which, a violation occurs or continues.

Sec. 11-20. Revocation of license.
Any food dealer's license may be revoked by the City Council for repeated violation of the provisions of this
Article, or for any violation of any other ordinance provision relating to the conduct of the business, the
condition of the premises, the articles sold, or the license required.

* Cross Reference - Animals and fowl generally, Ch. 6; plumbing regulations, Sec. 7-41; nuisance
business, Sec. 14-3; swimming pools regulated, Ch. 22; weeds and noxious growths, Sec. 24-26 et seq.;
water and sewers, Ch. 26.
** Cross Reference - Sanitation of beverage establishments, Sec. 4-20.
*** Cross Reference - Licenses generally, Ch. 12.
Sec. 11-21. Inspections, samples required.
The Health Department shall inspect, or cause to be inspected, every place, building or establishment, used for the storage, handling, sale or preparation of food or drink intended for human consumption. It shall be the duty of every food dealer to give the Health Department such samples of each such food or drink as may be necessary for the purpose of making an analysis of the same to determine whether it is clean and wholesome.

Secs. 11-22. Reserved.

Sec. 11-23. Double licensing.
Any person licensed to sell any of the foods or beverages for the sale of which a license is required by the terms of this Chapter or Chapter 4 may conduct on the same premises and in connection with the licensed business, any other business mentioned in this Chapter or Chapter 4 without paying any additional fee therefore; provided, that the fee paid for the licensed business is at least as great as the amount of the fee required for the other business so conducted. This section shall not be so construed as to relieve any such applicant from the regulatory requirement to such business.

Sec. 11-24. Unwholesome food.
No person shall offer for sale, or keep for the purpose of selling or offering for sale any food of any kind intended for human consumption which is spoiled or tainted or is unwholesome and unfit for human consumption for any reason.

All tainted or unwholesome food intended for human consumption may be condemned by the Health Department and shall thereupon be seized and destroyed by the Health Department or any police officer.

Sec. 11-25. Adulteration.
It shall be unlawful to sell, offer for sale, or keep for such purpose, any food or drink intended for human consumption which has been adulterated by any material harmful in any way, or which does not comply with the State statutes governing the same.

Sec. 11-26. Sanitation of premises.
Premises used for the sale or storage of food intended for human consumption must be kept in a clean and sanitary condition. It shall be unlawful to permit any accumulation of refuse, or waste of any kind thereon for more than 24 hours; and it shall be unlawful to permit any decaying animal or plant matter or waste to remain on any such premises at all.

Sec. 11-27. Flies and vermin.
Premises used for the storage of food intended for human consumption shall be kept free from flies and vermin of all kinds.

Sec. 11-28. Cleanliness, health of employees.
All persons engaged in handling or coming in contact with food intended for human consumption shall keep themselves clean and shall keep their clothes clean. It shall be unlawful to permit any person afflicted with a contagious or venereal disease to handle any food intended for sale for human consumption, or for any such person to handle any such food.

Secs. 11-29 - 11-35. Reserved.
DIVISION 2. RESTAURANTS.

Sec. 11-36. Definitions.
The following definitions shall apply in the interpretation and enforcement of this Division:

   Employee shall mean any person who handles food or drink during preparation or serving, or who comes in contact with any eating or cooking utensils, or who is employed in a room in which food or drink is prepared or served.

   Food shall mean and include all articles used for food, drink, confectionery or condiment, whether simple, mixed or compound, and all substances or ingredients used in the preparation thereof.

   Health Department shall mean a duly appointed health officer of the McHenry County Health Department, or his authorized representative.

   Itinerant Restaurant shall mean a restaurant operation which does not have a permanent business address in the City and which pays no sales tax to the City, and which operates for a temporary period in connection with a fair, carnival, circus, public exhibition, or other similar gathering. (MC-92-584)

   Restaurant shall mean and include any restaurant, coffee shop, cafeteria, short order cafe, luncheonette, tavern, sandwich stand, drug store and soda fountain serving food, and all other eating or drinking establishments, as well as kitchens or other places in which food or drink is prepared for sale elsewhere.

   Utensils shall mean and include any kitchenware, tableware, glassware, cutlery, utensils, containers, or other equipment with which food or drink comes in contact during storage, preparation, or serving.

Sec. 11-37. Enforcement interpretation.
This Division shall be enforced by the Health Department in accordance with the interpretations thereof contained in the most current edition of the U.S. Public Health Service Food Service Sanitation Manual, a copy of which shall be on file at the McHenry County Health Department, provided, however, that should any provision, item or part thereof fail to meet the minimum requirements of state law, the requirements of said state law shall apply only to that provision, item or part.

Sec. 11-38. Permit required; posting; suspension, revocation.*
It shall be unlawful for any person to operate a restaurant in the City who does not possess an unrevoked permit from the Health Department. Such permit shall be posted in a conspicuous place. Only persons who comply with the requirements of this Division shall be entitled to receive and retain such a permit. A person conducting an itinerant restaurant shall be required to secure a permit.

Such a permit may be temporarily suspended by the Health Department upon the violation by the holder of any of the terms of this Division, or revoked after an opportunity for a hearing by the Health Department upon serious or repeated violation.

* Cross Reference - Permits generally, Ch. 12

372
Sec. 11-39. Permit fees; penalty.
(a) Fees. Every applicant for a permit to operate a restaurant or itinerant restaurant shall pay to the City a fee or fees for each such establishment in accordance with the following schedule:

<table>
<thead>
<tr>
<th>Type</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Restaurants, annually</td>
<td>$30.00</td>
</tr>
<tr>
<td>Itinerant restaurant, for each period of 5 days or less</td>
<td>$50.00</td>
</tr>
</tbody>
</table>

The foregoing fees shall not be prorated.

(b) Penalty for violation of Section. Any person, firm or corporation violating any provision of this Section shall be fined not less than $25.00 nor more than $750.00 for each offense committed on each day during, or on which, a violation occurs or continues. (MC-96-654)

Sec. 11-40. Applicability to non-profit organizations, fee exemptions.
The provisions of Section 11-38 shall apply to all restaurants and itinerant restaurants operated by fraternal organizations, service clubs, religious, educational and charitable institutions; provided, however, these organizations shall be exempt from the payment of any permit fees; and provided further that said organizations are maintained not-for-profit and the service rendered is confined to members of the organizations and their guests.

Sec. 11-41. Disease control.
No person who is infected with a communicable disease, or who is a carrier of any disease, shall work in any restaurant, and no restaurant shall employ any such person suspected of a communicable disease in any form, or of being a carrier of such a disease.

If the restaurant manager suspects any employee has contracted a communicable form of disease, or has become a carrier of such a disease, he shall notify the Health Department immediately, and said Health Department shall immediately order the employee to undergo a physical examination as required.

Hand washing signs shall be posted in any toilet rooms used by employees.

Sec. 11-42. Construction, reconstruction, alteration of restaurants.
All restaurants which are hereafter constructed, reconstructed, or extensively altered, shall conform to the requirements of this Division for Grade A restaurants. Properly prepared plans for all restaurants which are hereafter constructed, reconstructed, or extensively altered, shall be submitted to the Health Department for approval before work is begun.

Secs. 11-43 - 11-48. Reserved.
DIVISION 3. MILK AND MILK PRODUCTS

Sec. 11-49. Applicability.
All milk and milk products controlled by the provisions of this Division shall be those as defined in Illinois Food, Drug and Cosmetic Act and as shall be subsequently amended.

Sec. 11-50. Enforcement.
This Division shall be enforced by the Health Department in accordance with applicable interpretations thereof contained in the Illinois Compiled Statutes as amended, pertaining to the regulation of dairy products, an official copy of which shall be on file in the McHenry County Health Department, except that in case any provisions or part of this Division does not meet the minimum requirements of the State law, then the requirements of the State law shall apply only to that provision or part thereof so affected.

The Health Department is further authorized to enforce any part of this Division which may not be covered by either the said Code or State law, by applying interpretations thereof which are necessary to safeguard the public health.

Sec. 11-51. License for milk dealers, milk delivery vehicles.
(a) License required. It shall be unlawful for any person to engage in the business of a milk dealer within the City or to operate a milk delivery truck in the City for delivery of milk to any location within the City without first securing an annual license to do so. The annual fee for such license shall be $200.00 for each delivery truck and milk dealership. The application for such license shall comply with the general regulations for license applications as set forth in this Code. (MC-92-584)

(b) Exception. No annual license shall be required if the activity sought hereunder to be licensed is subject to the City sales tax.

(c) Penalty for violation of Section. Any person, firm or corporation violating any provision of this Section shall be fined not less than $25.00 nor more than $500.00 for each offense committed on each day during, or on which, a violation occurs or continues.

Sec. 11-52. Standards.
It shall be unlawful to sell or offer for sale within the City, any milk or milk product which shall not have been produced and maintained until delivery in compliance with the Grade A milk statute of the State of Illinois and which is not labeled or branded as being in conformity with all State of Illinois Grade A requirements or which is not produced, processed, delivered and sold by a person, firm, or corporation subject to health control of an area or municipality approved by the State of Illinois, Department of Health, Division of Foods and Dairies.

Secs. 11-53 - 11-60. Reserved.
DIVISION 4. FOOD DELIVERIES

Sec. 11-61. License compliance required.
It shall be unlawful to use or permit the use of any vehicle, including wagons, motor vehicles, and vehicles propelled by human power, for the storage or carrying of any meat, poultry, fish, lard, vegetables, bread or bakery products, or any other provisions intended for human consumption, including beverages other than milk, in the City for the purpose of delivering any such foodstuffs to any place in the City for sale and consumption at the place delivered, unless a license for such vehicle is first secured and the provisions of this Division are fully complied with.

Sec. 11-62. License application, issuance, fee.
Applications for licenses required by this Division shall be made to the City Clerk under the provisions generally applicable as set forth elsewhere in this Code, and such applications shall recite the names of the persons making such deliveries and the nature of the goods carried. The Clerk shall issue such licenses if requirements have been satisfied, and shall maintain a list of all such licenses issued.

The annual fee for such licenses, per vehicle, shall be $50.00 per year. (MC-92-584)

Sec. 11-63. Exemption from fee.
No license fee shall be required for any vehicle used to deliver foodstuffs as hereinabove set forth, from any establishment which is licensed and inspected as a food dealing establishment in the City; but all provisions of this Division, other than that providing for the payment of a fee, shall be complied with in connection with such vehicles.

Sec. 11-64. License revocation.
Any license issued under the provisions of this Division may be revoked by the City for any violation of any Section or regulation hereof, and such revocation shall be in addition to any fine imposed.

Sec. 11-65. Inspections.
It shall be the duty of the Health Department to make or cause to be made such inspections as may be necessary to insure compliance with the provisions of this Division.

Sec. 11-66. Sanitation requirements.
All vehicles used in food deliveries shall be kept in a clean and sanitary condition and shall be thoroughly cleaned each day they are so used. It shall be unlawful to permit any stale food, decaying matter, or any other waste material or product to accumulate in or on any such vehicle while it is so used.

If unwrapped foodstuffs are transported in any such vehicle such goods shall be carried in a portion or compartment of the vehicle which is cleaned and protected against dust and insects.

Secs. 11-67 - 11-77. Reserved.
ARTICLE III. GARBAGE AND REFUSE GENERALLY*

Sec. 11-78. Duty to provide for disposal.
It shall be the duty of every owner or his agent or occupant of any building, apartment, store or other business establishments, or any person who shall regularly accumulate refuse, rubbish and garbage within the City, to provide for such disposal of garbage, refuse and rubbish as shall be necessary to keep the place and premises in a clean and sanitary condition as shall be required by the Health Department.

Garbage shall mean the animal and vegetable waste resulting from the handling, preparation, cooking, serving, and non-consumption of food.

Refuse shall mean all putriscible and non-putrescible solids (except body wastes), including garbage, rubbish, ashes, and dead animals.

Rubbish shall mean non-putrescible solid wastes (excluding ashes) consisting of either:

(a) combustible wastes such as paper, cardboard, plastic containers, yard clippings, and wood; or
(b) non-combustible wastes such as metal cans, glass, and crockery.

Sec. 11-79. Duty to provide, maintain refuse containers.
Refuse containers shall be provided by the owner, tenant, lessee or occupant of the premises. Refuse containers shall be maintained in good condition and any container which does not conform with the provisions of this Article or that may have ragged or sharp edges or any other defect liable to injure the person collecting the contents thereof, shall be promptly replaced upon notice.

Sec. 11-80. Construction of garbage containers.
Garbage containers shall be made of metal or approved plastic equipped with suitable handles and tight fitting covers, and shall be water tight.

Sec. 11-81. Garbage container capacity.
Garbage containers shall have a capacity of not more than 30 gallons.

Sec. 11-82. Sanitation of garbage containers.
Garbage containers shall be of a type approved by the Director of Public Works and shall be kept in a clean, neat and sanitary condition at all times.

Sec. 11-83. Reserved.

Sec. 11-84. Rubbish containers.
Rubbish containers shall be of a kind suitable for collection purposes, and shall be of such weight that they can be handled by one person.

* Cross Reference - Burning of rubbish, Sec. 10-18; rubbish and trash disposal in parks, Sec. 16-14.
Sec. 11-85. Disposal of refuse.

(a) No person shall place any refuse in any street, alley or other public place, or other public or private property whether owned by such person or not, within the City except it be in proper containers for collection or under express approval granted by the Director of Public Works. Nor shall any person throw or deposit any refuse in any stream or other body of water.

(b) Any unauthorized accumulation of refuse on any premises is hereby declared to be a nuisance and is prohibited.

(c) No person shall cast, place, sweep or deposit anywhere within the City any refuse in such a manner that it may be carried or deposited by the elements upon any street, sidewalk, alley, sewer, parkway or other public place, or into any other occupied premises within the City.

(d) No person shall place or deposit any refuse or yard waste materials in any dumpster or in any trash, refuse or garbage receptacle or container, belonging to the City of McHenry or to another person, unless the Owner, Lessee or Custodian of such dumpster, receptacle or container has given express permission to such person to do so. (MC-90-532)

Sec. 11-86. Frequency of collection.

(a) Residential. Refuse accumulated by residences shall be collected at least once each week.

(b) Commercial. Such businesses or institutions as cater to the public shall provide suitable garbage collection service to maintain the premises in a clean, sanitary condition, and the frequency of collection requirements shall be in accordance with the volume of garbage and refuse accumulated and as shall be required by the Health Department.

Sec. 11-87. Combustible, explosive refuse.
Highly combustible or explosive materials shall not be placed in containers for regular collection but shall be disposed of as safety shall require.

Sec. 11-88. Use of incinerators.
It shall be unlawful to burn rubbish of any kind, other than papers, paper goods, or cardboard anywhere in the City except in an incinerator inside a building.

Sec. 11-89. Storage of garbage and refuse containers, etc.
No person shall place any garbage and refuse container adjacent to any street, alley, or other public place more than 24 hours prior to the regular and customary collection schedule established by such person's scavenger, nor shall any person permit such garbage and refuse containers to remain adjacent to any street, alley or other public place more than 24 hours after the aforesaid regular and customary collection schedule. At all other times such garbage and refuse containers shall be stored out of public's plain view.

Sec. 11-90. Accumulations of garbage.
The accumulation and storage of garbage on any premises for more than a period of two weeks is hereby declared to be a public nuisance and is prohibited.

Secs. 11-91 - 11-98. Reserved.
ARTICLE IV. SCAVENGERS
DIVISION 1. GENERALLY

Sec. 11-99. Definition.
For the purpose of this Article, the word "scavenger" means any person engaged in the business of collecting, carting, hauling or transporting garbage, ashes, refuse of all kinds and any and all miscellaneous waste materials.

Sec. 11-100. Exemptions from Article.
This Article shall not apply to anyone who is engaged in the business of landscaping, lawn and ground maintenance, tree trimming, lawn mowing, bush and tree trimming, construction or trucking who remove, haul and dispose of brush, tree branches and trunks, grass clippings, landscape wastes, building debris, construction debris or junk. (MC-90-531)

Sec. 11-101. Reserved.

Sec. 11-102. Vehicle insurance.
Each vehicle used in scavenger operations licensed under this Article shall be insured against public liability in the amount of $1,000,000 for each person injured and in the amount of $1,000,000 for each occurrence.

Sec. 11-103. Vehicles to be watertight and equipped with cover.
All vehicles used by a scavenger in his business shall be watertight and shall be equipped with airtight covers for such portions as are used for the transportation of garbage, refuse of all kinds or miscellaneous waste materials.

Sec. 11-104. Vehicles and containers to be kept closed.
All vehicles, boxes or containers used or leased by a scavenger shall be kept securely closed to prevent the contents from scattering.

Sec. 11-105. Residential services.
(a) The scavenger licensee furnishing one and two family residential scavenger service shall provide such services at such rates and under such terms and conditions as may be determined from time to time by the City Council. (MC-87-433)

(b) A scavenger may provide such other special type of collection service (such as the pickup of household debris, construction material, junked appliances, discarded furniture or other miscellaneous materials) as the homeowner may request at a collection fee to be agreed upon between the scavenger and the homeowner.

Sec. 11-106. Business, commercial and industrial services.
A scavenger licensed under this Article may contract with each business, commercial and industrial establishment, individually, for scavenger service, at a monthly collection fee to be agreed upon between them.

Secs. 11-107 - 11-116. Reserved.
DIVISION 2. LICENSE

Sec. 11-117. Required.
No person shall engage in the business of scavenger in the City, without first having obtained an annual scavenger license from the City.

Sec. 11-117.1 Number of licenses.
Only one scavenger license for one, two, three and four family residence service in the City shall be issued. Scavenger licenses for all other scavenger services in the City shall be issued on a non-exclusive basis. (MC-87-433; MC-93-598)

Sec. 11-117.2 Terms and conditions of exclusive license.
The exclusive license for one, two, three and four family residence scavenger service in the City shall be issued to such scavenger on such terms and conditions as the City Council may from time to time determine. (MC-87-433; MC-93-598)

Sec. 11-118. Filing and contents of application.
Application for a scavenger's license shall be filed with the City Clerk. Such application shall be signed, under oath, by the applicant and shall disclose the name, residence address and telephone number of the applicant, the business address and telephone number of the applicant, the make, model, year and serial number of each vehicle used and to be used by the applicant in the scavenger operations, and the total number of such vehicles.

Sec. 11-119. Bond for exclusive license.
The waste hauler who is awarded the exclusive license for one, two, three and four family residential scavenger services shall immediately upon being awarded the license, file a bond with the City in the penal sum of $250,000.00, executed by the waste hauler as principal and also by two non-corporate sureties, who shall be residents of the State. The waste hauler, however, shall have the option of substituting a corporate surety on such bond, in lieu of the aforesaid non-corporate sureties. Such bond shall be approved by the City Attorney and shall be conditioned upon the waste hauler complying fully with all of the provisions of the ordinances of the City at all times and also complying fully with all of the provisions of the Statutes of the State. (MC-87-433; MC-93-598)

Sec. 11-120. Action on application.
The City Clerk shall receive and issue scavenger licenses based upon receipt of all required documentation and fees as stated herein.

Sec. 11-121. Fee.
No annual fee shall be charged for the exclusive license issued for one, two, three and four family residential scavenger service. The annual fee for all other scavenger licenses shall be $100.00 for each vehicle that is to be used in the scavenger business in the City. (MC-87-433; MC-92-584; MC-93-598)

Sec. 11-122. Term
The term of an annual scavenger's license shall be the same as the fiscal year of the City (May 1 to April 30).
Sec. 11-123. Revocation.

(a) The Mayor and City Council may revoke any scavenger's license issued under this Article, where the licensee has violated any of the regulations prescribed in this Article. Notice of such revocation shall be given to the licensee by personal delivery to the licensee, or by certified mail addressed to the licensee. The licensee shall be entitled to a hearing before the Mayor and City Council in connection with such revocation, provided he makes written demand for such hearing within five days after he has received the notice of revocation.

(b) A hearing demanded by the licensee under this Section shall take place within fifteen days after the demand for the hearing has been filed with the City Clerk. Whenever a demand has been made by a licensee for a hearing in connection with the revocation of his license, the licensee shall be permitted to continue scavenger operations in the City during the time that such hearing on the revocation is pending.

Secs. 11-124 - 11-129. Reserved.

ARTICLE V. NO SMOKING

Sec. 11-130. Smoking declared nuisance.
It is hereby found and declared that it shall be a nuisance for any person to smoke or carry a lighted cigarette, cigar or pipe in any municipal building of the City of McHenry, Illinois and in any grocery store, meat or fish market, delicatessen store or convenience food store in the City of McHenry.

Sec. 11-131. Smoking prohibited.
No person shall smoke or carry a lighted cigarette, cigar or pipe in any grocery store, delicatessen store, meat or fish market, or convenience food store in the City of McHenry except in designated smoking areas, restrooms, executive offices and other rooms or areas where merchandise is not displayed for sale.

No person shall smoke or carry a lighted cigarette, cigar or pipe in any municipal building of the City of McHenry, Illinois

Sec. 11-132. Designation of smoking areas.
Smoking areas may be designated by the proprietor of any grocery store, delicatessen store, meat or fish market, or convenience food store by posting appropriate signs, arranging seating to provide smoke free areas, or any other means which may be appropriate.

Sec. 11-133. No smoking signs.
The proprietor or other person in charge of any place where smoking is prohibited by this Article shall post "No Smoking" signs at all entrances to such premises and in conspicuous places within said stores prior to the entrance into the shopping areas of said store effective January 4, 1984. It shall be unlawful for any person to remove, deface or obscure any sign posted pursuant to the provisions of this Article.

Sec. 11-134. Reserved.
ARTICLE VI. HOUSING MAINTENANCE AND OCCUPANCY CODE
DIVISION 1. GENERAL PROVISIONS

Sec. 11-135. Legislative Findings.
It is hereby found that there exists and may, in the future, exist within the City of McHenry, Illinois premises, dwelling units, rooming units, or parts thereof which by reason of their structure, equipment, sanitation, maintenance, use, or occupancy, affect or are likely to affect adversely the public health (including the physical, mental and social well-being of persons and families), safety, and general welfare. To correct and prevent the existence of such adverse conditions, and to achieve and maintain such levels of residential environmental quality as will protect and promote public health, safety, and general welfare, it is further found that the establishment and enforcement of minimum housing standards are required.

Sec. 11-136. Purposes.
It is hereby declared that the purpose of this Article is to protect, preserve, and promote the physical and mental health and social well-being of the people, to prevent and control the incidence of communicable diseases, to reduce environmental hazards to health, to regulate privately and publicly owned dwellings for the purpose of maintaining adequate sanitation and public health, and to protect the safety of the people and to promote the general welfare by legislation which shall be applicable to all dwellings now in existence or hereafter constructed. It is further declared that the purpose of this Article is to insure that the quality of housing is adequate for protection of public health, safety, and general welfare, including: safety from fire and accidents; provision for an adequate level of maintenance; determination of the responsibilities of owners, operators and occupants of dwellings; and provision for the administration and enforcement thereof.

Sec. 11-137. Scope.
The provisions of this Article shall apply uniformly to the construction, maintenance, use and occupancy of all residential buildings and structures, where applicable, and shall apply uniformly to the alteration, repair, equipment, use, occupancy and maintenance of all existing residential buildings and structures, within the jurisdiction of the City of McHenry irrespective of when or under what code or codes such buildings or structures were originally constructed or rehabilitated.

Sec. 11-138. Title.
This Article shall be known and may be cited as the Housing Maintenance and Occupancy Code of the City of McHenry, hereinafter referred to as "this Article".

DIVISION 2. DEFINITIONS.

The following definitions shall apply in the interpretation and enforcement of this Article:

Sec. 11-139. Approved shall mean approved by the local or state authority having such administrative authority.

Sec. 11-140. Ashes shall mean the residue from the burning of combustible materials.
Sec. 11-141. **Building** shall mean a fixed construction with walls, foundation and roof, such as a house, factory, garage, etc.

Sec. 11-142. **Bulk Container** shall mean any metal garbage, rubbish, and/or refuse container having a capacity of two cubic yards or greater and which is equipped with fittings for hydraulic and/or mechanical emptying, unloading and/or removal.

Sec. 11-143. **Dilapidated** shall mean no longer adequate for the purpose of use for which it was originally intended.

Sec. 11-144. **Dormitory** shall mean a building or a group of rooms in a building used for institutional living and sleeping purposes by four or more persons.

Sec. 11-145. **Dwelling** shall mean any enclosed space wholly or partly used or intended to be used for living, sleeping, cooking and eating; provided that temporary housing as hereinafter defined shall not be classified as a dwelling.

Sec. 11-146. **Dwelling Unit** shall mean a room or group of rooms located within a dwelling forming a single habitable unit with facilities used or intended to be used by a single family for living, sleeping, cooking and eating purposes.

Sec. 11-147. **Extermination** shall mean the control and elimination of insects, rodents, or other pests by eliminating their harborage places, by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping or by any other recognized and legal pest elimination methods approved by the local or state authority having such administrative authority.

Sec. 11-148. **Garbage** shall mean the animal and vegetable waste resulting from the handling, preparation, cooking, serving, and non-consumption of food. (See refuse, rubbish)

Sec. 11-149. **Guest** shall mean an individual who shares a dwelling unit in a non-permanent status for not more than thirty days.

Sec. 11-150. **Infestation** shall mean the presence within or around a dwelling of any insects, rodents or other pests.

Sec. 11-151. **Lead-based Paint** shall mean any paint containing more than the level established by the U.S. Consumer Product Safety Commission as being the "safe" level of lead in residential paint and paint products.

Sec. 11-152. **Meaning of Certain Words.** Whenever the words "dwelling", "dwelling unit," "rooming units," "premises," "structure" are used in this Article, they shall be construed as though they were followed by the words "or any part thereof." Words used in the singular include the plural, and the plural the singular, the masculine gender includes the feminine and the feminine the masculine.

Sec. 11-153. **Multiple Dwelling** shall mean any dwelling containing two or more dwelling units.
Sec. 11-154. **Occupant** means any individual living, sleeping, cooking and eating in or having possession of a dwelling unit or a rooming unit; except that in a dwelling unit, a guest shall not be considered an occupant.

Sec. 11-155. **Owner** shall mean any person who, alone or jointly or severally with others:
(a) shall have legal title to any premise, dwelling or dwelling unit, with or without accompanying actual possession thereof, or
(b) shall have charge, care, or control of any premise, dwelling or dwelling unit, as owner or agent of the owner, or an executor, administrator, trustee, or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this Article and of rules and regulations adopted pursuant thereto, to the same extent as if he were the owner.

Sec. 11-156. **Person** shall mean and include any individual, firm, corporation, association, partnership, cooperative or governmental agency.

Sec. 11-157. **Plumbing** shall mean and include all of the following supplied facilities and equipment: gas pipes, gas burning equipment, water pipes, garbage disposal units, waste pipes, water closets, sinks, installed dishwasher, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basins, drains, vents, and any other similar supplied fixtures, and the installation thereof, together with all connections to water, sewer, or gas lines.

Sec. 11-158. **Premises** shall mean a platted lot or part thereof or unplatted lot or parcel of land or plot of land, either occupied or unoccupied by any dwelling or non-dwelling structure, and includes any such building, accessory structure or other structure thereon.

Sec. 11-159. **Properly Connected** shall mean connected in accordance with all applicable codes and ordinances of the City of McHenry provided, however, that the application of this definition shall not require the alteration or replacement of any connection in good working order and not constituting a hazard to life or health.

Sec. 11-160. **Refuse** shall mean all putrescible and non-putrescible solids (except body wastes), including garbage, rubbish, ashes, and dead animals.

Sec. 11-161. **Refuse Container** shall mean a water tight container that is constructed of metal, or other durable material impervious to rodents, that is capable of being serviced without creating unsanitary conditions, or such other containers as have been approved by the appropriate authority. Openings into the container such as covers and doors shall be tight fitting.

Sec. 11-162. **Rodent Harborage** shall mean any conditions or place where rodents live, nest or seek shelter.
Sec. 11-163. Rodent-Proofing shall mean a form of construction which will prevent the ingress or egress of rodents to or from a given space or building, or from gaining access to food, water or harborage. It consists of the closing and keeping closed of every opening in foundations, basements, cellars, exterior and interior walls, ground or first floors, roofs, sidewalk gratings, sidewalk openings, and other places that may be reached and entered by rodents by climbing, burrowing or other methods, by the use of materials impervious to rodent gnawing and other methods approved by the Building Officer.

Sec. 11-164. Rooming House shall mean any dwelling other than a hotel or motel or that part of any dwelling, containing one or more rooming units, and/or one or more dormitory rooms and in which persons either individually or as families are housed with or without meals being provided.

Sec. 11-165. Rooming Unit shall mean any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking purposes.

Sec. 11-166. Rubbish shall mean non-putrescible solid wastes (excluding ashes) consisting of either:

(a) combustible wastes such as paper, cardboard, plastic containers, yard clippings, and wood; or

(b) non-combustible wastes such as metal cans, glass, and crockery.

Sec. 11-167. Safety shall mean the condition of being reasonably free from danger and hazards which may cause accidents or diseases.

Sec. 11-168. Temporary Housing means any tent, trailer, mobile home or any other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to any other structure, or to any utility system on the same premises.

Sec. 11-169. Toxic Substances shall mean any chemical product applied on the surface of or incorporated into any structural or decorative material which constitutes a potential hazard to human health at acute or chronic exposure levels.

Sec. 11-170. Undefined Words. Words not specifically defined in this Article shall have the common definition set forth in a standard dictionary.

Secs. 11-171 - 11-175 (Reserved)
DIVISION 3. RESPONSIBILITIES OF OWNERS AND OCCUPANTS

Sec. 11-176. No owner or other person shall occupy or let to another person any dwelling or dwelling unit unless it and the premises are clean, sanitary, fit for human occupancy, and comply with all applicable legal requirements of the State of Illinois, the County of McHenry and the City of McHenry.

Sec. 11-177. Every owner of a dwelling containing two (2) or more dwelling units shall maintain in a clean and sanitary condition the shared or public area of the dwelling and premises thereof; every occupant shall refrain from any conduct which contributes to the uncleanliness or unsanitary conditions of the shared public areas.

Sec. 11-178. Every occupant of a dwelling or dwelling unit shall maintain in a clean and sanitary condition that part of the dwelling, dwelling unit and premises thereof that he occupies and controls.

Sec. 11-179. Every occupant of a dwelling or dwelling unit shall store and dispose of all his rubbish in a clean, sanitary and safe manner.

Sec. 11-180. Every occupant of a dwelling or dwelling unit shall store and dispose of all his garbage, refuse, and any other organic waste which might provide food for insects and/or rodents in a clean, sanitary, safe manner. All garbage cans and refuse containers shall be rodent-proof, insect-proof, water-tight, structurally strong to withstand handling stress, easily filled, emptied and cleaned; shall be provided with tight-fitting covers or similar closures; and shall be maintained at all times in clean sanitary condition.

Sec. 11-181. The total capacity of all provided garbage and/or refuse cans and bulk storage containers shall be sufficient to meet the needs of the occupants of the dwelling.

Sec. 11-182. Every owner of a dwelling containing three or more dwelling units shall supply facilities or refuse containers for the sanitary and safe storage and/or disposal of rubbish and garbage. In the case of a single or two-family dwellings it shall be the responsibility of each occupant to furnish such facilities or refuse containers.

Sec. 11-183. Every occupant of a dwelling containing a single dwelling unit shall be responsible for such extermination of any infestation whenever his dwelling unit is the only one infested. Notwithstanding, the foregoing provisions of this subsection, whenever infestation is caused by failure of the owner to maintain a dwelling in a rodent-proof or reasonable insect-proof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two or more units of the dwelling, or in the shared or public parts of any dwelling containing two or more dwelling units, extermination thereof shall be the responsibility of the owner.

Sec. 11-184. No occupant of a dwelling or dwelling unit shall accumulate rubbish, boxes, lumber, scrap metal, or any other materials in such a manner that may provide a rodent harborage in or about any dwelling or dwelling unit.
Sec. 11-185. No owner of a dwelling containing three or more dwelling units shall accumulate or permit the accumulation of rubbish, boxes, lumber, scrap metal, or any other materials in such a manner that may provide a rodent harborage in or about the shared or public areas of a dwelling or its premises.

Sec. 11-186. No owner or occupant of a dwelling or dwelling unit shall store, place or allow to accumulate any materials which may serve as food for rodents in a site accessible to rodents.

Sec. 11-187. From September 15 until June 1 and from 6:30 a.m. to 10:30 p.m., in every dwelling unit and/or rooming unit when the control of the supplied heat is the responsibility of a person other than the occupant, a temperature of at least 68°Fahrenheit shall be maintained in all habitable rooms, bathrooms, water closet compartments, recreation rooms, laundries and communicating corridors immediately adjacent to a dwelling unit at a distance of 36 inches above the floor level. A minimum temperature of 65°Fahrenheit shall be maintained at all other times during this period.

Failure to furnish the heat required by this paragraph shall not constitute an offense where it is due to a breakdown of the heating plant, if diligence is used to have such plant repaired (unless such breakdown has been caused by a violation of this Article), nor where it is due to strikes, to a general shortage of fuel, to any act of the tenant who makes the complaint or to any cause beyond the owner's control.

Sec. 11-188. No owner or occupant shall apply a lead-based paint to any surface in any dwelling, dwelling unit, rooming house and/or rooming unit.

Secs. 11-189-190 Reserved

DIVISION 4.

MINIMUM STANDARDS FOR BASIC EQUIPMENT AND FACILITIES

No person shall occupy as owner or let to another for occupancy any dwelling or dwelling unit, for the purposes of living, sleeping, cooking or eating therein, which does not comply with the following requirements:

Sec. 11-191. Every dwelling unit shall have a room or portion of a room in which food may be prepared and/or cooked, which shall have adequate circulation area, and which shall be equipped with the following:

(a) A kitchen sink in good working condition and properly connected to a water supply system which is approved by the appropriate authority and which provides at all times an adequate amount of heated and unheated running water under pressure, and which is connected to a sewer system approved by the appropriate authority.

(b) Cabinets and or shelves for the storage of eating, drinking, and cooking equipment and utensils and of food that does not under ordinary summer conditions, require refrigeration for safe keeping; and a counter or table for food preparation; said cabinets and/or shelves and counter or table shall be of sound construction furnished with surfaces that are easily cleanable and that will not impart any toxic or harmful effect to food.
(c) A stove or similar device, for cooking food, and a refrigerator, or similar device, for the safe storage of food at temperatures less than 45°F (7°C) but more than 32°F (0°C) under average maximum summer conditions, which are properly installed with all necessary connections for safe, sanitary and efficient operation; provided that such stove, refrigerator, and/or similar devices need not be installed when dwelling unit is not occupied and when the occupant is expected to provide same on occupancy, and that sufficient space and adequate connections for the safe and efficient installation and operation of said stove, refrigerator and/or similar devices are provided.

Sec. 11-192. Within every dwelling unit there shall be a non-habitable room which affords privacy to a person within said room and which is equipped with a flush water closet in good working condition. Said flush water closet shall be equipped with easily cleanable surfaces, be properly connected to a water system that at all times provides an adequate amount of running water under pressure to cause the water closet to be operated properly, and shall be properly connected to a sewer system which is approved by the appropriate authority.

Sec. 11-193. Within every dwelling unit there shall be a lavatory sink. Said lavatory sink may be in the same room as the flush water closet, or, if located in another room, the lavatory sink shall be located in close proximity to the door leading directly into the room in which said water closet is located. The lavatory sink shall be in good working condition and properly connected to a water supply system which is approved by the appropriate authority and which provides at all times an adequate amount of heated and unheated running water under pressure, and which is properly connected to a sewer system approved by the appropriate authority. Water inlets for lavatory sinks shall be located above the overflow rim of these facilities.

Sec. 11-194. Within every dwelling unit there shall be a room which affords privacy to a person within said room and which is equipped with a bathtub or shower in good working condition. Said bathtub or shower may be in the same rooms as the flush water closet or in another room and shall be properly connected to a water supply system which is approved by the City and which provides at all times an adequate amount of heated and unheated water under pressure and which is connected to a sewer system approved by the City. Water inlets for bathtubs shall be located above the rim of these fixtures.

Secs. 11-195 - 11-200 (Reserved)

DIVISION 5.
GENERAL REQUIREMENTS
RELATING TO THE SAFE AND SANITARY MAINTENANCE
OF PARTS OF DWELLINGS AND DWELLING UNITS

No person shall occupy as owner or let to another for occupancy any dwelling or dwelling unit, for the purpose of living therein, which does not comply with the following requirements:
Sec. 11-201. Every foundation, roof, floor, exterior, and interior wall, ceiling, inside and outside stair, every porch, and every appurtenance thereto, shall be safe to use and capable of supporting the loads that normal use may cause to be placed thereon; and shall be kept in sound condition and good repair. Every inside and outside stair or step shall have uniform risers and uniform treads.

Sec. 11-202. Where required, gutters, leaders and down-spouts shall be provided and maintained in good working condition so as to provide proper drainage of storm water.

Sec. 11-203. Every dwelling, multiple dwelling, rooming house or accessory structure and the premises on which they are located shall be maintained in a rodent-free and rodent-proof condition.

(a) All openings in the exterior walls, foundations, basements, ground or first floors which have a ½ inch diameter or more opening, shall be rodent-proofed in an approved manner if they are within 48 inches of the existing exterior ground level immediately below such openings, or if they may be reached by rodents from the ground by climbing unguarded pipes, wires, cornices, stairs, roofs, and other items such as trees or vines or by burrowing.

(b) All windows located at or near ground level used or intended to be used for ventilation, all other openings located at or near ground level, and all exterior doorways which might provide an entry for rodents, shall be supplied with adequate screens or such other devices as will effectively prevent the entrance of rodents into the structure.

(c) All sewers, pipes, drains or conduits and openings around such pipes and conduits shall be constructed to prevent the ingress or egress of rodents to or from a building.

(d) Interior floors of basements, cellars and other areas in contact with soil shall be rodent-proofed in an approved manner.

(e) Materials stored outside the dwelling shall be stacked and elevated so that there will be at least an eighteen (18) inch opening between the material and the ground level so as to prevent the creation of a rodent harborage area. No stacking or piling of material shall take place against the exterior walls of the structure.

(f) Any materials used for rodent-proofing shall be acceptable to the Building Enforcement Officer.

Sec. 11-204. All fences shall be constructed in accordance with the Fence Ordinance and shall be maintained in good condition and shall not create a harborage for rodents. Any fence that is to be painted, shall be painted with a non-lead base paint.

Sec. 11-205. Accessory structures present or provided by the owner, agent, or tenant occupant on the premises of a dwelling shall be structurally sound, and be maintained in good repair and free of insects and rodents, or such structures shall be removed from the premises. The exterior of such structures shall be made weather resistant through the use of decay resistant materials or the use of lead-free paint or other preservatives.
Sec. 11-206. Every plumbing fixture and all water and waste pipes shall be properly installed and maintained in good sanitary working condition.

Sec. 11-207. Every water closet compartment, bathroom and kitchen floor surface shall be constructed and maintained so as to be reasonably impervious to water and so as to permit such floor to be easily kept in a clean and sanitary condition.

Sec. 11-208. No owner, operator or occupant shall cause any service, facility, equipment or utility which is required under this Article to be removed from or shut off from or discontinued for any occupied dwelling or dwelling unit let or occupied by him; except for such temporary interruption as may be necessary while actual repairs or alterations are in process, or during temporary emergencies when discontinuance of service is approved by the appropriate authority.

Sec. 11-209. Negligent housing management.
No person having personal management or control of residential real estate, whether as a legal or equitable owner of residential real estate or as a managing agent or otherwise, shall knowingly permit by his or her gross carelessness or neglect, the physical condition or facilities of the residential real estate to become or remain so deteriorated that the health, welfare or safety of any inhabitant or other person is endangered or otherwise adversely affected thereby.

Secs. 11-210 - 11-215 (Reserved)

DIVISION 6. ENFORCEMENT

Sec. 11-216. The Building Officer shall enforce the provisions of this Article, and in connection therewith, he shall possess all of the enforcement powers and authority conferred upon him by Chapter 7 of this Code.

DIVISION 7. EMERGENCIES

Sec. 11-217. Whenever in the opinion of the Mayor or the Building Enforcement Officer, because of the condition of the premises, immediate action is required to protect the public health, safety, or welfare, an emergency order may be issued by the Mayor or the Building Enforcement Officer to order and require the occupants to vacate the same forthwith, to prohibit any person from going thereon except for the purpose of correcting or abating the emergency, and to employ the necessary labor and materials to correct or abate the condition which gave rise to the emergency as expeditiously as possible. The costs incurred by the City in correcting or abating such condition shall be charged against such land as a lien by filing a Notice of Claim of Lien in the Office of the McHenry County Recorder of Deeds and such costs may also be recovered in a suit at law against the owner of said premises, together with attorneys fees and costs incurred by the City in such litigation.

Sec. 11-218. Penalty. Any person firm or corporation violating any provision of this Article shall be fined not less than $25.00 nor more than $500.00 for each offense committed on each day during, or on which, a violation occurs or continues.

Sec. 11-219. Reserved.
ARTICLE VII.
LEAF PICK-UP SERVICE
(MC-90-538)

Sec. 11-220. Fall leaf pick-up service.
The City will provide a vacuum leaf pick-up service for single family residence and duplex properties located within the City, during the fall season of the year on dates and at times to be announced by the City.

Sec. 11-221. Curbline or road-line collection. (MC-04-842)
Piled leaves shall be placed for vacuum pick-up in the parkway or within four feet of the road-line or curbline of the premises making such placement.

Sec. 11-222. Curbside yardwaste collection.
The City will provide a curbside yardwaste collection service for single family residence and duplex properties located within the City on dates and times to be announced by the City.

Sec. 11-223. Unlawful contents; intent presumed.
It shall be unlawful for any person to place a yardwaste collection bag or container at curbside for pick-up containing any garbage, trash, refuse or other waste materials. It shall be presumed that the contents of the yardwaste collection bags or containers were known to and authorized by the Owner or Occupant of the premises from which said bags or containers were deposited for pick-up.

Sec. 11-224. Rejection of pick-up.
No yardwaste pick-up will be made by the City if:

a) the yardwaste is not contained in Kraft paper bags or other container to which is affixed the appropriate yardwaste pickup sticker; or

b) such Kraft paper bag or container contains something other than yardwaste or leaves.

Rejected bags or containers shall be immediately removed by the Owner or Occupant of the premises from which the pick-up was offered.
MUNICIPAL CODE
CHAPTER 12
LICENSES AND PERMITS GENERALLY*
MC-07-929

Sec. 12-1. Clerk designated license officer.
In the absence of specific provisions to the contrary, the City license officer shall be the City Clerk and she shall collect all license fees and issue all licenses in the name of the City, to all persons qualified under the provisions of this Code.

Sec. 12-2. Duties of City Clerk.
The City shall promulgate and enforce all reasonable rules and regulations necessary to the operation of license and permit issuance and enforcement; the City Clerk shall adopt all forms and may require affidavits pertaining to information given on such forms; shall submit such applications as require investigation or compliance with specific ordinances to such employees or officials of the City as shall have jurisdiction thereof and shall notify applicants of the acceptance or rejection of the applications submitted, or revocation of licenses or permits.

Sec. 12-3. When fee payable.
In the absence of provisions to the contrary, all fees and charges for licenses or permits shall be paid in advance at the time application therefore is made to the City Clerk.

Sec. 12-4. Termination of licenses.*
All annual licenses shall terminate on the last day of the fiscal year of the City, where no provision to the contrary is made.

* Cross References - Licensing of alcoholic beverage establishments, Chapter 2.5 et seq. Sec. 4-3 et seq.; license required for amusements, Sec. 5-2; licensing of dogs, Sec. 6-22; building permits, Sec. 7-1 et seq.; electrical permits, Sec. 7-131 et seq.; moving permits, Sec. 7-161 et seq.; fence permits, Sec. 7-141; licensing of coin-operated devices, Sec. 9-2; license required for fireworks or explosives, Sec. 10-33; licensing of food dealers, Sec. 11-19 et seq.; permits for restaurants, Sec. 11-38; licensing of milk dealers and delivery vehicles, Sec. 11-51; license required for food deliveries, Sec. 11-61; scavenger's license, Sec. 11-117 et seq.; parade permits, Sec. 15-2 et seq.; permits for group activities in parks, Sec. 16-45; permits for transient merchants and peddlers, Sec. 19-13 et seq.; licensing of special sales, Sec. 20-2; permits for street construction, Sec. 21-2; permits for street openings, Sec. 21-15; excavation permits, Sec. 21-32 et seq.; swimming pool permits, Sec. 22-3; permits to plant in public places, Sec. 24-1 et seq.; taxicab licenses, Sec. 25-17 et seq.; water connection permits, Sec. 26-17 et seq.; permits for water-using air conditioning systems, Sec. 26-83 et seq.; Licensing of adult uses, (MC-06-888).
Sec. 12-5. Transfer; change of location.

(a) Transfer. Licenses issued may be transferred by the original licensee provided that written notice thereof is given to the City Clerk within ten days before the transfer is made, but no more than one transfer of any license shall be made within any license year. Provided that it shall be unlawful to transfer any peddler's, itinerant merchant's or chauffeur's license, and any attempted transfer of such a license shall have no effect.

(b) Change of location. The location of any licensed business or occupation, or of any permitted act, may be changed, provided ten days notice thereof is given to the City Clerk, in the absence of any provision to the contrary; provided that the building, zoning and frontage consent requirements of the ordinances are complied with.

Sec. 12-6. Inspections; samples.

(a) Whenever inspection of the premises used for or in connection with the operation of a licensed business or occupation is reasonably necessary to secure compliance with any ordinance provision or to detect violators thereof, it shall be the obligation of the licensee, or the agent in charge of the premises to be inspected, to admit thereto for the purpose of making such inspection, any authorized officer or employee of the City to make such inspection at any reasonable time.

(b) Whenever an analysis of any commodity or material is reasonably necessary to secure conformance with any ordinance provision or to detect violations thereof, it shall be the duty of any licensee of the municipality whose business is governed by such provision to give to any authorized officer or employee of the municipality 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, or take an adequate sample of the desired 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.

Sec. 12-7. Posting of license.
It shall be the duty of any person conducting the licensed business in the City to keep his license posted in a prominent place on the premises used for such business.

Sec. 12-8. Special permits to non-profit enterprises.
The City Clerk shall issue special permits, without the payment of any license fees or other charges therefor, to any person or organization for the conduct or operation of a non-profit enterprise, either regularly or temporarily, when she finds that the applicant operates without private profit for a public, charitable, educational, literary, fraternal, or religious purpose; all applicants for special permits as provided for herein shall furnish such information and make such affidavits as shall be reasonably required by the City Clerk to determine if such applicant conforms.

* Cross Reference - End of fiscal year established, Sec. 2-2.
Sec. 12-9. Penalties.
Whenever in this Code or in any ordinance of the City the conduct of any activity is permitted only pursuant to and after the issuance of a license or permit, where no specific penalty is provided therefore, the violation for any such provision of this Code or of any ordinance shall be punished by a fine of not less than $25.00 nor more than $750.00. Each day any violation of any provision of this Code or of any ordinance shall continue shall constitute a separate offense. (MC-96-654)

Sec. 12-9 thru 12-20. Reserved

Article I.
PAWBROKERS AND SECONDHAND DEALERS
DIVISION 1. GENERALLY
MC-11-1039

1. **Pawnbroker:** Every owner, operator or employee engaged in the business of receiving property in pledge or as security for money or other things advanced to the pawn or pledger shall be deemed to be a pawnbroker.
2. **Secondhand Dealer:** Every owner, operator or employee engaged in the business of the purchase, sale, trade or barter of secondhand articles, including but not limited to recyclable materials, scrap metal, electronics, video game systems/video games/video game accessories, jewelry, collectable coins, valuable and/or precious metals and stones, or household goods, shall be deemed to be a secondhand dealer, whether such dealer operates from a fixed storefront business, or is conducting business on a temporary, short-term basis from a non-fixed location. (MC-12-1057)
3. **Licensee:** The owner, operator, and all employees of a business licensed under this article.
4. **Junk/Scrap:** Manufactured articles or parts that are non-precious metals that have been discarded and are useful only as material for reprocessing or recycling. (MC-12-1057)
5. **Individually Identifiable Articles:** Non-junk/scraps articles that are individually identifiable by a serial number, or other applied numbers, letters, characters or markings; or other unique features that serve to distinguish it from any other similar article and can be used to establish ownership of the article. (MC-12-1057)
6. **Precious Metals:** Manufactured articles or part consisting primarily of gold (chemical symbol Au), silver (chemical symbol Ag), platinum (chemical symbol Pt) or palladium (chemical symbol Pd), but not including articles merely plated with these materials or article that are similar in color to these metals, but not actually consisting of them. (MC-12-1057)

Sec. 12-22. Exemptions.
This article shall not apply to:
1. The purchase or sale of used motor vehicles, including motorcycles and motor driven cycles, as defined in the Illinois Vehicle Code; or,
2. Charitable organizations that accept donated goods for resale as a fund raising program for the charity; or
3. Any articles purchased by a pawnbroker or secondhand dealer from another pawnbroker or secondhand dealer; or
4. Businesses that solely deal in collectable coins and paper currency. (MC-12-1057)
Sec. 12-23. Electronic Reporting of Transactions.
The Police Department shall enter into a contract for service and maintain its contract for service with LeadsOnline, or a similar entity as designated by the Chief of Police, in order to enhance its investigative services to protect both pawnbrokers/secondhand dealers and members of the general public. In the event of a change to its electronic reporting system, the City will notify all impacted licensees of the change within a reasonable time prior to such change.

Every pawnbroker or secondhand dealer shall operate and maintain a computer system with internet access and photographic or video capability sufficient for the electronic reporting requirements described in this article. Any failure or malfunction of such equipment on the part of the licensee shall not exempt the licensee from the recording/reporting requirements outlined in section 12-24 of this article.

Sec. 12-24. Record of Transactions.
Throughout the term of the license, every pawnbroker or secondhand dealer shall report/upload to LeadsOnline, or the City’s current electronic reporting system, the below listed information for each and every transaction conducted during each day they were open for business by the end of that business day.

A transaction shall consist of all articles brought in to a pawnbroker or secondhand dealer for sale, barter, trade, pledge or pawn by an individual (pawn/seller) at the same time and date, and includes the sale of non-junk/scrap articles by a pawnbroker or secondhand dealer to another person. Articles brought into a pawnbroker or secondhand dealer by an individual (pawner/seller) for sale, barter, trade, pledge or pawn at different times on the same date by the same person shall be considered as separate transactions, regardless of how short the difference in the time is between those transactions. Separate transactions, either from the same person or different persons, shall not be combined and reported collectively.

1. Non-junk/scrap articles
   A. Purchases/receipts by Licensees
      i. All non-junk scrap articles brought in to a pawnbroker or secondhand dealer by an individual (pawner/seller) for sale, barter, trade, pledge or pawn during a single transaction shall be itemized separately. Licensees shall not lump non-junk articles together (e.g., “five gold chains”) and must individually itemize and describe each individual article.
      ii. Each non-junk scrap article brought in to a pawnbroker or secondhand dealer by an individual (pawner/seller) for sale, barter, trade, pledge or pawn during a transaction shall be associated with the person (pawner/seller) who brought the article in. The licensee shall record/report the following information for each such transaction.
         a. A digital photographic image of the photo ID card of the pawner/seller, sufficiently clear to allow the information on the ID card to be read. The photo ID must be a currently valid (not expired) card issued by a government entity of the United States, and must include the pawner’s/seller’s first and last name, current address, date of birth, and physical descriptors. In the event the card is valid but does not contain the pawner’s/seller’s current address, the licensee must separately record and report the current address.
         b. The date and time of the transaction.
         c. A complete and thorough description of each non-junk/scrap article including but not limited to the following:
1. Type of article.
2. Brand name/make/manufacturer (if applicable)
3. Model number (if applicable)
4. Serial number (if applicable)
5. Color/finish
6. Any other identifying marks, writing, engraving, etc.

d. A digital photograph of each non-junk/scrap article purchased or received as trade, barter, pledge or pawn, sufficiently detailed to allow reasonable identification of each trade. If the article contains any identifying numbers, marks, writing, engraving, etc., or any other distinguishing characteristics, the digital image(s) shall capture same. (MC-12-1057)

B. Sales by licensees
   i. All non-junk/scrap articles sold, be it a pawnbroker or secondhand dealer to an individual shall be itemized separately. Licensees shall not lump non-junk/scrap articles together (e.g., “five gold chains”) and must individually itemize and describe each individual article.
   ii. Each non-junk/scrap articles sold, be it a pawnbroker or secondhand dealer shall be associated with the person to whom it was sold. The licensee shall record/report the following information for each such transaction:
      a. The name and current address of the purchaser must be recorded/reported – a photographic image of the purchaser’s government issued photo ID is not required.
      b. A digital photograph of the non-junk/scrap articles sold by a pawnbroker or secondhand dealer to an individual is not required.

2. Junk/scrap articles
   A. Purchases/receipts by Licensees
      i. Junk/scrap articles may be recorded/reported in bulk, but must specify the weight, type (e.g., steel, copper, aluminum, etc.) and form (e.g. sheet, cans, pipe, wire, etc.) of the bulk material.
      ii. Each different type and form of junk/scrap bulk material brought into a secondhand dealer by an individual for sale during a transaction shall be associated with the person who brought the material in. Licensees shall record/report the following information for each such transaction:
         a. A photographic image of a photo ID card of the seller, sufficiently clear to allow the information to the ID to be read. The photo ID must be a currently valid (not expired) card issued by a government entity of the United States, and must include the pawner/seller’s first and last name, current address, date of birth, and physical descriptors. In the event the card is valid but does not contain the seller’s current address, the licensee must separately record and report the current address.
         b. If the seller is selling on behalf of a company or business, the name, address, and telephone number of such company or business shall also be recorded/reported.
         c. If the junk/scrap is brought by motor vehicle to a licensee for sale, the make, model, color, and license plate number of that vehicle shall be recorded/reported.
         d. The date and time of the transaction.
         e. A digital photograph or, if the licensee has a video system, video segment of each individual type and form of bulk purchased by the licensee shall be linked to the record of that transaction.

B. Sales by Licensees
   i. Licensees do not need to record/report any information pertaining to the sale of junk/scrap material. (MC-12-1057)
Sect 12-25. Pawnbrokers issuance of signed receipt.
Every pawnbroker shall, at the time of making any advancement or loan, deliver to the person pawning or pledging any property a receipt signed by him/her containing an accurate account and description, in the English language, or all the goods, articles, or other things pawned or pledged, the amount of money, value, or thing loaned thereon, the time of pledging the same, the rate of interest to be paid on such loan, and the name and residence of the person making the pawn or pledge.

Sec. 12-26. Pawnbrokers employment of persons under sixteen.
No pawnbroker shall permit any person under the age of sixteen (16) years to take pledges in pawn for him/her.

Sec. 12-27, Secondhand dealer not to act as a pawnbroker.
No secondhand dealer shall receive any article of thing by way of pledge of pawn, nor shall he/she loan of advance any sum of money on the security of any article or thing, unless he/she also happens to be separately licensed as a pawnbroker under this article, and complies with the specific requirements of Sections 12-25 and 12-26 of this article.

1. No articles received on deposit or pledge by any pawnbroker, shall be permitted to be redeemed or removed from the place of business of such pawnbroker for the space of forty-eight (48) hours after the delivery of the signed receipt required by Section 12.25, Pawnbrokers Issuance of Signed Receipt. No articles pawned or pledged shall be sold or disposed of by any pawnbroker within one (1) year from the time the pawner or pledger shall make default in the payment of interest on the money so advanced by the pawnbroker, unless by the written consent of the pawner or pledger.(MC-12-1057)
2. Individually Identifiable Articles (excluding precious metals): No pawnbroker or secondhand dealer shall expose for sale, or sell or barter, or melt, crush/compact, destroy, or otherwise dispose of any non-scrap/junk article that is individually identifiable within thirty (30) days or the time of purchasing or receiving the same, nor until the same has been in or upon the premises where the same are offered, exposed, bartered, or sold at least thirty (30) days. During this thirty (30) day time period, articles must be kept on site and available for inspection pursuant to Section 12-33, Inspection of Premises by Police, upon request.(MC-12-1057)
3. Precious Metal Articles: No pawnbroker or secondhand dealer shall expose for sale, or sell or barter, or melt, crush/compact, destroy, or otherwise dispose of any non-scrap/junk article within ten (10) days of the time of purchasing or receiving the same, nor until the same has been in or upon the premises where the same are offered, exposed, bartered, or sold at least ten (10) days. During this ten (10) day time period, articles must be kept on site and available for inspection pursuant to Section 12-33, Inspection of premises by Police, upon request.(MC-12-1057)
4. Waiting Period Exemptions:
   a. Coins, paper money and bullion that have no distinguishing characteristics that separate them from other such items are not subject to a waiting period so long as the transaction has been recorded in compliance with Section 12-24, Record of Transactions.
   b. Junk/scrap articles shall have no waiting period restriction so long as the transaction has been recorded in compliance with Section 12-24, Record of Transactions.(MC-12-1057)
Sec. 12-29. Prohibited transactions.
No pawnbroker or secondhand dealer, in the course of conducting his business, shall receive any articles for pawn, pledge, advancement of money, loan, resale, or personal use from:

1. Minors who are under eighteen (18) years of age.
2. Any person appearing to be intoxicated or under the influence of drugs or alcohol.
3. Any person known to the pawnbroker or secondhand dealer to have been involved in the previous pawn or sale of stolen property or known to have been convicted of Theft, Residential Burglary, Burglary, Home Invasion, Vehicular Invasion, Armed Robbery, Robbery, or Electronic Fencing under the laws of the State of Illinois, or the equivalent laws of any other state. A pawnbroker or secondhand dealer may access the LeadsOnline “No Buy” list or contact the McHenry Police prior to conducting a transaction to ensure the prospective pawnner/seller has not been convicted of any such crime.
4. Any person presenting a serial numbered non-scrap/junk article from which the serial number has been removed or obliterated.

In the event that any of the above enumerated persons shall attempt to conduct a prohibited transaction, a representative of that business shall notify the police department of the incident while the person is still present in the business if safe to do so or otherwise as soon as the person has left the business.

In the event that a person seeking to sell or pawn any item presents to the owner/operator/employee of a pawn or resale shop what is reasonably believed to be a false/fictitious/forged/altered ID card, a representative of that business shall notify the police department of the incident while the person is still present in the business if safe to do so or otherwise as soon as the person has left the business.

Sec. 12-31. Report of lost or stolen articles to police.
Every pawnbroker or secondhand dealer who shall receive or be in possession of any goods, articles, or things under circumstances which would lead a reasonable person to conclude they have been lost or stolen, or which have been alleged to supposed to have been lost or stolen, shall immediately notify the police department of such receipt and, forthwith on demand, exhibit the same to any member of the police department.

Sec. 12-32. Return of stolen property.
When any person is found to be the owner of stolen property which has been pawned or purchased by a pawnbroker or secondhand dealer, such property shall be turned over to the police department without the payment of the money advanced by the pawnbroker or paid by the secondhand dealer thereon or any costs or charges of any kind which the pawnbroker or secondhand dealer may have placed upon the same.

Sect 12-33. Inspection of premises by police.
The police chief or his designee shall have general supervision over all pawnbrokers and secondhand dealers and shall also have power to inspect their respective places of business. This inspection shall be limited to (1) confirming the proper posting of a pawnbroker license or a secondhand dealer license, and (2) inspection of record books, computers and inventory directly related to the purchase and sale of articles deemed to be identified as transactions under this article. All inspections must take place at the business and during normal operating hours of the business. (MC-12-1097)

Sec. 12-34. Hours of operation.
No business licensed under this article shall purchase or accept as pawn or pledge any goods, articles, or things whatsoever from any person between the hours of 10:00 p.m. and 6 a.m.
Sec. 12-35. Junk/scrap collection vehicles.
Every motor vehicle licensed under this article shall be permanently and conspicuously marked on both sides and the rear of the vehicle with the name of licensee along with the street address and phone number of his/her place of business. If the licensee of a junk/scrap collection vehicle is not a licensed secondhand dealer or has no fixed place of business, his/her name along with the street address and phone number of his/her residence shall be permanently and conspicuously marked on both sides and the rear of the vehicle.

Enforcement off the marking requirement of this section shall be by the police department with a fine of $500.00 for a first offense and $1,000.00 for any subsequent offenses.

Every applicant for a junk/scrap collection vehicle license must show valid proof of liability insurance and a safety sticker for second (2nd) division vehicles as required under the Illinois Vehicle Code. All junk/scrap collection vehicles licensed under this section shall meet all requirements for second division vehicles under the Illinois Vehicle Code. Violations of the Illinois Vehicle Code requirements shall be enforced by the police department.

DIVISION 2. LICENSE

Sec. 12-36. License Required.
No person shall engage in, carry on, or conduct the business of a pawnbroker or secondhand dealer, or operate or cause to be operated any motor vehicle for the purpose of collecting or disposing of junk/scrap within the city, unless he/she is licensed to do so. The license shall be issued annually with an expiration of April 30th. Licenses issued pursuant to this section shall be non-transferrable and shall not be pro-rated.

A pawnbroker’s license, secondhand dealer’s license, and scrap/junk collection vehicle license are separate from each other and the license shall state which it is for. Persons may hold more than one (1) license under this section.

A secondhand dealer’s license will entitle the licensee to the use of one junk/scrap collection vehicle. Each additional motor vehicle used for such purpose shall require a separate license. No license for a junk/scrap collection vehicle shall be issued for less than the full annual license fee.

Sec. 12-37. Application.
Any person desiring a license as a pawnbroker or secondhand dealer, or for a junk/scrap collection vehicle, shall make application in writing to the City, setting out in the application the full name and residence of the applicant, if an individual, and, if a corporation, the name and residence of each of its officers. Such application shall also set out the location at which it is intended or desired to conduct such business, and such other information as the City shall deem appropriate.

Any false information provided on the application shall result in the denial or revocation of the license.

Sect 12-38. License to state location of business.
Every license granted to any pawnbroker or secondhand dealer under the provisions of this division shall designate the place in which the person receiving the license shall be authorized to carry on such business. Such business shall not be carried on or conducted in any other place than designated by the license.

Every license granted to any owner of a junk/scrap collection vehicle under the provisions of this division shall designate the business location and phone number the vehicle operates from, or if none, the street address and phone number of the licensee’s residence.
In case any person licensed as a pawnbroker or secondhand dealer shall remove his place of business from the place designated on such license, no business shall be carried on or engaged in at the new location under such license until written notice of such change has been given by the licensee to the City, and such change has been noted by the City upon such license. The address of his/her place of business shall thereupon be changed on the sides of any vehicle used by such licensed pawnbroker or dealer, and made to correspond with such new place of business.

Any change in the address listed on the license for a junk/scrap collection vehicle shall be provided in writing to the City, who shall note such change upon said license. No junk/scrap collection shall be carried on or engaged in by the licensee until such notification and change has been made, and until the address of the licensee’s place of business or residence shall be changed on the sides and rear of the licensed vehicle and made to correspond with such new address.

Sec. 12-40. License to be publicly posted.
Every license granted under this article shall be conspicuously posted for public viewing so as to be seen by anyone entering the place of business of such pawnbroker or secondhand dealer, whether the place of business is a fixed storefront or temporary, non-fixed location, or in any vehicle licensed under this article.

Sec. 12-41. Issuance of license; fee.
The City shall grant licenses to such pawn broker, secondhand dealer, or junk/scrap collection vehicle applicants as shall pass a background check conducted by the police department, to engage in the business of a pawnbroker or secondhand dealer at, or operated a junk/scrap collection vehicle from, the place designated in the application for and during the period of such license.

Any person employed by or providing volunteer work for the licensee at the business or in the vehicle for which the license is sought, at any time during the period of the license, shall also be required to pass a background check conducted by the police department, if that employee or volunteer engages in the collection, receipt, purchase, or sale of secondhand or junk/scrap articles.

The results of all background checks shall be provided to the City, who shall determine if the applicant and all employees/volunteers of the business for which the license is sought meet satisfactory standards of good character.

Sec. 12-42. Revocation.
It shall be the duty of the police chief or his designee to report to the City any failure to comply with the provisions of this article on the part of any such licensee, and the City shall commence administrative hearing procedures to revoke the license of such persons or businesses.

DIVISION 3. PENALTIES

Sec. 12-43. Penalty provisions.
The penalty for violation of this article shall be revocation of licensure in addition to a fine as imposed by the Administrative Law Judge pursuant to Chapter 2.25 of this Code.
Sec. 12-44. Generally.
A. No person shall have or keep a Flea Market Operation unless licensed by the City.
B. Applications for licenses shall be made to the City Clerk and all applicants shall conform to the general provisions set forth in Chapter 12, Licenses Generally of the Municipal Code.
C. The applicant must obtain federal and state licenses and approvals as applicable and exhibit proof of said licenses and/or approvals prior to the issuance of a Flea Market license. Upon receiving applicable state and federal approvals and payment of the applicable license fee the City shall issue one license for each Flea Market Operation.

Sec. 12-45. Definitions.
For purposes of this article, the following definitions apply.

1. **Consignment Stores**: Stores which people bring items they no longer want (such as old clothes, shoes and equipment) to have them sold. When an item at a consignment store is sold the person who brought it to the store gets a portion of the money paid for it.

2. **Flea Market Operation**: Any business activities commonly known as but not limited to swap shops, penny markets, rummage sales, and where tangible articles are bought, sold, or exchanged by more than one vendor, not otherwise regulated in the City of McHenry Municipal Code. Flea Market Operation shall not include resale or consignment businesses.

3. **Flea Market Operator**: Any person, firm or corporation who owns or controls the premises at which a Flea Market Operation is conducted. A Flea Market Operation may/may not be the owner of the premises on which the Flea Market Operation is conducted.

4. **Flea Market Vendor**: Any person, firm or corporation who engages in or conducts the activity of buying, selling or exchanging, whether on a casual or regular basis, any tangible articles, whether new, secondhand or used, in any Flea Market Operation.

5. **Flea Market Vendor Space**: The total square footage area, measured length X width in feet generally occupied by one Flea Market Vendor.

6. **Garage Sales**: Sales of any new or used personal property conducted on or about the premises of a private residence in a residentially-zoned district by the owner or occupant or with the permission of the owner or occupant, and which sale is open to the public.

7. **Resale/Secondhand Store**: Stores which sell items which had been already purchased by another party.

Sec. 12-46. Persons, sales exempted.
The following are exempt from this Article:

- a. Persons selling goods pursuant to an order or process of a court of competent jurisdiction;
- b. Religious, benevolent, charitable and civic organizations operating as not-for-profit, provided all articles presented for sale or exchange have been donated;
- c. Garage Sales;
- d. Consignment Stores;
- e. Resale/Secondhand Stores;
- f. All sales listed in Chapter 20-Special Sales of the Municipal Code;
- g. Persons acting pursuant to an order or process of a court of competent jurisdiction.

Sec. 12-47. Application.
Any person, firm or corporation desiring to conduct a Flea Market Operation shall file a written application with the Department of Community and Economic Development on a form furnished by said department. The applicant shall furnish the following information:
a. The type of ownership of the business, i.e., whether individual (sole proprietorship), partnership (general partnership), corporation or otherwise;
b. Articles of incorporation or organizational documentation if the business is incorporated or a limited liability corporation;
c. A certificate of ownership issued by the McHenry County Clerk’s office if the business is a sole proprietorship or general partnership;
d. A layout of flea market vendor space with corresponding length by width dimensions measured in feet of all vendor spaces.

Sec. 12-48. Fees.
An annual license fee shall be paid to the City in the sum of $1,400 for each Flea Market Operation. The license fee shall be paid in full at the time the license is issued or paid in four quarterly installments of $350 each, with the first quarterly installment due no later than May 1st of each calendar year. Subsequent installment payments of $350 each shall be due August 10, November 10 and February 10 of each year.

Sec. 12-49. Inspection.
The police chief or his designee shall have general supervision over all Flea Market Operations and shall also have power to inspect their respective places of business. This inspection shall be limited to (1) confirming the proper posting of a Flea Market Operation license, and (2) inspection of record books, computers and inventory directly related to the purchase and sale of articles deemed to be identified as transactions under this article. All inspections must take place at the business and during normal operating hours of the business.
Articles which the City of McHenry police department or other law enforcement agency have reasonable grounds to believe were stolen may be impounded or left with the vendor under a hold order at the discretion of any member of the police department. An article may be impounded or held under a hold order by the City of McHenry police department or other law enforcement agency for seven (7) days pending investigation as to ownership of the article. It shall be unlawful for any Flea Market Operator and/or Vendor to dispose any property contrary to any hold order issued by a member of the City of McHenry police department or other law enforcement agency.

Sec. 12-50. Revocation.
The City Council shall have the authority to revoke or suspend a license issued hereunder when it finds that The Flea Market Operation is being conducted in violation of this article or of any other ordinance, rule or regulation of the City of McHenry.

Sec. 12-51. Duties, responsibilities of operator.
It shall be the duty of every Flea Market Operator to confirm that all Flea Market Vendors using the Flea Market Operation are provided a copy of these regulations.

Sec. 12-52. Prohibited transactions.
It shall be unlawful for any Flea Market Vendor or for any employee or agent thereof to receive any articles by purchase or otherwise from:
a. Minors under eighteen (18) years of age.
b. Any person appearing to be under the influence of drugs or alcohol.
c. Any person known to the Flea Market Vendor to have been involved in the previous sale of stolen property or known to have been convicted of theft, burglary, home or vehicular invasion, armed robbery, robbery, or electronic fencing under the laws of the State of Illinois, or the equivalent laws of any other state, and any person presenting a serial numbered article from which the serial number has been removed or obliterated.
Sec. 12-53. Character of produce and other foodstuffs.
The sale of general merchandise of all kinds, and the sale of foodstuffs shall be permitted subject to the
review and approval of the McHenry County Health Department. It shall be the responsibility of the
Flea Market Operator to ensure all applicable permits have been obtained and are current.

Sec. 12-54. Adult Merchandise
The sale of any type of adult-oriented merchandise, as defined in the City’s municipal code, shall be
expressly prohibited.

ARTICLE III
RAFFLES
MC-16-1130

Sec.12-55 Definitions.
As used in this Chapter, the following words shall have the meanings hereafter ascribed to them:

Auxiliary or Affiliates. Whenever used in this Chapter, the word “organization” shall include an auxiliary or
affiliate of the licensee.

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

Charitable. An organization or institution organized and operated to benefit an indefinite number of the public.
The services rendered to those eligible for benefits must also confer some benefit on the public.

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

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

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

Net Proceeds. The gross receipts from the conduct of raffles, less reasonable sums expended for prizes, local
license fees and other reasonable operating expenses incurred as a result of operating a raffle.
Nonprofit. An organization or institution organized and conducted on a not-for-profit basis with no personal
profit inuring to anyone as a result of the operation.

Raffle. A form of lottery, as defined in 720 ILCS 5/28-2 conducted by an organization licensed under this
chapter in which:
(a) The player pays or agrees to pay something of value for a chance, represented and differentiated by a
number or by a combination of numbers or by some other medium, one or more of which chances is to be
designated the winning chance;
(b) The winning chance is to be determined through a drawing or by some other method based on an element of chance by an act or set of acts on the part of persons conducting or connected with the lottery, except that the winning chance shall not be determined by the outcome of a publicly exhibited sporting contest.

**Religious.** Any church, congregation, society or organization founded for the purpose of religious worship.

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

**Sec. 12-56. Authority for Issuance; Applicability.**
The Office of the City Administrator shall have the authority to issue licenses for raffles subject to the limitations set forth in Section 3 hereof. Nothing in this Chapter shall be construed to authorize the conducting or operating of any gambling scheme, enterprise, activity or device other than a raffle provided for herein.

**Sec. 12-57. License Required.**
A. It shall be unlawful for any person, firm or corporation to conduct raffles or chances within the City of McHenry unless the person, firm or corporation has a valid license issued in accordance with the provisions of this chapter.

B. Licenses shall be issued only to bona fide religious, business, charitable, labor, fraternal, educational or veterans organizations that operate without profit to their members and which have been in existence continuously for a period of five (5) years immediately before making application for a license, and which have been during that entire five-year period a bona fide membership engaged in carrying out their objects; or to a nonprofit fund-raising organization that the City of McHenry determines is organized for the sole purpose of providing financial assistance to an identified individual or group of individuals suffering extreme financial hardship as the result of an illness, disability, accident or disaster.

C. A license issued by the City of McHenry shall authorize the sale of raffle chances only within the corporate city limits of the municipality.

D. The Office of the City Administrator shall act on a raffle license application within fourteen (14) days from the date of application receipt.

E. In the event a license is denied, the applicant shall have the right upon written receipt to appeal the decision to the Mayor and City Council at the next regularly scheduled City Council meeting.

F. The City Administrator or his/her designated representative may revoke any licenses issued by the City of McHenry if it is determined that the licensee has violated any provision of this chapter.

**Sec. 12-58. Application for License.**
Applications for such licenses shall be made in writing on the forms provided to the Office of the City Administrator, signed by the applicant or its duly authorized representatives. Each license and application for license shall contain the following information:

A. The name and address of the applicant;

B. The area within the City of McHenry in which the raffle chances will be sold and issued;
C. The time period during which raffle chances will be sold or issued;

D. The date, time, manner and location(s) of determining the winning chances;

E. A sworn statement attesting to the not-for-profit character of the respective licensee organization signed by the presiding officer and secretary of that organization;

F. A copy of the applicant’s not-for-profit articles of incorporation and/or charter; and

G. Such other information as the Office of the City Administrator may require under the authority of this Chapter or 230 ILCS 15.

H. Each license issued under this article shall be valid for a single raffle, or a specified number of raffles to be conducted during a specific period not to exceed one (1) year. (MC-16-1130.A)

Sec. 12-59. License Fees.
No Raffle License Fees have been adopted.

Sec. 12-60. Restrictions on Issuance of Licenses.
No such license shall be issued to:

A. Any person who has been convicted of a felony;

B. Any person who is or has been a professional gambler or gambling promoter;

C. Any person who is not of good moral character;

D. A person whose license issued under this chapter has been revoked for cause;

E. A person who, at the time of application for renewal of any license issued hereunder would not be eligible for such license upon a first application;

F. Any firm or corporation in which a person defined in (a), (b) or (c) has a proprietary, equitable or credit interest, or in which such a person is active or employed;

G. Any organization in which a person defined in (a), (b) or (c) is an officer, director, or employee, whether compensated or not; or

H. Any organization in which a person defined in (a), (b) or (c) is to participate in the management or operation of a raffle as defined in this Code.

Sec. 12-61. Conduct of Raffles.
The conducting of raffles is subject to the following restrictions:

A. The entire net proceeds of any raffle must be exclusively devoted to the lawful purposes of the organization permitted to conduct that game;

B. No person except a bona fide member of the sponsoring organization may participate in the management or operation of the raffle;
C. No person may receive any remuneration or profit for participating in the management or operation of the raffle;

D. The maximum fee which may be charged for each raffle chance sold or issued shall not exceed one hundred dollars ($100.00). All such fees shall be paid in currency, by check, or by credit card.

E. A licensee may rent a premises on which to determine the winning chance or chances in a raffle only from an organization which is also licensed under this chapter;

F. Raffle chances may be sold or issued only within the area specified on the license and winning chances may be determined only at those locations specified on the license; and

G. A person under the age of 18 years may participate in the conducting of raffles or chances 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/her parents or guardian.

Sec. 12-62. Raffle Manager; Bond.
Operation and conduct of raffles shall be under the supervision of a single raffles manager designated by the organization making application for a license. The raffles manager shall file with the Office of the City Administrator a fidelity bond in an amount not less than the anticipated gross receipts for the raffle. The bond shall be in favor of the organization and conditioned upon his/her honesty in the performance of duties. The bond shall also provide that notice be given in writing to the City of McHenry not less than thirty (30) days prior to its cancellation. The City Administrator or his/her designated representative is authorized to waive the requirement for a bond by including a waiver provision in the license issued, provided that the license containing such waiver provision shall be granted only by unanimous vote of the members of the licensed organization.

Sec. 12-63. Raffle Tickets.
A. Each raffle ticket, chance or other raffle token shall state, on its face, the name and address of the licensee, the date or dates of the drawings, and the prize or prizes to be awarded; provided, however, that this requirement shall not apply to any raffle in which prizes in aggregate value under fifty dollars ($50.00) are awarded, or to any raffle in which raffle chances are sold only on the date of the drawing during the event at which the drawing is to be conducted. No such ticket, chance or token shall be sold or issued more than one hundred eighty (180) days before the determination of the winning chance or chances.

B. If any raffle for which a license is issued under this Chapter is canceled, or if any such raffle is not conducted on the date contained in the application for license, the licensee shall refund all money paid for any raffle chances issued or sold to the persons to whom such raffle chances were issued or sold within forty-five (45) days after the date on which the raffle was to be conducted or within forty-five (45) days after cancellation of the raffle, whichever is sooner.

Sec. 12-64. Prizes.
A. The maximum cash prize awarded in any raffle shall be five hundred thousand dollars ($500,000).

   (MC-17-1151)

B. The maximum retail value of a noncash prize awarded in any raffle shall be one hundred thousand dollars ($100,000).
C. The aggregate value of all prizes awarded in a single raffle shall not exceed five hundred thousand dollars ($500,000). (MC-17-1151)

Sec. 12-65. Records.
A. Each organization licensed to conduct raffles 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 receipts or other records indicating the amount, a description of the purchased item or service or other reason for the deduction, and the recipient. The distribution of net proceeds shall be itemized as to payee, purpose, amount and date of payment.

B. Reserved. (MC-16-1130.A)

C. Gross receipts from the operation of raffles programs shall be segregated from other revenues of the organization, including bingo gross receipts, if bingo games are also conducted by the same nonprofit organization pursuant to a license therefor issued by the Department of Revenue of the State of Illinois, and placed in a separate account. Each organization shall have separate records of its raffles. 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 organization;

D. Each organization licensed to conduct raffles shall report promptly after the conclusion of each raffle to its membership. Each organization licensed to conduct raffles shall report within ten (10) days to the City of McHenry its gross receipts, expenses and net proceeds from the raffle, and the distribution of net proceeds as required by this section. This information shall be reported using the “Not-for-Profit Raffle License Audit Information” form as provided.

E. Records required by this section shall be preserved for three (3) years, and organizations shall make available their records relating to operation of raffles for public inspection at reasonable times and places.
MUNICIPAL CODE
CHAPTER 13
MOTOR VEHICLES AND TRAFFIC*

Article I. In General.

Sec. 13-1. Ordinances continued in effect.

Ordinance Number MC-85-318, passed and approved February 4, 1985, as from time to time amended, shall govern and regulate motor vehicles and traffic in the City. Nothing in this Code or the ordinance adopting this Code shall be construed to repeal or otherwise affect said Ordinance Number MC-85-318. Likewise, nothing in this Code or the ordinance adopting this Code shall be construed to repeal or otherwise affect any ordinance relating to the parking of vehicles in fire lanes established on shopping center property, particularly Ordinance Number O-73, passed and approved on November 17, 1975.


Article II
Vehicle Impoundment
(MC-10-1006; MC-10-1014; MC-11-1037)

Sec. 13.16. Violations.
A motor vehicle, operated with the permission, express or implied, of the owner of record, that is used in connection with the following violations shall be subject to seizure and impoundment by the City, and the owner of record shall be liable to the City for an administrative penalty in an amount not to exceed $500, in addition to any towing and storage fees as hereinafter provided, unless expressly permitted by this ordinance.**

A. Driving under the influence of alcohol and/or drugs (625 ILCS 5/11-501(a) or a similar local ordinance).

B. Driving while license is suspended or revoked (625 ILCS 5/6-303) or similar local ordinance. (MC-10-1014)

C. No valid driver’s license (unlicensed) excluding expired driver’s license of less than one year (615 ILCS 5/6-101 or a similar local ordinance).(MC-11-1037)

D. Fleeing or attempting to elude a peace officer, including aggravated fleeing (625 ILCS 5/11-204 et al or a similar local ordinance).

E. Street racing or aggravated street racing (625 ILCS 5/11-506 or a similar local ordinance).

F. Reckless driving (625 ILCS 5/11-503 or a similar local ordinance).

G. Leaving the scene of an accident involving death or personal injury (625 ILCS 5/11-401).

* Cross Reference - Vehicles for hire, Ch. 25; criminal trespass to vehicles, Sec. 14-18; driving through parades, Sec. 15-17; parking on parade routes, Sec. 15-18.

** Unless expressly permitted by this ordinance. Cross Reference – City of McHenry Zoning Ordinance Article III General District Regulations Q. Medical Cannabis. (MC-14-1094)
H. Any violation of law which makes the vehicle subject to seizure under 720 ILCS 570/505 et seq. (Illinois Controlled Substances Act). (MC-11-1037)

I. Any violation of law which makes the vehicle subject to seizure under 720 ILCS 550/1 et seq. (Cannabis Control Act). (MC-11-1037)

J. Operation or use of a motor vehicle in the commission of, or in the attempt to commit, an offense in violation of 720 ILCS 5/24-1 (unlawful use of weapons), 5/24-1.5 (reckless discharge of a firearm) or 5/24-3.1 (unlawful possession of firearms and firearm ammunition). (MC-11-1037)

K. 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 625 ILCS 5/6-101 (drivers must have licenses or permits), 5/6-303 (driving while driver’s license, permit or privilege to operate a motor vehicle is suspended or revoked) or 5/11-501 (driving while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof). (MC-11-1037)

L. Operation or use of a motor vehicle in the commission of, or in the attempt to commit, an offense in violation of 720 ILCS 5/16 (theft and related offenses) or 5/16A (retail theft). (MC-11-1037)

M. 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 (720 ILCS 5/1 et seq.). (MC-11-1037)

N. 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 (720 ILCS 550/100 et seq.) (MC-11-1037)

O. Any violation of the law which makes the vehicle subject to seizure under 720 ILCS 5/36-1 (Seizure and forfeiture of Vessels, Vehicles, and Aircraft). (MC-11-1037)

Sec. 13.17. General Regulations.

A. This Chapter shall not replace or otherwise abrogate any existing State or Federal laws or City ordinances pertaining to vehicle seizure and impoundment. These penalties shall be in addition to any penalties that may be assessed by a Court for any criminal charges.

B. This Chapter shall not apply if the vehicle used in the violation was stolen at that time and the theft was reported to the appropriate police authorities within 24 hours after the theft was discovered.

C. Fees for towing and storage of a vehicle pursuant to this Chapter shall be those approved by the Chief of Police for all towing agents authorized to tow for the McHenry Police Department.
Sec. 13.18. Notice.
Whenever a Police Officer has probable cause to believe that a vehicle is subject to seizure and impoundment pursuant to this Chapter, the Police Officer shall provide for the towing of the vehicle to a facility authorized by the City. The Police Officer shall notify any person identifying him or herself as the owner of the vehicle or any person who is found to be in control of the vehicle at the time of the alleged violation, of the fact of the seizure of the vehicle, and of the owner’s right to request an administrative adjudication hearing to be conducted in accordance with this Code and this Chapter. Said vehicle shall be impounded pending the completion of the hearing provided for in this Chapter, unless the vehicle owner posts a $500 cash bond with the City and pays the towing and storage charges.

Sec. 13.19 Preliminary Hearing.

A. If the owner of record of a vehicle seized pursuant to this Chapter desires to appeal the seizure, the owner must make a request for a preliminary hearing within 24 hours of the seizure. The request shall be in writing and filed with the Chief of Police or his designee, who shall conduct such preliminary hearing within 24 hours after receipt of the request, excluding Saturdays, Sundays or City holidays.

B. All interested persons shall be given a reasonable opportunity to be heard at the preliminary vehicle impoundment hearing. The formal rules of evidence shall not apply at the hearing and hearsay evidence shall be admissible only if it is the type commonly relied upon by reasonably prudent persons in the conduct of their affairs.

C. If, after the hearing, the Chief of Police or his designee determines there is probable cause to believe that the vehicle is subject to seizure and impoundment pursuant to this Chapter, the continued impoundment of the vehicle shall be ordered as provided herein unless the vehicle owner posts a $500 cash bond to the City and pays the towing agent any applicable towing and storage fees.

D. If the Chief of Police or his designee determines there is not such probable cause, the vehicle shall be returned without penalty or other fees.

Sec. 13.20 Administrative Adjudication Hearing.

A. The City shall appoint an individual, not employed by the Police Department, to serve as an Administrative Law Judge for purposes of this Chapter. (See Chapter 2.25 Administrative Adjudication)

B. Within ten days after a vehicle is seized and impounded pursuant to this Chapter, the City shall notify, by certified mail, return receipt requested, the owner of record of the date, time and location of a plea hearing that will be conducted in accordance with Chapter 2.25, Administrative Adjudication, of this Code. The owner will appear at a hearing and enter a plea of guilty or not guilty. If a plea of guilty is entered, the case will be disposed of at that time. If the owner pleads not guilty, a final hearing shall be conducted on that date unless continued by order of the Administrative Law Judge. An owner of record can request the scheduled plea hearing date be continued, as long as the request for continuance is made no later than 48 hours prior to the hearing. In the event that the City is seeking to forfeit the vehicle pursuant to applicable law these impoundment proceedings shall be stayed pending the final disposition of the forfeiture proceedings. If the vehicle is forfeited, the impoundment proceeding pursuant to this Chapter shall be dismissed by the City. If the vehicle is not forfeited, the City shall schedule a plea hearing within ten days of receipt of the final order in the forfeiture proceeding and shall notify the owner of said plea hearing as provided herein. (MC-10-1017; MC-11-1037)
C. All interested persons shall be given a reasonable opportunity to be heard at the hearing. The formal rules of evidence shall not apply at the hearing and hearsay evidence shall be admissible. In a hearing on the propriety of impoundment of a vehicle, any sworn or affirmed report, citation or ticket that (i) is prepared in the performance of a law enforcement officer’s duties, and (ii) sufficiently describes the circumstances leading to the impoundment, shall be admissible evidence of the vehicle owner’s liability, unless rebutted by clear and convincing evidence to the contrary.

D. If, after the hearing, the Administrative Law Judge determines by a preponderance of evidence that the vehicle was used in violation of this Chapter, the Administrative Law Judge shall then enter an order finding the owner of record of the vehicle liable to the City for the administrative penalty.

E. If, after the hearing, the Administrative Law Judge does not determine by a preponderance of evidence that the vehicle was used in such a violation, the Administrative Law Judge shall enter an order finding for the owner and for the return of the vehicle.

F. If the owner of record requests a hearing but fails to appear at the hearing or fails to request a hearing in a timely manner, the owner of record shall be deemed to have waived his right to a hearing and the Administrative Law Judge shall enter a default order in favor of the City in the amount of the administrative penalty. Once the order has been entered, the City shall make a reasonable effort to notify any lien holder of the default order entered against the owner of record.

G. If a default order is entered against the owner of record for failing to request or appear at a hearing, the owner of record may make a request to vacate the default judgment. The motion shall be made in writing and sent by certified mail to the Administrative Law Judge within 30 days of the default order being entered. Once such a request is made, the default order will be vacated and the Administrative Adjudication Hearing will be set within 10 days of the request.

H. If the owner of record pays such a penalty and the vehicle is returned to the owner, no default order need be entered if the owner is informed of his right to a hearing and signs a waiver, in which case an order of liability shall be deemed to have been made when the City receives the written waiver.

Sec. 13.21. Posting of Bond.

A. If a $500 bond is posted with the Police Department the impounded vehicle shall be released to the owner of record. However, the vehicle owner shall remain liable to the towing agent for any applicable towing or storage fees.

B. If a penalty is imposed by the Administrative Law Judge for a violation of this Chapter, the bond shall be forfeited to the City. However, if a violation of this Chapter is not proven by a preponderance of the evidence, the bond shall be returned to the person posting the bond.

C. All bond money posted pursuant to this Chapter shall be held by the City until the Administrative Law Judge has issued a decision.

D. The bond posted shall be in the form of cash, money order, certified check, E-check or any authorized credit or debit cards.
Sec. 13.22. Pending Forfeiture Proceedings. (MC-11-1037)
When a vehicle is the subject to forfeiture proceedings by the City the owner shall not be permitted to post the $500 cash bond and pay the towing and storage charges for release of the vehicle until the forfeiture proceedings have concluded. In the event of forfeiture of the vehicle is granted by the court, these impoundment proceedings shall be dismissed.

Sec. 13.23. Administrative Penalty.
If an administrative penalty is imposed pursuant to this Chapter, such penalty shall constitute a debt due and owing to the City. If a vehicle has been impounded when such a penalty is imposed, the City may seek to obtain a judgment on the debt and enforce such judgment against the vehicle as provided by law. Except as provided otherwise in this Chapter, a vehicle shall continue to be impounded until the penalty is paid to the City and any applicable towing and storage fees are paid to the towing agent, in which case possession of the vehicle shall be given to the person who is legally entitled to possess the vehicle, or the vehicle is sold or otherwise disposed of to satisfy a judgment to enforce a lien as provided by law.

If the administrative penalty and applicable fees are not paid within 30 days after an administrative penalty is imposed against an owner of record who defaults by failing to appear at the hearing, the vehicle shall be deemed unclaimed and shall be disposed of in the manner provided by law for the disposition of unclaimed vehicles. In all other cases, if the administrative penalty and applicable fees are not paid within 30 days after the expiration of time at which administrative review of the Administrative Law Judge’s determination may be sought, or within 30 days after an action seeking administrative review has been resolved in favor of the City, whichever is applicable, the vehicle shall be deemed unclaimed and shall be disposed of in the manner provided by law for the disposition of unclaimed vehicles under the Illinois Vehicle Code. However, where proceedings have been instituted under State or Federal drug asset forfeiture laws, disposal of the subject vehicle shall be consistent with those proceedings.

A. Except as otherwise provided by law, no owner, lien holder or other person shall be legally entitled to take possession of a vehicle impounded under this Chapter until the administrative penalty and fees applicable under this Chapter have been paid. However, whenever a person with a lien of record against an impounded vehicle has commenced foreclosure proceedings, possession of the vehicle shall be given to that person if he agrees in writing to refund the City the amount of the net proceeds of any foreclosure sale, less any amounts required to pay all lien holders of record, not to exceed the administrative penalty, plus the applicable fees.

B. For purposes of this Chapter, the “owner of record” of a vehicle is the record title holder as registered with the Illinois Secretary of State.

Sec. 13.25-100. Reserved.

(424)
(The next page is 430)
MUNICIPAL CODE
CHAPTER 14
(MC-07-932)
OFFENSES - MISCELLANEOUS
ARTICLE I. IN GENERAL

Sec. 14-1. Compounding a crime.
A person compounds a crime, which is a misdemeanor, when he receives or offers to another any consideration for a promise not to prosecute or aid in the prosecution of an offender.

Sec. 14-2. Accountability for conduct of another.
A person is responsible for conduct which is an element of an offense if the conduct is either that of the person himself, or that of another and he is legally accountable for such conduct as provided in subsection (A), or both.

(A) When accountability exists. A person is legally accountable for the conduct of another when:

(1) Having a mental state described by the ordinance defining the offense, he causes another to perform the conduct, and the other person in fact or by reason of legal incapacity lacks such a mental state; or
(2) The ordinance defining the offense makes him so accountable; or
(3) Either before or during the commission of an offense, and with the intent to promote or facilitate such commission, he solicits, aids, abets, agrees or attempts to aid, such other person in the planning or commission of the offense. However, a person is not so accountable, unless the ordinance defining the offense provides otherwise, if:
   (a) He is a victim of the offense committed; or
   (b) The offense is so defined that his conduct was inevitably incident to its commission; or
   (c) Before the commission of the offense, he terminates his effort to promote or facilitate such commission, and does one of the following: Wholly deprives his prior efforts of effectiveness in such commission, or gives timely warning to the proper law enforcement authorities, or otherwise makes proper effort to prevent the commission of the offense.

(B) Separate conviction of person accountable. A person who is legally accountable for the conduct of another which is an element of an offense may be convicted upon proof that the offense was committed and that he was so accountable, although the other person claimed to have committed the offense has not been prosecuted or convicted, or has been convicted of a different offense or degree of offense, or is not amenable to justice, or has been acquitted.

No business, licensed or not, shall be so conducted or operated as to amount to a nuisance in fact.

Sec. 14-4. Disorderly conduct.* (MC-94-621)
No person shall engage in disorderly conduct in the City. A person commits disorderly conduct when he knowingly:

(A) Does any act in such unreasonable manner as to alarm or disturb another and to provoke a breach of the peace:

* Cross Reference - Boisterousness in parks, Sec. 16-37.
(1) Transmits in any manner to the fire department of any municipality or fire protection district a false alarm or fire, knowing at the time of such transmission that there is no reasonable ground for believing that such fire exists;

(2) Transmits in any manner to another a false alarm to the effect that a bomb or other explosive of any nature is concealed in such place that its explosion would endanger human life, knowing at the time of such transmission that there is no reasonable ground for believing that such bomb or explosive is concealed in such place.

(3) Transmits in any manner to any peace officer, public officer or public employee a report to the effect that an offense has been committed, knowing at the time of such transmission that there is no reasonable ground for believing that such an offense has been committed.

(4) Enters upon the property of another for a lewd or unlawful purpose and deliberately looks into a dwelling on the property through any window or other opening in it.

(5) With the purpose of causing public danger, alarm, disorder, nuisance, he commits any of the following acts in a public place:
   (a) Commits an act in a violent manner toward another whereby that other person is placed in danger of his life or health;
   (b) Commits an act in a violent manner toward another whereby the property of any person is placed in danger of being destroyed or damaged;
   (c) Causes, provokes or engages in any fight, brawl or riotous conduct so as to endanger the life, health or property of another;
   (d) Interferes with another's pursuit of a lawful occupation by acts of violence;
   (e) Obstructs, either singly or together with other persons, the flow of vehicular or pedestrian traffic and refuses to clear such public way when ordered to do so by a peace officer or other lawful authority;
   (f) Incites, attempts to incite or is involved in attempting to incite a riot or unlawful disturbance;
   (g) Uses abusive language or threats to any peace officer or any other person when such words have a direct tendency to cause acts of violence. Words merely causing displeasure, annoyance or resentment are not prohibited.
   (h) Makes or causes to be made any loud, boisterous and unreasonable noise or disturbance to the annoyance of any other persons nearby, or near to any public highway, road, street, lane, alley, park, square or common, whereby the public peace is broken or disturbed, or the traveling public annoyed;
   (i) Fails to obey a lawful order to disperse by a peace officer where one or more persons are committing acts of disorderly conduct in the immediate vicinity, and the public health and safety is threatened;
   (j) Uses abusive or obscene language or makes an obscene gesture in public.
   (k) Assembles with three or more persons for the purpose of using force or violence to disturb the public peace;
   (l) Assembles with three or more persons for the purpose of violating any provision of the Municipal Code of the City of McHenry; and
   (m) Appears in any public place, or on any private street, road or drive that is the subject of a written request from the property owner pursuant to ILCS, and is under the influence of alcohol or controlled substance, to the degree that he may endanger himself or other persons or property, or alarm or disturb other persons in the vicinity (MC-96-666).
(6) Permits any assembly of two or more persons for the purpose of committing any unlawful act or breach of the peace, or any riotous, offense or disorderly conduct, in or upon any premises owned or occupied by him or under his control;

(7) Interrupts or disturbs any lawful assemble of people by making any loud or unusual noise, or by rude or indecent behavior, or by profane, obscene or improper discourse or conduct.

(8) Engages in Mob Action. Mob action consists of any of the following:
   (a) The use of force or violence disturbing the public peace by two or more persons acting together and without authority of law;
   (b) The assembly of two or more persons to commit an unlawful act; or
   (c) The assembly of two or more persons, without authority of law, for the purpose of doing violence to the persons or property of anyone supposed to have been guilty of a violation of the law, or for the purpose of exercising correctional powers or regulative powers over any person by violence.

(9) Disturbs, tends to disturb or aid in disturbing the peace of others by violent, tumultuous or offensive conduct, and no person shall knowingly permit such conduct upon any premises owned or possessed by him or under his control.

(10) Loiters or strolls in, about or upon any street, alley or other public way or public place, or in any public gathering or assembly, or in or around any store, shop or business or commercial establishment, or on any private property or place without lawful business or conduct himself in a lewd, wanton or lascivious manner in speech or behavior.

(11) Uses paint or other medium in any way to deface, damage or destroy property.

(12) Penalty. Any person violating this Section 14-4 shall be fined not less than $400 for each offense and be responsible for reimbursing the City's cost of prosecution including attorney fees incurred by the City. Each day that a violation continues shall be considered a separate offense. Restitution by the violator shall also be made to any property damaged or destroyed or person injured.

Secs. 14-5 - 14-6. Reserved. (MC-94-621)

Sec. 14-7. Disturbing religious worship.
No person in the City shall disquiet or disturb any congregation or assembly for religious worship by making a noise or by rude or indecent behavior, or profane discourse within their place of worship, or so near the same as to disturb the order or solemnity of the meeting.

Sec. 14-8. Noise.*,**
It shall be unlawful for any person to make, or cause to be made, create or maintain, loud, unnecessary, unnatural or unusual noises which are prolonged, unusual and unnatural in their time, place and use, and which affect and are a detriment to public health, comfort, convenience, safety, welfare and prosperity of the residents of the City, or which annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others, within the limits of the City. The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this Section, but said enumeration shall not be deemed to be exclusive, namely:

* Cross Reference - Noisy animals, Sec. 6-5.
** Cross Reference – Zoning Ordinance, Chapter XII - Performance Standards, Section Exemptions, Sec. C.3. (MC-12-1044)
(A) 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 unreasonably loud or harsh sound; and 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.

(B) Radios, boom boxes, personal music devices, etc. The using, operating, or permitting to be played, used or operated any radio receiving set, musical instrument, personal musical device or other machine or device for the producing or reproducing of sound in such 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 person or persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto.

(C) Loud Speakers, Amplifiers, For Advertising. The using, operating or permitting to be played, used or operated of any radio receiving set, instrument, phonograph, loudspeaker, sound amplifiers, 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, except as otherwise provided in Section 3-2 of this Code.

(D) Exhausters. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor boat, or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom. (MC-94-621)

(E) Defect In Vehicle Or Load. The use of any automobile, motorcycle, or vehicle so out of repair, so loaded or in such a manner as to create loud and unnecessary grating, grinding, rattling or other noise.

(F) Construction, Alteration or Repair. No activities in connection with construction, alteration, repair or demolition, shall be carried on other than during the following hours:

<table>
<thead>
<tr>
<th>Hours of Construction:</th>
<th>Weekdays</th>
<th>Saturdays</th>
<th>Sundays and Legal Holidays</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>7 am - 8 pm</td>
<td>8 am - 8 pm</td>
<td>8 am - 6 pm</td>
</tr>
</tbody>
</table>

Exceptions:
1. These activities may be conducted outside the specified times in the event of emergencies in order to protect the health, safety, or welfare of the public.
2. The hours may be extended when involving City projects when it serves the best interest of the public good provided the affect on the public health, comfort, convenience, peace, safety, and welfare are minimized. (MC-97-681)

(G) Schools, courts, churches, hospitals. The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while the same are 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 conspicuous signs are displayed in such streets indicating that the same is a school, hospital or court street.
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.

Pile Drivers, Hammers, Etc. The operation between the hours of 10:00 p.m. and 7:00 a.m. of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electrical hoist or other appliance, the use of which is attended by loud or unusual noise.

Blowers. The operation of any noise-creating blower or power fan or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, unless the noise from such blower or fan is muffled and such engine is equipped with a muffler device sufficient to deaden such noise.

Internal Combustion Engines. Without the prior written permit of the Director of Construction and Neighborhood Services, the operation of or the permitting of the operation of internal combustion engines between the hours of 6 p.m. and 7 a.m., in subdivisions under construction, is prohibited. Any person, firm or corporation violating this subsection 14-8 (k) shall be fined not less than $750 for each offense and be responsible for the City's cost of prosecution including attorney's fees incurred. Each day that a violation continues shall be considered a separate offense (MC97-669).

Machinery. For the purposes of this Section, machinery shall be defined as any equipment that is used for the purpose of excavating, scraping, moving, filling or leveling of earth in connection with construction or land development.

Hours of Operation:

<table>
<thead>
<tr>
<th></th>
<th>Weekdays</th>
<th>Saturdays</th>
<th>Sundays and Legal Holidays</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>7 am - 8 pm</td>
<td>8 am - 4 pm</td>
<td>Prohibited</td>
</tr>
</tbody>
</table>

Exceptions:

1. The operation of machinery may be conducted outside the specified times in the event of emergencies in order to protect the health, safety, or welfare of the public.

2. The hours may be extended when involving City projects when it serves the best interest of the public good provided the affect on the public health, comfort, convenience, peace, safety, and welfare are minimized.

3. The operation of motorized garden equipment for the purpose of preparing the soil for planting. (MC-97-681)


No person in the City shall have the status or condition of a "vagrant." The following persons shall be deemed vagrants:

A) No Lawful Means of Support. Any person having no lawful means of employment and having no lawful means of support realized solely from lawful occupations or sources; or any person who lives idly and without visible means of support.

B) Unlawful Occupancy. Any person wandering abroad and occupying, lodging, or sleeping in any vacant or unoccupied barn, garage, shed, shop, or other building or structure or in any automobile, truck, railroad car, or other vehicle, without owning the same or without permission of the owner or person entitled to the possession of the same, or sleeping in any vacant lot during the hours of darkness and not giving a satisfactory account of himself.

C) Begging. Any person wandering abroad and begging; or any person who goes about from door to door of private homes or commercial and business establishments, or places himself in or upon any public way or public place to beg or receive alms for himself.
Fraudulent Schemes. Any person who shall engage in any fraudulent scheme, device, or trick to obtain money or other valuable thing from others; or any person who aids or assists such trick, device or scheme.

Common Law Vagrants. All persons who by the common law are vagrants, whether embraced in any of the foregoing classifications or not.

Sec. 14-10. Loitering. (MC-94-621)

Loitering Prohibited. It shall be unlawful for any person to loiter in or near any thoroughfare, place open to the public or near any public or private place in a manner under circumstances manifesting the purpose to engage in drug related activity contrary to any of the provisions of this Code or the State of Illinois Criminal Code of 1961, as amended.

Among the circumstances which may be considered in determining whether such purpose is "manifested" shall include but not be limited to:

1. Such person is a known unlawful drug user, possessor or seller. For purposes of this provision, a "known unlawful drug user, possessor or seller" is a person who has, within the knowledge of the arresting officer, been convicted in any court within this state of any violation involving the use, possession or sale of any of the controlled substances referred to in the Illinois Criminal Code of 1961, as amended, or such person who has been convicted of any violation of the provisions of said Illinois Criminal Code of 1961, as amended, or substantially similar laws of any political subdivision of this State or of any other State; or a person who displays the physical characteristics of drug intoxication or usage, such as "needle tracks" or a person who possesses drug paraphernalia as defined in the Illinois Municipal Code of 1961, as amended; or

2. Such person is currently subject to an order prohibiting his presence in a high drug activity geographic area; or

3. Such person behaves in a manner as to raise reasonable suspicion that he is about to engage in or is then engaged in an unlawful drug related activity including, by way of example only, such person acting as a "lookout"; or

4. Such person is physically identified by the officer as a member of a "gang" or association which has, as one of its purposes, illegal drug activity; or

5. Such person transfers small objects or packages for currency in a secret manner; or

6. Such person takes flight upon the appearance of a police officer; or

7. Such person manifestly endeavors to conceal upon himself or herself any object which reasonably could be involved in an unlawful drug related activity; or

8. The area involved is by public repute known to be an area of unlawful drug use and trafficking; or

9. The premises involved have been reported to law enforcement as a place of suspected gang activity.

10. Such person possesses any instrument, article or thing whose customary or primary purpose is for the sale, administration or use of controlled substances such as, but not limited to, crack pipes, hand scales, hypodermic needles, razor blades or other cutting tools.

11. Any vehicle involved is registered to a known unlawful drug user, possessor or seller, or a person for whom there is an outstanding warrant for a crime involving drug-related activity.

Penalty. Any person violating this Section 14-10 shall be fined not less than $400 for each offense and be responsible for the City's cost of prosecution including attorneys fees incurred by the City. Each day that a violation continues shall be considered a separate offense. Restitution by the violator shall also be made to any property damaged or destroyed or person injured.

(A) **Definitions:** The following definitions are applicable to this Section 14-11:

**Emergency:** An unforeseen combination of circumstances for the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident or any situation requiring immediate action to prevent serious bodily injury or loss of life.

**Establishment:** Any privately-owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.

**Guardian:** A person who, under court order, is the guardian of the person of a minor, or a public or private agency with whom a minor has been placed by a court.

**Minor:** A person less than 17 years of age.

**Operator:** Any individual, firm, association, partnership or corporation operating, managing or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.

**Parent:** A person who is

1. a natural parent, adoptive parent or step-parent of another person; or
2. at least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.

**Public Place:** Any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities and shops.

**Remain:** To linger or stay, or fail to leave premises when requested to do so by a police officer or the owner, operator, or other person in control of the premises.

**Serious Bodily Injury:** Bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

(B) **Curfew:** Except as provided in this section, it is unlawful for any person less than 17 years of age to be present or upon any public road, street, alley or park, or other land used for public purposes, or in any public place of business or amusement in the city, at the following times:

1. Between 12:01 a.m. and 6:00 a.m. on Saturday
2. Between 12:01 a.m. and 6:00 a.m. on Sunday; and
3. Between 11:00 p.m. on Sunday to Thursday, inclusive, and 6:00 a.m. on the following day.

(C) **Exceptions:** The following shall constitute valid exceptions to the operation of the curfew:

1. At any time when accompanied by his or her parent, guardian or other adult person responsible for or having the legal care, custody and control of the individual, or an authorized adult.
(2) If participating in, going to, or returning from, without any detour or stop:
   (a) an emergency as defined herein
   (b) lawful employment
   (c) attending an official school, religious or other social or recreational activity supervised by adults
       and sponsored by a unit of government, civic organization, or other similar entity that takes
       responsibility for the attendees
   (d) an errand at the direction of a parent or guardian
   (e) an activity involving the exercise of First Amendment Rights protected by the United States
       Constitution (or those similar rights protected by the State of Illinois Constitution), such as free
       exercise of religion, freedom of speech, and the right of assembly.

(3) Is married or had been married or is an emancipated minor under the Emancipation of Mature
Minors Act, as amended.

(4) If in a motor vehicle when the travel begins and ends outside the corporate limits of the City.

(D) Establishments: The owner, operator, or any employee of an establishment commits an offense if he or
she knowingly allows a minor to remain upon the premises of the establishment during curfew hours or
fails to promptly notify the Police Department that a minor is present on the premises of the
establishment during curfew hours and refuses to leave.

(E) Enforcement: Before taking any enforcement action under this section, a police officer shall ask the
suspected offender’s age and reason for being in the public place or on the premises. The police officer
shall not issue a citation or make an arrest under this section unless the police officer reasonably
believes that an offense has occurred and that, based on any response and other circumstances, no
exception in this section applies.

(F) Penalty: Any person violating this section shall be fined not more than $500 for each offense and be
responsible for the city’s cost of prosecution, including attorney fees incurred by the city. Each day that
a violation continues shall be considered a separate offense. Restitution by the violator shall also be
made for any property damaged or destroyed or person injured.

Sec. 14-12. Assault.
A person commits an assault which is a misdemeanor, when, without lawful authority, he engages in conduct
which places another in reasonable apprehension of receiving a battery.

A person commits battery if he intentionally or knowingly without legal justification and by any means:

(A) Causes bodily harm to an individual; or

(B) Makes physical contact of an insulting or provoking nature with an individual.

Sec. 14-14. Reckless conduct.
A person who causes bodily harm to or endangers the bodily safety of any individual by any means, commits
reckless conduct, if he performs, recklessly the acts which cause the harm or endangers safety, whether they
otherwise are lawful or unlawful.

Sec. 14-15. Resisting or obstructing a peace officer.
A person who knowingly resists or obstructs the performance by one known to the person to be a peace officer
of any authorized act within his official capacity shall be guilty of the offense of resisting or obstructing a peace
officer.
Sec. 14-16. Refusing to aid an officer.
Whoever upon command refuses or knowingly fails reasonably to aid a person known by him to be a peace officer in:

(A) Apprehending a person whom the officer is authorized to apprehend; or
(B) Preventing the commission by another of any offense, shall be guilty of the offense of refusing to aid an officer.

Sec. 14-17. Employee and Subcontractor Work Crews. (MC-99-726)
(A) Every employee and subcontractor work crew of any public utility or cable television franchise or their agents, providing service to any customer or working on any utility or main trunk lines in the City, shall have not less than one English-speaking person.
(B) Any person, firm or corporation violating this subsection shall upon conviction be subject to a fine of not less than $250 nor more than $1,000 for each day that the violation exists, plus the costs of prosecution, including attorney fees incurred by the City.

Sec. 14-18. Criminal trespass to vehicles.
Whoever knowingly and without authority enters any vehicle, aircraft, watercraft, or any part thereof of another without his consent shall be guilty of criminal trespass to vehicles.

Sec. 14-19. Criminal trespass to land.
Whoever enters upon the land or any part thereof of another, after receiving, immediately prior to such entry, notice from the owner or occupant that such entry is forbidden, or remains upon the land of another after receiving notice from the owner or occupant to depart, commits the offense of criminal trespass to land.

Sec. 14-20. Taking materials from public property.
No person shall move, disturb, or take any earth, stone or other material from any public street, alley, park or other public ground, except as is otherwise provided in this Code.

Sec. 14-21. Maintenance of streets during construction. (MC97-671)
The owner, developer and general contractor ("Responsible Parties") of each subdivision under construction shall have the following duties, the violation of which they shall be jointly and severally liable:

(A) The Responsible Parties shall keep and maintain the streets and ways in and around the subdivision clean and free from all dirt, mud, construction material and other debris during the period of construction;
(B) The Responsible Parties shall scrape each street every day during the period of construction, and shall sweep or cause the streets to be swept once every week. In addition to the foregoing, the Responsible Parties shall be required to scrape, sweep, or remove debris from the streets as from time to time directed by the Department of Public Works, the Mayor or the City Engineer.
(C) The duties imposed by this Section 14-21 shall apply to all streets within the subdivision, all streets designated as construction traffic routes and all perimeter streets or streets adjacent to the subdivision.
(D) The Responsible Parties violating any provision of this Section 14-21 shall be subject to one or more of the following penalties, said penalties being cumulative and in addition to any other penalties that may be imposed:
A fine of not less than $750 for each offense plus the City's cost of prosecution, including attorneys' fees, incurred by the City. Each day that a violation continues shall be considered a separate offense.

The City may undertake the necessary cleaning as required herein and then assess the costs and expenses for such cleaning, including reasonable attorneys' fees incurred by the City, against the Responsible Parties for violating this Section 14-21 and may take action against the performance or construction bond or letter of credit for payment thereof.

"Stop Work Orders" for the subdivision may be issued by the City until the Responsible Parties comply with the requirements of the ordinance. No work shall be done in the subdivision while the stop work order is in effect.

The City may withhold the issuance of Certificate of Occupancy for all residences within the subdivision until the Responsible Parties comply with the requirements of this Section 14-21.

**Sec. 14-22. Abandoned refrigerators, air-tight containers.**

It shall be unlawful for any person to leave or permit to remain outside of any dwelling, building or other structure, or within any unoccupied or abandoned building, dwelling or other structure under his control, in a place accessible to children, any abandoned, unattended or discarded refrigerator or other container which has an air-tight door or lid, snaplock or other locking device which may not be released from the inside, without first removing said door or lid, snaplock or other locking device from said refrigerator or container.

**Sec. 14-23. Obstructing passageways.**

No person shall place or erect upon public way or passageway to any building an obstruction of any type, provided that this Section shall not prevent the duly authorized or required placing of temporary barriers or warning signs for the purpose of safeguarding the public.

**Sec. 14-24. Littering.**

No person in the City shall throw or permit to be deposited or scattered upon any sidewalk, alley, street, bridge or public passageway, or upon any private property, any waste or other material of any kind.

**Sec. 14-25. Shoplifting.**

A person commits the offense of shoplifting when he knowingly obtains or exerts unauthorized control over merchandise from a mercantile establishment intending to deprive the mercantile establishment of the property without paying for it.

**Sec. 14-26. Deceptive practices.**

A person commits a deceptive practice when with intent to obtain control over property or to pay for property, labor or services of another, he issues or delivers a check or other order upon a real or fictitious depository for the payment of money, knowing that it will not be paid by the depository. Failure to have sufficient funds or credit with the depository when the check or other order is issued or delivered is prima facie evidence that the offender knows that it will not be paid by the depository.

**Sec. 14-27. Theft.**

A person commits theft, which is a misdemeanor, when he knowingly:

(A) Obtains or exerts unauthorized control over property of the owner; or
(B) Obtains by deception control over property of the owner; or

(C) Obtains by threat control over property of the owner; or

(D) Obtains control over stolen property knowing the property to have been stolen by another or under such circumstances as would reasonably induce him to believe that the property was stolen, and

(1) Intends to deprive the owner of the use or benefit of the property; or

(2) Knowingly uses, conceals or abandons the property in such manner as to deprive the owner permanently of such use or benefit; or

(3) Uses, conceals, or abandons the property knowing such use, concealment or abandonment probably will deprive the owner permanently of such use or benefit.

A person commits the offense of unlawful restraint when he knowingly without legal authority detains another.

Sec. 14-29. Gambling - Engaging in.*
No person in the City shall engage in a game of chance prohibited by the statutes of the State or ordinances of this City.

No person in the City shall have in his possession any evidence of illegal gambling in the nature of policy or pool tickets, slips or checks or memoranda of any combination or bet, or any policy wheel, dice implement, apparatus or material of any form of illegal gambling or lottery.

Sec. 14-31. Repealed in its entirety. (MC-12-1053)
(See Chapter 9, Section 9-2, 9-7 and 9-10).

Sec. 14-32. Graffiti and Damage to Property. ** (MC-09-996)

(A) Graffiti and Damage to Property Prohibited. It shall be unlawful, and is hereby declared a nuisance to place graffiti upon any public or private curb stone, flagstone, brick, sidewalk or any portion of any part of any sidewalk or street, or upon any tree, lamp post, telephone pole, utility box, utility pole, stanchion, postal mail receptacle, sign, hydrant, fence, door, wall, window, garage or enclosure, vehicle, bridge, pier or upon any other public or private structure or building. It shall also be unlawful, and is hereby declared a nuisance, to actively damage, befoul, disturb, destroy or deface any City property or any public or private property without permission of the owner.

* Cross Reference - Coin-operated gambling devices, Sec. 9-7; gambling in parks, Sec. 16-35.

** Cross Reference - Damaging park property, Sec. 16-5; damaging plants in parks, Sec. 16-9.
A violation of this subsection is an ordinance violation with a minimum fine of $400. Restitution by the violator shall also be made to the owner of any property damaged or destroyed. Nothing herein shall preclude such additional civil remedies available to the person whose property has been damaged or destroyed.

(B) Graffiti Defined. Graffiti is any permanent display of any name, identification, letter, numeral, figure, emblem, insignia, picture, outline, character, spectacle, delineation, illustration, symbol or any combination thereof, which without authorization, or, despite advance authorization, is marked, written, drawn, painted, scratched, inscribed or affixed, and which is a different color from the color of the exterior of those objects or structures described above and to which is affixed. Graffiti shall not include any sign, marking, or communication permitted or required to be permitted by law and inscribed, placed, or otherwise displayed with the permission of the landowner.

(C) Removal of Graffiti by Property Owner or the City.

Property Owner Responsibility. It shall be unlawful for any person who is the owner or who has primary responsibility for control of the property or for repair or maintenance of property in the City to permit property that is defaced with graffiti or otherwise damaged in violation of subsection (A) above to remain defaced or damaged for a period of two days after written notice of the defacement violation has been provided by the City with the ability of a time extension being granted if the property owner contacts the Department of Construction and Neighborhood Services within the specified time frame. Said written notice shall contain the following information:

i. The street address or legal description of the property sufficient for identification of the property;

ii. A statement that the graffiti must be removed or the damage fixed within two days after receipt of the written notice; and

iii. If the graffiti or damage is not abated within the specified time frame, the City will declare the property to be a public nuisance, subject to abatement procedures.

1. Exception to Property Owners Responsibility. The removal requirement of Subsection 14-32.1(C) shall not apply if, in the City’s discretion, the property owner has demonstrated that:

i. An extension of the time is needed due to weather, temperature or physical limitations. An extension of time may be granted by the City upon application of the property owner to and approval by the Director of Construction and Neighborhood Services and/or his designee; or
ii. The property owner or responsible party has an active program for the removal of graffiti and has scheduled the removal of the graffiti as part of the program; however, it shall be unlawful to permit such property to remain defaced for a period of seven days after service of written notice; or

iii. The property damage in question is not the result of an intentional act of property damage but rather due to general neglect in maintaining the property, or due to a weather event or other natural or accidental cause. In such a case, the City shall determine if the property otherwise violates City codes on property maintenance, and shall determine whether to issue a citation to the owner based on the above violation.

2. **Abatement by the City upon noncompliance.**

   i. Any property owner who fails to remove graffiti or otherwise repair property damage within two days after receiving written notice from the City shall receive a non-traffic citation and notice to appear at an Adjudication Hearing for a violation of this Chapter 14 Subsection 14-32.1(C).

   ii. Upon the failure of any owner or agent so notified to remove graffiti or otherwise repair property damage, the Director of Construction and Neighborhood Services is hereby authorized and empowered to pay for the removal or to order the removal by the City; upon which the City will use all powers available to recoup expenses/costs incurred by said abatement for noncompliance.

**Sec. 14-33. Theft, defacement, destruction, alteration or removal of government signs.**

   (A) It shall be unlawful for any person to steal or to intentionally deface, destroy, alter or remove any street name sign, traffic or parking sign, legal notice, warning of hazards or other informational signs or displays maintained by the City or any other governmental body.

   (B) Any person violating this Section 14-33 shall be punished by a fine of not less than $100 nor more than $500 and, in addition thereto, shall be required to make restitution for the total material and labor costs of replacing such sign or signs. (MC-89-512)
Sec. 14-34. Parental responsibility. (MC-94-621)

(A) It shall be unlawful for a parent or legal guardian of an unemancipated minor residing with such parent or legal guardian to knowingly allow or permit said minor to commit any violation of a City ordinance or State Statute concerning vandalism, battery, fireworks, obscene conduct, trespass, possession of weapons or alcoholic liquor, curfew, disorderly street gang conduct, suspicious activity, or any other offense or willful or malicious acts to persons or property.

(B) The parent or guardian responsible for the willful or malicious acts of the minor child pursuant to this Section 14-34, shall make full restitution to the injured or damaged party or parties within 10 days after notification of liability. Parents and guardians shall be responsible individually and jointly.

(C) Penalty. Whoever violates any provision of Section 14-34 shall be fined not less than $400 for each offense and be responsible for the City's cost of prosecution including attorney fees incurred by the City. Each day that a violation continues shall be considered a separate offense. Restitution by the violator shall also be made to the owner of any property damaged or destroyed. Nothing herein shall preclude such additional civil remedies available to the person whose property has been damaged or destroyed. Each day any violation or any provision of this section shall continue shall constitute a separate violation.

Sec. 14-35. Street gang activity. (MC-94-621)

(A) City Council findings.

(1) The City Council hereby finds and declares that it is the right of every person, regardless of race, color, creed, religious, national origin, sex, age or disability to be secure and protected from fear, intimidation and physical harm caused by the activities of violent groups and individuals. It is not the intent of this ordinance to interfere with the exercise of the constitutionally protected rights of freedom of expression and association. The City Council hereby recognizes the constitutional right of every citizen to harbor and express beliefs on any lawful subject whatsoever, to lawfully associate with others who shall similar beliefs, to petition lawfully constituted authority for a redress of perceived grievances, and to participate in the electoral process.

(2) The City Council finds, however, that urban, suburban and rural communities, neighborhoods and schools throughout the State are being terrorized and plundered by street gangs. The City Council finds that there are now several hundred street gangs operating in Illinois, and that while their terrorism is most widespread in urban areas, street gangs are spreading into suburban and rural areas of Illinois, including McHenry County.

(3) The City Council further finds that street gangs are often controlled by criminally sophisticated adults who take advantage of our youth by intimidating and coercing them into membership by employing them as drug couriers and runners, and by using them to commit brutal crimes against persons and property to further the financial benefit to and dominance of the street gang.

(4) Street gang activity presents a clear and present danger to public order and safety and is not constitutionally protected. No society is or should be required to endure such activities without redress. Accordingly, it is the intent of the City Council, by enacting this ordinance, to prohibit street gang related activity.

(B) For the purpose of this Section 14-35, "street gang" or "gang" is defined as any ongoing organization, association in fact or group of three or more persons, whether formally or informally organized, or any sub-group or affiliated group thereof, having as one of its activities the commission of criminal or illegal acts, including by way of example only and not in any way limiting or specifying, illegal drug distribution, and whose members individually or collectively engage in or have engaged in a pattern of criminal or illegal acts, and which group frequently, though not necessarily, claim one or more particular geographic territory or "turf" exclusively as its realm of influence and operations.
(C) It shall be unlawful for any person within the City to knowingly use, display or wear colors, emblems or insignia on or about their person in public for the purpose of promoting any street gang activity.

(D) It shall be unlawful for any person within the City to knowingly do or make any act, utterance, gesture or display for the purpose of communicating membership of, affiliation with, association with, support of, identification with, sympathy toward or affront toward any street gang, or with actual knowledge that the subject act, utterance, gesture or display is used and recognized as communicative of street gang membership, affiliation, association, support, identification, sympathy or affront.

(E) Penalty. Any person violating this Section 14-35 shall be fined not less than $400 for each offense and be responsible for the City's cost of prosecution including attorney fees incurred by the City. Each day that a violation continues shall be considered a separate offense.

Sec. 14-36. Alcoholic beverages. (MC-94-621)

(A) Intoxicating liquors. Any officer having personal knowledge or reasonable information that intoxicating liquors are being kept in violation of law in any place, shall search such suspected place, and if such officer or person finds upon the premises intoxicating liquors he shall seize the same, together with the vessels in which they are contained, and all implements and furniture used in connection with such liquors in the illegal keeping, bargaining, selling, exchanging, giving away or carrying the same, and any wagon, automobile, vehicle, contrivance, thing or device used in conveying said liquors or kept for the purpose of violating this ordinance, and shall arrest any person or persons in charge of such place, or aiding in any manner in carrying on the business conducted in such place.

(B) Public property. Except as provided in Section 16-28 of this Code, consumption or possession of any alcoholic liquors, including beer and wine, at anytime in any public park, street, alley or public place owned, controlled or operated by the City is prohibited. (MC-94-629)

(C) Penalty. Any person violating this section shall be fined not less than $400 for each offense and be responsible for the City's costs of prosecution including attorney fees incurred by the City. Each day that a violation continues shall be considered a separate offense.

Sec. 14-37 Bidi Cigarettes, Smoking Herbs, Tobacco Accessories and Tobacco Products; Definitions. (MC-10-1015; MC-14-1085)

Terms used in Sections 14-38 through 14-44 are defined as follows:

*Bidi cigarette*: a product that contains tobacco that is wrapped in temburni or tendu leaf or that is wrapped in any other material identified by rules of the Illinois Department of Public Health that is similar in appearance or characteristics to the temburni or tendu leaf.

*Smoking herbs*: all substances of plant origin and their derivatives, including but not limited to broom, calea, California poppy, damiana, hops, ginseng, lobelia, jimson weed and other members of the Datura genus, passion flower and wild lettuce, which are processed or sold primarily for use as smoking materials.

*Smokeless tobacco*: any finely cut, ground, powdered or leaf tobacco that is intended to be placed in the oral cavity; any tobacco product that is suitable for dipping or chewing.

*Tobacco accessories*: cigarette papers, pipes, holders of smoking materials of all types, cigarette rolling machines and other items, designed primarily for the smoking or ingestion of tobacco products or of substances made illegal under any statute or of substances whose sale, gift, barter or exchange is unlawful.
Tobacco products: cigars, cigarettes, smokeless tobacco or tobacco.

Electronic Cigarette or E-Cigarette: An alternative nicotine product. An electronic device usually composed of a mouthpiece, a heating element or atomizer, a battery, and electronic circuits that provides a gas derived from liquid nicotine and/or other substances which is inhaled by a user simulating smoking. The term includes such devices, regardless of the details of the product appearance or marketed name, generally manufactured to resemble cigarette, cigars, pipes, or other smoking devices.

Liquid Nicotine: Means any liquid product composed either in whole or part of nicotine, propylene glycol and/or other similar substances and manufactured for use with an e-cigarette to be converted into gas for inhaling.

Alternative Nicotine Product: Means a product or device not consisting of or containing tobacco that provides for the ingestion into the body of nicotine, whether by chewing, smoking, absorbing, dissolving, inhaling, snorting, sniffing, or by any other means. (MC-14-1085)

Sec. 14-38 Purchase and Use of Tobacco Products Prohibited.
(1) No person under 18 years of age shall purchase any tobacco product in any of its forms, electronic cigarettes or their components, alternative nicotine products or liquid nicotine. No person shall sell, purchase for, distribute samples of or furnish any tobacco product in any of its forms, an electronic cigarette or their components, alternative nicotine products or liquid nicotine, to any person under 18 years of age. Tobacco products, electronic cigarettes, alternative nicotine products and liquid nicotine may be sold through a vending machine only when such tobacco products, electronic cigarettes, alternative nicotine products or liquid nicotine are not sold along with non-tobacco, non-electronic cigarette or non-liquid nicotine component products in the vending machine and only in the following locations:

a) Factories, businesses, offices, private clubs and other places not open to the general public.

b) Places to which persons under 18 years of age are not permitted access.

c) Places where alcoholic beverages are sold and consumed on the premises.

d) Places where the vending machine is under the direct supervision (which means that the owner or employee has an unimpeded line of sight to the vending machine) of the owner of the establishment or an employee over 18 years of age. The sale of tobacco products, electronic cigarettes, alternative nicotine products or liquid nicotine from a vending machine under direct supervision of the owner or an employee of the establishment is considered a sale of tobacco products by that person.

e) Places where the vending machine can only be operated by the owner or an employee over age 18 either directly or through a remote control device if the device is inaccessible to all customers.

(2) Penalty: Any person violating any provision of this Section 14-38 is guilty of a petty offense and for the first offense shall be fined $200, $400 for the second offense in a 12-month period, and $600 for the third or any subsequent offense in a 12-month period and be responsible for the City’s cost of prosecution, including reasonable attorney fees.
Sec. 14-39. Possession of Tobacco Products, Electronic Cigarettes and their components, Alternative Nicotine Products or Liquid Nicotine.

(1) No person under 18 years of age shall possess any tobacco product in any of its forms, any electronic cigarettes or their components, alternative nicotine products or liquid nicotine.

(2) Penalty: If a minor violates this Section 14-39 the minor shall be guilty of a petty offense and may be fined $50 and/or sentenced to 15 hours of community service for the first offense. If a second violation occurs within a 12-month period of the first offense, the fine shall be $75 and/or 25 hours of community service. For a third or subsequent violation that occurs within a 12-month period of the first offense, the fine shall be $100 and/or 30 hours of community service. If there is a second or subsequent violation not within a 12-month time period after the first violation, a fine of $25 or 15 hours of community service shall be assessed. For any violation the violator shall be responsible for the City’s cost of prosecution, including reasonable attorney fees.

Sec. 14-40 Tobacco Accessories, Smoking Herbs, Tobacco Products, Electronic Cigarettes, Alternative Nicotine Products or Liquid Nicotine.

(1) Sale to Minors Prohibited: No person shall knowingly sell, barter, exchange, deliver or give away or cause or permit or procure to be sold, bartered, exchanged, delivered or given away tobacco accessories, or smoking herbs, tobacco products, electronic cigarettes or components, alternative nicotine products or liquid nicotine to any person under 18 years of age.

(2) Sale of Bidi Cigarettes: No person shall knowingly sell, barter, exchange, deliver or give away a bidi cigarette to another person, nor shall a person cause or permit or procure a bidi cigarette to be sold, bartered, exchanged, delivered or given away to another person.

(3) Sale of Cigarette Paper: No person shall knowingly offer, sell, barter, exchange, deliver or give away cigarette paper or cause, permit or procure cigarette paper to be sold, offered, bartered, exchanged, delivered or given away except from premises or an establishment where other tobacco products are sold.

(4) Sale of Cigarette Paper from Vending Machines: No person shall knowingly offer, sell, barter, exchange, deliver or give away cigarette paper or cause, permit or procure cigarette paper to be sold, offered, bartered, exchanged, delivered or given away by use of a vending or coin-operated machine or device. For purposes of this Section (E)(4), cigarette paper shall not include any paper that is incorporated into a product to which a tax stamp must be affixed under the Cigarette Tax Act (35 ILCS 130/1 et seq.) or the Cigarette Use Tax Act (35 ILCS 135/1 et seq.).

(5) Use of Identification Cards: No person in the furtherance or facilitation of obtaining tobacco accessories, smoking herbs, tobacco products, electronic cigarettes, alternative nicotine products and liquid nicotine shall display or use a false or forged identification card or transfer, alter or deface an identification card.

(6) Warning to Minors: Any person, firm, partnership, company or corporation operating a place of business where tobacco accessories, smoking herbs, tobacco products, electronic cigarettes, alternative nicotine products or liquid nicotine are sold or offered for sale shall post in a conspicuous place upon the premises a sign which there shall be imprinted the following statement:

SALE OF TOBACCO ACCESSORIES, SMOKING HERBS, ELECTRONIC CIGARETTES, ALTERNATIVE NICOTINE PRODUCTS AND LIQUID NICOTINE TO PERSONS UNDER 18 YEARS OF AGE OR THE MISREPRESENTATION OF AGE TO PROCURE SUCH A SALE IS PROHIBITED BY LAW.

The sign shall be printed on a white card in red letters at least one-half inch in height.
Sec. 14-41 Penalty
(1) Except for Section 14-40(2), any person who knowingly violates or shall knowingly cause the violation of any provision of Section 14-40 shall be guilty of a Class C misdemeanor and shall be fined pursuant to 730 ILCS 5. The violator shall be responsible for the City’s cost of prosecution, including reasonable attorney fees.

(2) Any person who knowingly violates or shall knowingly cause the violation of Section 14-40(2) shall be guilty of a petty offense for which the offender shall be fined as follows: for the first offense, not less than $100 or more than $500, for a second offense within a 2-year period of the first offense, not less than $250 or more than $600, and for a third or subsequent offense within a 2-year period of the first offense, not less than $500 or more than $1,000. In addition, the violator shall be responsible for the City’s cost of prosecution, including reasonable attorney fees.

(3) These fines are in addition to the administrative provisions for suspension, revocation or forfeiture of a license issued pursuant to Chapter 2.25 of the Municipal Code of the City of McHenry. Payment of such fine shall not constitute an admission of guilt or innocence for the purposes of such administrative proceedings for suspension, revocation or forfeiture.

Sec. 14-42 Tobacco, Electronic Cigarette, Alternative Nicotine Product or Liquid Nicotine Dealer’s License.
(1) License required. It shall be unlawful to sell or offer for sale at retail, to give away or keep with the intention of selling at retail, giving away or delivering tobacco products, electronic cigarettes or their components, alternative nicotine products or liquid nicotine within the City without having first obtained a tobacco dealer’s license. Such license shall be in addition to any other license required by the Municipal Code of the City of McHenry. Applications for a license shall be made in writing to the City. Such application shall contain the name of the applicant, the address at which such sales are to be made, and in the case of cigarette vending machines, the number of machines for which licenses are to be issued and are located within the building or structure.

(2) License Period; Fee. The license period shall be from May 1 to the following April 30. The annual license fee shall be $25, payable to the City on or before May 1 of each year.

(3) Personal Nature of License. A license is a purely personal privilege, good for the license period, unless revoked. No such license shall be transferrable.

(4) Responsibility for Agents and Employees. Any act of omission constituting a violation of any provision of this Section by any officer, director, manager or other agent or employee of any licensee shall be deemed and held to be the act of such licensee and such licensee shall be punishable in the same manner as if such act or omission has been done or omitted by the licensee personally.

(5) Availability. No person, firm or corporation shall sell or distribute individual cigarettes or samples of cigarettes except in its original packaging, and no package shall contain less than 20 cigarettes. Except as provided in Section 14-42(6), tobacco products, electronic cigarettes and their components, alternative nicotine products and liquid nicotine shall be sold only in direct, face-to-face exchange. Self-service displays shall not be permitted except in areas where access by persons under the age of 18 is prohibited.

(6) Vending Machines; Locking Devices. It shall be unlawful for any licensee to sell or offer for sale, give away, deliver or to keep with the intention of selling, giving away, or delivering tobacco products, electronic cigarettes and their components, alternative nicotine products or liquid nicotine by use of vending machines.
unless such vending machine is equipped with a manual, electric or electronic locking device controlled by the licensee that prevents its operation by persons under the age of 18 years.

The following appointed officials of any public school shall have the authority to sign all complaints and charge all violators of this Section that take place on school property: principal, assistant principal and dean of students.

Sec. 14-44 Reserved.

ARTICLE II. IMMORALITY

Sec. 14-45. Public indecency.
No person shall commit an act of public indecency in a public place. Public indecency shall consist of any of the following acts:

(A) An act of sexual penetration or sexual conduct as defined in the Criminal Code.
(B) An exposure of the body done with intent to arouse or to satisfy the sexual desire of the person.

Secs. 14-46 - 14-53. Reserved. (MC-01-767)

Sec. 14-54. Obscene literature, pictures, performances, etc.
(A) It shall be unlawful for any person to sell, deliver, offer for sale, distribute, publish, print exhibit or possess with intent to distribute, with knowledge of the nature or content thereof, or recklessly failing to exercise reasonable inspection which would have disclosed the nature or content thereof, any obscene writing, picture, moving picture, record or other representation or embodiment of the obscene, or to present or to direct an obscene play or other performance or to perform an obscene act or otherwise present an obscene exhibition or to advertise or otherwise promote obscene material.

(B) For the purpose of this Section, a thing shall be deemed to be obscene if the average person, applying contemporary community standards, would find that the work taken as a whole appeals to a prurient interest, and the work depicts or describes patently offensive representations or descriptions of nude persons, ultimate sexual acts, normal or perverted sexual conduct, whether actual or simulated, or patently offensive representations or descriptions of masturbation, excretory functions, and lewd exhibition of the human genitals. The work, taken as a whole, must lack serious literary, artistic, political or scientific value.

(C) It shall be an affirmative defense to a charge of disseminating material in violation of this Section that the dissemination:
   (1) Was in the privacy of the home, not for gain, and was made to personal associates other than children under 18 years of age;
   (2) Was to institutions or individuals having scientific or other special justification for possession of such material;
   (3) Was made by a parent to the parent's child or children.

Secs. 14-55 - 14-63. Reserved.
ARTICLE III. WEAPONS*

Sec. 14-64. Weapons. (MC-94-621)

(A) Weapons. Unless expressly authorized by law, no person shall wear under his clothing, or conceal about his person, or display in a threatening like manner, any dangerous or deadly weapon including, but not limited to any pistol, revolver, sling shot, knuckles, any bowie or similar knife, or any knife with a switch-blade or device whereby the blade or blades can be opened by a button, pressure on the handle or other mechanical contrivance. (MC-13-1081)

(B) Discharge of Firearms. No person shall discharge any firearm in the City except sworn police officers acting in the line of duty or during training authorized by the Chief of Police or their designee. For purposes of this section of the McHenry City Code, firearm means any device, by whatever name known, which is designed to expel a projectile or projectiles by the action of an explosion, expansion of gas or escape of gas and any bow and arrow including, but not limited to a longbow, recurve bow, compound bow, cross bow or other similar device. Events or programs sponsored or approved by the City of McHenry may be exempted from this paragraph under the authorization and approval of the Chief of Police or their designee. (MC-13-1081)

(C) Display and Sale of Specified Weapons. No pawnbroker, second-hand dealer or other person engaged in business in the City shall display or place on exhibition in any show window or other window facing upon any street, any pistol, revolver or other firearm, with a barrel less than 12 inches in length, or any brass or metal knuckles, or any club loaded with lead or other weight, or any blackjack or billy club. Weapons displayed for sale shall be incapable of firing. In non-business hours said weapons shall be stored in a secured and locked vault, safe or security box.

(D) Penalty. Any person violating this section shall be fined not less than $400 for each offense and be responsible for the City's cost of prosecution including attorney fees incurred by the City. Each day that a violation continues shall be considered a separate offense. Restitution by the violator shall also be made for any property damaged or destroyed or to any person injured.

Secs. 14-65 - 14-74 Reserved. (MC-94-621)

* Cross Reference - Firearms and weapons in parks, Sec. 16-23.

ARTICLE IV.
DRUG PARAPHERNALIA; POSSESSION OF CANNABIS*

Sec. 14-75 Drug Paraphernalia. (MC-94-621) (MC-10-1011), (MC-16-1139)

(A) DEFINITIONS. For purposes of this Section, drug paraphernalia is defined as in 720 ILCS 600/2(d), as amended, and includes, but is not limited to:

1. Kits used, intended for use or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or cannabis or from which a controlled substance or cannabis can be derived;

2. Kits used, intended for use or designed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substance or cannabis;

3. Isomerization devices used, intended for use or designed for use in increasing the potency of any species of plant which is a controlled substance or cannabis;

4. Testing equipment used, intended for use or signed for use in identifying, or in analyzing the strength effectiveness or purity of controlled substances or cannabis;
5. Scales and balances used, intended for use or designed for use in weighing or measuring controlled substances or cannabis;

6. Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use or designed for use in cutting controlled substances or cannabis;

7. Separation gins and sifters used, intended for use or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining marijuana;

8. Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding controlled substances or cannabis;

9. Capsules, balloons, envelopes and other containers used, intended for use or designed for use in packaging small quantities of controlled substances or cannabis;

10. Containers and other objects used, intended for use or designed for use in storing or concealing controlled substances or cannabis;

11. Hypodermic syringes, needles and other objects used, or intended for use, in parenterally injecting cannabis or controlled substances into the human body;

12. Objects used, intended for use or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish oil into the human body, such as:
   a. Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;
   b. Water pipes;
   c. Carburization tubes and devices;
   d. Smoking and carburization masks;
   e. Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;
   f. Chamber pipes;
   g. Carburetor pipes;
   h. Electric pipes;
   i. Air-driven pipes;
   j. Chillums;
   k. Bongs; and
   l. Ice pipes or chillers.

(B) In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

1. Statements by an owner or by anyone in control of the object concerning its use;
2. Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substances;

3. The proximity of the object, in time and space, to a direct violation of this Section;

4. The proximity of the object to controlled substances;

5. The existence of any residue of controlled substances on the object;

6. Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he knows, or should reasonably know, intend to use the object to facilitate a violation of this Section; the innocence of an owner, or of anyone in control of the object, as to a direct violation of this Section, shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia;

7. Instructions, oral or written, provided with the object concerning its use;

8. Descriptive materials accompanying the object which explain or depict its use;

9. National and local advertising concerning its use;

10. The manner in which the object is displayed for sale;

11. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;

12. Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;

13. The existence and scope of legitimate uses for the object in the community; and


(C) POSSESSION PROHIBITED: It shall be unlawful for any person to knowingly possess any drug paraphernalia within the corporate limits of the Village.

(D) MEDICAL USE OF CANNABIS: Notwithstanding the foregoing, it shall not be unlawful for any individual to possess drug paraphernalia consistent with the Compassionate Use of Medical Cannabis Pilot Program Act (410 ILCS 130/1 et seq.), as amended.

(E) VIOLATION; PENALTY: Whoever violates any provision of this Section 14-75 shall be fined not less than $100 and not more than $200 if the drug paraphernalia is seized during a violation of Section 14-76, otherwise the fine shall be not less than $200 nor more than $500. Each day that a violation continues shall be considered a separate offense.

Sec. 14-76 Unlawful possession of cannabis. (MC-94-621:MC-10-1011)

Definition. For purposes of this Section 14-76, cannabis is defined in 720 ILCS 550/3(a), as amended. Cannabis includes marijuana, hashish and other substances which are identified as including any parts of the plant Cannabis Sativa, whether growing or not; the seeds thereof, the resin extracted from any part of such plant; and any compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin, including tetrahydrocannabinol (THC) and all other cannabinol derivatives, including its naturally occurring or synthetically produced ingredients, whether produced directly or indirectly by
extraction, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis; but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted there from), fiber, oil or cake, or sterilized seed of such plant which is incapable of germination.

(A) A person commits unlawful possession of cannabis if he or she, while in the City, has in his or her possession any substance containing cannabis.

(B) Whoever violates any provision of this Section shall be fined not less than $100 or more than $750.

Sec. 14-77. Persons responsible for unlawful activities on their premises. (MC-94-621)

(A) It shall be unlawful for any person or persons who are the owners or occupants of any premises to allow, initiate or maintain any gathering on that premises in which tenants, invitees, visitors or trespassers engage in any unlawful activity. Unlawful activity shall include, but not be limited to, violations of any sections of Chapter 14 of this Code. A person will be deemed to have permitted the gathering if that person is on the premises while the unlawful activity is occurring and has not informed the police thereof. For purposes of this section only, a gathering shall consist of two or more persons who are not occupants or owners of the premises.

(B) Any person violating any section of this section shall be fined not less than $400-for each offense and be responsible for the City's cost of prosecution including attorney fees incurred by the City. Each day that a violation continues shall be considered a separate offense. Restitution by the violator shall also be made to any property damaged or destroyed or person injured.

ARTICLE V. MINORS
(MC-16-1140)

Sec. 14-78. Definitions

(1) Legal Guardian means any foster parent, or any person appointed guardian, or otherwise awarded custody of a minor by a court of law in this state, or any person appointed guardian or given custody of a minor under the Juvenile Court Act (705 ILCS 405/1-1 et seq.), but shall not include any person appointed guardian only to the estate of a minor.

(2) Parent means the father or mother of a minor child, whether by birth or adoption. In the event that the minors’ parents are divorced or separated within the meaning of the Illinois Marriage and Dissolution of Marriage Act (750 ILCS 5/101 et seq.), the parent having lawful physical custody of the minor shall be deemed to be the parent authorized to give consent as required by this section.

(3) Valid Cause, for absence shall be illness, observance of a religious holiday, death in the immediate family, family emergency, and shall include such other situations beyond the control of the student as determined by the board of education in each district, or such other circumstances which cause reasonable concern to the parent for the safety or health of the student.

Sec. 14-79. Truancy Prohibited

It shall be unlawful for any person who is required by law to attend school and who is subject to the compulsory attendance requirements of the Illinois School Code and enrolled in grades 1 through 12 in a public, private
(including a home school), or parochial school to absent himself or herself from attendance at school during the hours in which he or she is enrolled without valid cause or the permission of a parent, legal guardian, or the school in which they are enrolled. Any person who shall so absent himself or herself shall be guilty of the offense of truancy and shall be subject to the penalties set for in this section.

Sec. 14-80. Exemptions

In addition to being absent for valid cause as defined herein, a minor shall not be considered truant where he or she is:

1. Accompanied by a parent, legal guardian or school official;
2. Engaged in approved school related activities;
3. Engaged in lawful employment, provided that the school board of the public school district in which that child resides has recommended the employment and has certified the facts concerning such employment;
4. Physically or mentally unable to attend school due to a disability and such disability has been certified in accordance with Section 26-1(2) of the Illinois School Code (105 ILCS 5/26-1(2)); or
5. Subject to any other defense and/or exception set forth in the Illinois School Code (105 ILCS 5/1 et seq.) for compulsory attendance or enrollment in school.


It shall be unlawful for any parent, legal guardian or other person to permit a person in his or her custody or control to commit the offense of truancy.

Sec. 14-82. Contributing to the Delinquency.

It shall be unlawful for any person eighteen (18) years of age or older to perform any act of commission or omission which encourages or contributes to the truancy of any person.

Sec. 14-83. Penalty.

A truant who is thirteen (13) years of age or older, or his or her parent(s), guardian(s) or legal custodian(s), but not both, who violate the provisions of this Article is subject to a fine of up to one hundred dollars ($100.00). The parent(s), guardian(s) or legal custodian(s) of a truant who is under thirteen (13) years of age is subject to a fine of up to one hundred dollars ($100.00) if the minor, or his or her parent(s), guardian(s) or legal custodian(s), violate the provisions of this Section.

* Unless expressly permitted by this ordinance. Cross reference – City of McHenry Zoning Ordinance Article III General District Regulations Q. Medical Cannabis. (MC-14-1094)
Sec. 15-1. Definitions.
As used in this Chapter:

Chief of Police means the Chief of Police of the city.

Parade means any parade, march, ceremony, show, exhibition, pageant, or procession of any kind, or any similar display, in or upon any street, park or other public place in the City.

Parade Permit means a permit as required by this Chapter.

Sec. 15-2. Permit required.*
No person shall engage in, participate in, aid, form or start any parade, unless a parade permit shall have been obtained from the Chief of Police.

Sec. 15-3. Exceptions.
This Chapter shall not apply to:

(a) Funeral processions;
(b) Students going to and from school classes or participating in educational activities, providing such conduct is under the immediate direction and supervision of the proper school authorities;
(c) A governmental agency acting within the scope of its functions.

Sec. 15-4. Permit application required.
A person seeking issuance of a parade permit shall file an application with the Chief of Police on forms provided by such officer.

Sec. 15-5. Application filing period.
An application for a parade permit shall be filed with the Chief of Police not less than thirty days nor more than sixty days before the date on which it is proposed to conduct the parade.

Sec. 15-6. Application contents.
The application for a parade permit shall set forth the following information:

(a) The name, address and telephone number of the person, or organization seeking to conduct such parade;
(b) If the parade is proposed to be conducted for, on behalf of, or by an organization, the name, address and telephone number of the headquarters of the organization, and of the authorized and responsible heads of such organization shall be provided;
(c) The name, address and telephone numbers of the person who will be the parade chairman and who will be responsible for its conduct;

* Cross Reference - Permits generally, Ch. 12.
(d) The date when the parade is to be conducted;
(e) A Map indicating the route to be traveled, the starting point and the termination point;
(f) The approximate number of persons who, animals and vehicles which, will constitute such parade; the type of animals, and description of the vehicles;
(g) The hours when such parade will start and terminate;
(h) A statement as to whether the parade will occupy all or only a portion of the width of the streets proposed to be traversed;
(i) The location by streets of any assembly areas for such parade;
(j) The time at which units of the parade will begin to assemble at any such assembly area or areas;
(k) The interval of space to be maintained between units of such parade;
(l) If the parade is designed to be held by, and on behalf of or for, any person other than the applicant, the applicant for such permit shall file with the Chief of Police a communication in writing from the person proposing to hold the parade, authorizing the applicant to apply for the permit on his behalf;
(m) A certificate of insurance in the amount of $1,000,000 general liability and bodily injury, for each occurrence, naming the City of McHenry as additionally insured shall be provided;
(n) Any additional information which the Chief of Police shall find reasonably necessary to a fair determination as to whether a permit should issue.

Sec. 15-7. Late applications.
The Chief of Police, where good cause is shown therefore, shall have the authority to consider any application hereunder which is filed less than thirty days before the date such parade is proposed to be conducted.

Sec. 15-8. Permits from other jurisdictions.
In the event any state or other government agency permit shall be required to conduct the parade, it shall be the applicant's responsibility to secure such permit, and not the responsibility of the City.

Sec. 15-9. Time for action on application; notice of denial.
The Chief of Police shall act upon the application for a parade permit within ten days after the filing thereof. If the Chief of Police disapproves the application, he shall mail to the applicant, within fifteen days after the date upon which the application was filed, a notice of his action, stating the reasons for his denial of the permit.

Sec. 15-10. Standards for permit issuance.
The Chief of Police shall issue a permit as provided for hereunder when, from a consideration of the application and from such other information as may otherwise be obtained, he finds that:

(a) The conduct of the parade will not substantially interfere or interrupt the safe and orderly movement of other traffic contiguous to its route;
(b) The conduct of the parade will not require the diversion of so great a number of police officers of the City to properly police the line of movement and the areas contiguous thereto as to prevent normal police protection to the City;
(c) The conduct of such parade will not require the diversion of so great a number of ambulances as to prevent normal ambulance service to portions of the City other than that to be occupied by the proposed line of march and areas contiguous thereto;
(d) The concentration of persons, animals and vehicles at assembly points of the parade will not
unduly interfere with proper fire and police protection for, or ambulance service to, areas
contiguous to such assembly areas;
(e) The conduct of such parade will not interfere with the movement of fire-fighting equipment
enroute to a fire;
(f) The conduct of the parade is not reasonably likely to cause injury to persons or property, to
provide disorderly conduct or create a disturbance.
(g) The parade is scheduled to move from its point of origin to its point of termination expeditiously
and without unreasonable delays enroute;
(h) The parade is not to be held for the sole purpose of advertising any product, goods or event and
is not designed to be held purely for private profit.

Sec. 15-11. Appeal from denial.
Any person aggrieved shall have the right to appeal the denial of a parade permit to the City Council. The
appeal shall be taken prior to the next regular meeting of the City Council, and the City Council shall act upon
the appeal at its next such regular meeting.

Sec. 15-12. Alternative permits.
The Chief of Police, in denying an application for a parade permit, shall be empowered to authorize the conduct
of the parade on a date, at a time, or over a route different from that named by the applicant. An applicant
desiring to accept an alternate permit shall, within ten (10) days after notice of the action of the Chief of Police,
file a written notice of acceptance with the Chief of Police. An alternate parade permit shall conform to the
requirements of, and shall have the effect of a parade permit under, this Chapter.

Sec. 15-13. Contents of permit.
Each parade permit shall state the following information:

(a) Starting time;
(b) Minimum speed;
(c) Maximum speed;
(d) Maximum interval of space to be maintained between the units of the parade;
(e) The portions of the streets to be traversed that may be occupied by the parade;
(f) The maximum length of the parade in miles or fractions thereof;
(g) The anticipated duration of the parade, including the proposed concluding time;
(h) Such other information as the Chief of Police shall find necessary to the enforcement of this
Chapter.

Sec. 15-14. Compliance with permit, laws, ordinances.
A permittee hereunder shall comply with all permit directions and conditions and with all applicable laws and
ordinances.

Sec. 15-15. Duty to carry permit.
The parade chairman or other person heading or leading shall carry the parade permit upon his person during
the conduct of the parade.
Sec. 15-16. Interference.
No person shall unreasonably hamper, obstruct or impede, or interfere with any parade or parade assembly or with any person, vehicle or animal participating or used in a parade.

Sec. 15-17. Driving through parades.
No driver of a vehicle shall drive between the vehicles or persons comprising a parade when such vehicles or persons are in motion and are conspicuously designated as a parade.

Sec. 15-18. Parking on parade route.
The Chief of Police shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along a highway or part thereof constituting a part of the route of parade. The Chief of Police shall post signs to such effect, and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof. No person shall be liable for parking on a street unposted in violation of this Chapter.
Sec. 16-1. Definitions.
For the purposes of this Chapter, the following terms, phrases, words, and their derivations shall have the meaning given herein.

Director means the Director of Parks and Recreation or his designee, the Parks and Recreation Department Staff, or a person immediately in charge of any park area and its activities, and to whom all park attendants of such area are responsible.

Park means a park, reservation, playground, beach, recreation center, McCullom Lake, or any other area in the City, owned or used by the City, and devoted to active or passive recreation.

Vehicle means any wheeled conveyance, whether motorpowered, animal-drawn, or self-propelled. The term shall include any trailer in tow of any size, kind or description. Exception is made for baby carriages and vehicles in the service of the City parks.

Sec. 16-2. Duty to enforce.
The Director and park attendants shall, in connection with their duties imposed by law, diligently enforce the provisions of this Chapter.

Sec. 16-3. Ejection of violators.
The Director and any park attendant shall have the authority to eject from the park any person acting in violation of this Chapter.

Sec. 16-4. Seizure of property.
The Director and any park attendant shall have the authority to seize and confiscate any property, thing or device in the park, or used, in violation of this Chapter.

Sec. 16-5. Damaging property.**
No person in a park shall willfully mark, deface, disfigure, injure, tamper with, or displace or remove, any buildings, bridges, tables, benches, fireplaces, railings, paving or paving material, water lines or other public utilities or parts or appurtenances thereof, signs, notices or placards, whether temporary or permanent, monuments, stakes, posts, or other boundary markers, or other structures or equipment, facilities or park property or appurtenances whatsoever, either real or personal.

Sec. 16-6. Maintenance, use of restrooms, washrooms.
No person in a park shall fail to cooperate in maintaining restrooms and washrooms in a neat and sanitary condition. No person over the age of four years shall use the restrooms and washrooms designated for the opposite sex.

* Cross Reference - Amusements, Ch. 5; set-back requirements for structural playground equipment, Sec. 17-5; operation of snowmobiles in parks, Sec. 13-902.

** Cross Reference - Damaging property, Sec. 14-32.
Sec. 16-7. Removal of natural resources.
No person in a park shall dig or remove any beach sand, whether submerged or not, or any soil, rock, stones, trees, shrubs or plants, downed timber or other wood or materials, or make any excavation by tool, equipment, blasting, or other means or agency.

Sec. 16-8. Permit required for structures, utilities.
No person in a park shall construct or erect any building or structure of whatever kind, whether permanent or temporary in character, or run or string any public service utility into, upon, or across such lands, except on special written permit issued hereunder.

Sec. 16-9. Damaging plants.*
No person in a park shall damage, cut, carve, transplant or remove any tree or plant or injure the bark, or pick the flowers or seeds, of any tree or plant. Nor shall any person attach any rope, wire, or other contrivance to any tree or plant. A person shall not dig in or otherwise disturb grass areas, or in any other way injure or impair the natural beauty or usefulness of any area.

Sec. 16-10. Climbing, sitting on trees, fixtures.
No person in a park shall climb any tree or walk, stand or sit upon monuments, vases, fountains, railing, fences or upon any other property not designated or customarily used for such purposes.

Sec. 16-11. Molesting animals, birds.**
No person in a park shall hunt, molest, harm, frighten, kill, trap, chase, tease, shoot or throw missiles at any animal, reptile or bird; nor shall he remove or have in his possession the young of any wild animal, or the eggs or nest or young of any reptile or bird; nor shall he collect, remove, have in his possession, give away, sell or offer to sell, or buy or offer to buy, or accept as a gift, any specimen alive or dead of any of the group of treesnails. Exception to the foregoing is made in that snakes known to be deadly poisonous, such as rattlesnakes, moccasins, coral snakes, or other deadly reptiles, may be killed on sight. This section is not intended to prohibit the taking of fish by legal means.

Sec. 16-12. Feeding animals, birds.
No person in a park, shall give or offer, or attempt to give to any animal or bird any tobacco, alcohol or other known noxious substances.

Sec. 16-13. Pollution of waters.
No person in a park shall throw, discharge, or otherwise place or cause to be placed in the waters of any fountain, pond, lake, stream, bay or other body of water in or adjacent to any park or any tributary, stream, storm sewer, or drain flowing into such waters, any substance, matter or thing, liquid or solid, which will or may result in the pollution of said waters.

* Cross Reference - Damaging property, Sec. 14-32.
** Cross Reference - Cruelty to animals generally, Sec. 6-1.
Sec. 16-14. Refuse and trash disposal.*
No person in a park shall have brought in or shall dump, deposit or leave any bottles, broken glass, ashes, paper, boxes, cans, dirt, rubbish, waste, garbage, or refuse, or other trash. No such refuse or trash shall be placed in any waters in or contiguous to any park or left anywhere on the grounds thereof, but shall be placed in the proper receptacles where these are provided; where receptacles are not so provided, all such rubbish or waste shall be carried away from the park by the person responsible for its presence, and properly disposed of elsewhere.

Sec. 16-15. Areas for swimming.
No person in a park shall swim, bathe, or wade in any waters or waterways in or adjacent to any park, except in such waters and at such places as are provided therefor, and in compliance with such regulations as are herein set forth or may be hereafter adopted. Nor shall any person frequent any waters or places customarily designated for the purpose of swimming or bathing, or congregate thereat when such activity is prohibited by the Health Department upon a finding that such use of the water would be dangerous or otherwise inadvisable.

Sec. 16-16. Swimming hours.
No person in a park shall frequent any waters or places designated for the purpose of swimming or bathing, or congregate thereat, except between such hours of the day as shall be designated by the Director or the City Council for such purposes for each individual area.

Sec. 16-17. Structures on beaches.
No person in a park shall erect, maintain, use or occupy on or in any beach or bathing area any tent, shelter or structure of any kind unless there shall be an unobstructed view into said tent, shelter or structure from at least two sides; nor shall any guy wire, rope or extension or exterior brace or support be connected or fastened from any such structure to any other structure, stake, rock or other object outside thereof.

Sec. 16-18. Place for dressing, undressing.
No person in a park shall dress or undress on any beach, or in any vehicle, toilet or other place, except in such bathing houses or structures as may be provided for that purpose.

Sec. 16-19. Areas for boating.
No person in a park shall bring into or operate any boat, raft, or other water craft, whether motor-powered or not, upon any waters, except at places designated for boating by the Director. Such activity shall be in accordance with applicable regulations as are now or may hereafter be adopted.

Sec. 16-20. Use of public docks.
No person in a park shall use the public docks for dockage or other purpose without first making arrangements for such accommodation with the Director, or the City Council, who shall assign space and collect reasonable rental charges in conformity with established regulations and rates.

* Cross Reference - Garbage and refuse generally, Sec. 11-78 et seq.
Sec. 16-20.1. Unlawful boat docking. (MC-90-537)
It shall be unlawful for any person to dock any boat between sunset and sunrise at any of the following locations:

(a) Walsh Park frontage on Boone Creek;
(b) Weber Park frontage on the Fox River;
(c) City Beach properties fronting on McCullom Lake;
(d) Miller’s Riverfront Park frontage on the Fox River.

Sec. 16-21. Reckless operation of boats.
No person shall operate any boat on any body of water within the City limits of the City of McHenry, Illinois with a willful or wanton disregard for the safety of persons or property, nor in such a manner as to annoy, frighten or endanger any other person who may then be on or in any such body of water.

Sec. 16-22. Boating hours.
No person in a park shall launch, dock or operate any boat of any kind on any waters between the closing hour of the park at night and opening hour the following morning, nor shall any person be on, or remain on or in, any boat during the said closed hours of the park.

Sec. 16-23. Firearms and weapons.*
No person in a park shall use, carry, or possess firearms of any descriptions, or air rifles, paintball guns, spring-guns, bows and arrows, slings or any other forms of weapons potentially inimical to wildlife and dangerous to human safety, or any instrument that can be loaded with and fire blank cartridges, or any kind of trapping device. Shooting into park areas from beyond park boundaries is forbidden.

Sec. 16-24. Picnicking.
(a) No person in a park shall picnic or lunch in a place other than those designated for that purpose. Park attendants shall have the authority to regulate the activities in such areas when necessary to prevent congestion and to secure the maximum use for the comfort and convenience of all. Visitors shall comply with any directions given to achieve this end.

(b) No person in a park shall violate the regulation that use of the individual cooking grills together with tables and benches follows generally the rule of "first come, first served."

(c) No person in a park shall use any portion of the picnic areas or of any of the buildings or structures therein for the purpose of holding picnics to the exclusion of other persons, nor shall any person use such area and facilities for an unreasonable time if the facilities are crowded.

(d) No person in a park shall leave a picnic area before the fire is completely extinguished and before all trash in the nature of boxes, papers, cans, bottles, garbage and other refuse is placed in the disposal receptacles where provided. If no such trash receptacles are available, then refuse and trash shall be carried away from the park area by the picnicker to be properly disposed of elsewhere.

(e) Where a permit for group activities has been issued pursuant to Section 16-45, subsections (b) and (c) of this Section shall not apply to individual members of the group for which the permit was issued.

* Cross Reference - Weapons generally, Sec. 14-64 et seq.
Sec. 16-25. Camping.
No person shall set up tents, shacks, or any other temporary shelter for the purpose of overnight camping, nor shall any person leave in a park after closing hours any movable structure or special vehicle to be used for such purpose, such as house-trailer, camp-trailer, camp-wagon, or the like. Exception to this Section shall be granted only by permission of City Council or Director for specific events.

Sec. 16-26. Games, recreational activities limited.
No person in a park shall take part in or abet the playing of any games involving thrown or otherwise propelled objects such as stones, arrows, javelins or model airplanes except in areas set apart for such forms of recreation. The playing of rough or comparatively dangerous games is prohibited except on the fields and courts or areas provided therefor. Rollerskating, skateboarding, cycling shall be confined to those areas specifically designated for such recreational activities.

Sec. 16-27. Horseback riding.
No person in a park shall ride a horse except on designated bridle trails. Where permitted, horses shall be thoroughly broken and properly restrained, and ridden with due care, and shall not be allowed to graze or go unattended, nor shall they be hitched to any rock, tree or shrub.

Sec. 16-28. Intoxicating beverages.* (MC-94-629)
(a) Prohibition. No person shall possess or drink any alcoholic beverages at any time in any City park, except beer and/or wine which may be consumed pursuant to a City Park Beer/Wine Permit issued by the Mayor. No such permit, however, may be issued unless an application for such permit has been filed and the City Council has authorized its issuance. Such permit shall be valid only for the period issued and shall be subject to inspection by any City official, police officer or park personnel upon request.

(b) Drunkenness. No person in a park shall have entered or be under the influence of intoxicating liquor.

(c) Penalty. Any person violating this section shall be fined not less than $400 for each offense and be responsible for the City's cost of prosecution including attorney fees incurred by the City. Each day that a violation continues shall be considered a separate offense.

Sec. 16-29. Fireworks and explosives.**
No person in a park shall bring in, have in his possession, set off or otherwise cause to explode or discharge or burn, any firecracker, torpedo, rocket, or other fireworks or explosives of inflammable material, or discharge them or throw them into any such area from land or highway adjacent thereto. This prohibition includes any substance, compound, mixture, or article that in conjunction with any other substance, or compound, would be dangerous from any of the foregoing standpoints. Professional fireworks displays allowed only by City Council permit.

Sec. 16-30. Pets and domestic animals.***
No person in a park shall be responsible for the entry of a dog or other domestic animal into park areas.

* Cross Reference - Alcoholic beverages generally, Ch. 4.
** Cross Reference - Fireworks and explosives generally, Sec. 10-33 et seq.
*** Cross Reference - Animals generally, Ch. 6.
Sec. 16-31. No smoking in any enclosed park facility building.
Smoking in any/all enclosed buildings located in a park facility is hereby prohibited in order to be in compliance with the Illinois Clean Air Act.

Sec. 16-32. Soliciting alms, contributions.*
No person in a park shall solicit alms or contributions for any purpose, whether public or private without City Council approval.

Sec. 16-33. Fires.**
No person in a park shall build or attempt to build a fire except in such areas and under such regulations as may be designated by the Director. No person shall drop, throw, or otherwise scatter lighted matches, burning cigarettes or cigars, tobacco paper or other inflammable material, within any park area or on any highway, road or street abutting or contiguous thereto.

Sec. 16-34. Use of closed areas.
No person in a park shall enter an area posted as "Closed to the Public" nor shall any person use, or abet the use of any area in violation of posted notices.

Sec. 16-35. Games of Chance.***
No person in a park shall gamble, or participate in or abet any game of chance.

Sec. 16-36. Going onto ice.
No person in a park shall go onto the ice on any of the waters except such areas as are designated as skating rinks and are used for ice fishing when ice is at a minimum of four inches thick.

Sec. 16-37. Loitering and boisterousness.****
No person in a park shall sleep or protractedly lounge on the seats, benches, or other areas, or engage in loud, boisterous, threatening, abusive, insulting or indecent language, or engage in any disorderly conduct or behavior tending to a breach of the public peace.

Sec. 16-38. Duty to exhibit permits.
No person in a park shall fail to produce and exhibit any permit from the Director he claims to have upon request of any authorized person who shall desire to inspect the same for the purpose of enforcing compliance with any ordinance or rule.

Sec. 16-39. Interference with permittees.
No person in a park shall disturb or interfere unreasonably with any person or party occupying any area, or participating in any activity, under the authority of a written permit issued by the City.

* Cross Reference - Charitable solicitation generally, Sec. 19-13 et seq.
** Cross Reference - Fire protection and prevention generally, Ch. 10.
*** Cross Reference - Gambling generally, Sec. 14-29 et seq.
**** Cross Reference - Disorderly conduct, Sec. 14-4; loitering generally, Sec. 14-10.
Sec. 16-40. Vending and peddling.*
No person in a park shall expose or offer for sale any article or thing, nor shall he station or place any stand, cart, or vehicle for the transportation, sale or display of any such article or thing. Exception is hereby made as to any regularly licensed concessionaire acting by and under the authority and regulation of the Director and/or City Council.

Sec. 16-41. Advertising and signs.**
(a) No person in a park shall announce, advertise, or call the public attention in any way to any article or service for sale or hire.

(b) No person in a park shall paste, glue, tack or otherwise post any sign, placard, advertisement, or inscription whatever, nor shall any person erect or cause to be erected any sign whatever on any public lands or highways or roads adjacent to a park.

* Cross Reference - Solicitors and peddlers generally, Ch. 19.
** Cross Reference - Advertising generally, Ch. 3.
Sec. 16-42. Park closing hours. (MC-95-640)
A. The closing hours for each individual park shall be as follows:

<table>
<thead>
<tr>
<th>NAME OF PARK</th>
<th>CLOSING HOURS</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Althoff Park</td>
<td>Dusk</td>
</tr>
<tr>
<td>2. Boulder Creek</td>
<td>Dusk</td>
</tr>
<tr>
<td>3. Brookside Trail</td>
<td>Dusk</td>
</tr>
<tr>
<td>4. Center Street Park</td>
<td>Dusk</td>
</tr>
<tr>
<td>5. Cold Springs Park</td>
<td>Dusk</td>
</tr>
<tr>
<td>6. Creekside Park</td>
<td>Dusk</td>
</tr>
<tr>
<td>7. East Beach Park</td>
<td>Dusk</td>
</tr>
<tr>
<td>8. Fox Ridge Park</td>
<td>10:00 P.M.</td>
</tr>
<tr>
<td>9. Freund Park</td>
<td>10:00 P.M.</td>
</tr>
<tr>
<td>10. Green Street Park</td>
<td>Dusk</td>
</tr>
<tr>
<td>11. Jaycees Park</td>
<td>Dusk</td>
</tr>
<tr>
<td>12. Kiwanis Tot Lot</td>
<td>Dusk</td>
</tr>
<tr>
<td>13. Knox Park</td>
<td>10:00 P.M.</td>
</tr>
<tr>
<td>14. Lakeland Park</td>
<td>Dusk</td>
</tr>
<tr>
<td>15. Lakeland Park Boat Launch</td>
<td>Dusk</td>
</tr>
<tr>
<td>16. Liberty Trails Park</td>
<td>Dusk</td>
</tr>
<tr>
<td>17. Malibu Playground</td>
<td>Dusk</td>
</tr>
<tr>
<td>18. McHenry Shores Beach</td>
<td>Dusk</td>
</tr>
<tr>
<td>19. Miller’s Riverfront Park</td>
<td>Dusk</td>
</tr>
<tr>
<td>20. Millstream Subdivision Beaches</td>
<td>Dusk</td>
</tr>
<tr>
<td>21. Neumann Park</td>
<td>10:00 P.M.</td>
</tr>
<tr>
<td>22. North Oak Park</td>
<td>Dusk</td>
</tr>
<tr>
<td>23. Overton Park</td>
<td>Dusk</td>
</tr>
<tr>
<td>24. Pebble Creek Park</td>
<td>Dusk</td>
</tr>
<tr>
<td>25. Petersen Park</td>
<td>10:00 P.M.</td>
</tr>
<tr>
<td>26. Pheasant Valley Park</td>
<td>Dusk</td>
</tr>
<tr>
<td>27. Riverside Hollow Park</td>
<td>Dusk</td>
</tr>
<tr>
<td>28. Rotary Park</td>
<td>10:00 P.M.</td>
</tr>
<tr>
<td>29. Shamrock Farm Park</td>
<td>Dusk</td>
</tr>
<tr>
<td>30. Veteran's Memorial Park</td>
<td>10:00 P.M.</td>
</tr>
<tr>
<td>31. Walsh Park</td>
<td>10:00 P.M.</td>
</tr>
<tr>
<td>32. Weber's Park</td>
<td>Dusk</td>
</tr>
<tr>
<td>33. West Beach Park</td>
<td>Dusk</td>
</tr>
<tr>
<td>34. Wheeler Park</td>
<td>Dusk</td>
</tr>
<tr>
<td>35. Whispering Oaks Park</td>
<td>Dusk</td>
</tr>
</tbody>
</table>

B. Parks with sports facilities and other scheduled recreation and special event activities shall be open until 10 p.m. when lights are turned on. Special event activities may extend beyond the 10 p.m. closing as approved by the City Council.
Sec. 16-43. Closing of areas by Director.
Any section or part of any park may be declared closed to the public by the Director at any time and for any interval of time, either temporarily or at regular and stated intervals (daily or otherwise) and either entirely or merely to certain uses, as the Director shall find reasonably necessary.

Sec. 16-43.1. Authority of public officers to order closing of municipal parks.
Any police officer of the City may order the closing of any municipal park, or any part thereof, for any interval of time, where, in the judgment of such police officer, the public safety or the maintenance of law and order requires such closing; such closing order shall thereupon remain in full force and effect until it is rescinded by the Chief of Police or by any other command officer of the police department of the City of McHenry.

Sec. 16-43.2. Entering or remaining in closed parks prohibited.
No person shall enter, or remain in, any closed part of any municipal park during the time that such park or part thereof has been closed by action of the Director, or by any police officer, under the authority of this Chapter.

Sec. 16-44. Lost and found articles.
The finding of lost articles by park attendants shall be reported to the Director who shall make every reasonable effort to locate the owners. The Director shall make every reasonable effort to find articles reported as lost. Found articles will be kept at the Park Department offices for 30 days, after which they will be discarded.

Sec. 16-45. Permits for group activities.
A permit shall be obtained from the Director before participating in any group park activity.

(a) Application. A person seeking issuance of a permit hereunder shall file an application with the Director. The application shall state:

(1) The name and address of the applicant;

(2) The name and address of the person, persons, corporation or association sponsoring the activity, if any;

(3) The day and hours for which the permit is desired;

(4) The park or portion thereof for which such permit is desired;

(5) An estimate of the anticipated attendance;

(6) Any other information which the Director shall find reasonably necessary to a fair determination as to whether a permit should issue hereunder and recommend same to City Council for action.
Standards for Issuance. The Director shall issue a permit hereunder when the City Council finds:

1. That the proposed activity or use of the park will not unreasonably interfere with or detract from the general public enjoyment of the park;

2. That the proposed activity and use will not unreasonably interfere with or detract from the promotion of public health, welfare, safety and recreation;

3. That the proposed activity or use is not reasonably anticipated to incite violence, crime or disorderly conduct;

4. That the proposed activity will not entail unusual, extra-ordinary or burdensome expense or police operation by the City;

5. That the facilities desired have not been reserved for other use at the day and hour required in the application.

Appeal. Within fourteen days after receipt of an application, the Director shall apprise an applicant in writing of the reasons for refusing a permit, and any aggrieved person shall have the right to appeal in writing prior to the next regular meeting of the City Council, and the City Council shall act upon the appeal at its next such regular meeting. The decision of the City Council shall be final.

Effect of Permit. A permittee shall be bound by park rules and regulations and all applicable ordinances as fully as though the same were inserted in said permits.

Liability of Permittee. The person or persons to whom a permit is issued shall be liable for any loss, damage or injury sustained by any person whatever by reason of the negligence of the person or persons to whom such permit shall have been issued. At the request of the Director, the permittee shall secure insurance to save the City harmless from any claim or claims for damages which may arise from the use of the public premises by permittee. The City shall be named as an additional insured on such policy or policies, and permittee must produce proof of coverage and payment of premium thereof prior to the use of the premises concerned.

Sec. 16-46. Airplanes prohibited on McCullom Lake and other bodies of water in the City.
No person shall operate any airplane on any portion of McCullom Lake which is located within the City limits, nor upon any other body of water which is located within the City limits.

Sec. 16-47. Vehicles and certain water craft and motors prohibited on McCullom Lake.
Except as provided herein, no person shall operate any boat with a motor in excess of 10 horsepower or a pontoon water craft with a motor in excess of 25 horsepower on any portion of McCullom Lake located within the City limits.
Sec. 16-48. Charges for park and recreation facilities. (MC-88-445; MC-06-882; MC-09-995; MC-10-1001)

No person shall use any park or recreation facility for which a fee, charge and/or deposit is specified in this Section without first paying said fee or charge and/or deposit:

(A) **Picnic Reservations.** The rental fee and deposit for group picnic reservations will be as follows:

<table>
<thead>
<tr>
<th></th>
<th>Rental Fee</th>
<th>Deposit</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Family/Wedding/Non-Profit Organizations</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>City Resident:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>25 – 50 people</td>
<td>$ 55.00</td>
<td>$ 25.00</td>
<td>$ 80.00</td>
</tr>
<tr>
<td>51-150 people</td>
<td>$ 83.00</td>
<td>$ 50.00</td>
<td>$133.00</td>
</tr>
<tr>
<td>151 and over</td>
<td>$110.00</td>
<td>$ 75.00</td>
<td>$185.00</td>
</tr>
</tbody>
</table>

|                          |            |         |         |
| **Family/Wedding/Non-Profit Organizations** |            |         |         |
| Non-City Resident:       |            |         |         |
| 25 – 50 people           | $110.00    | $ 25.00 | $135.00 |
| 51-150 people            | $165.00    | $ 50.00 | $215.00 |
| 151 – 249 people         | $220.00    | $ 75.00 | $295.00 |
| 250 and over             | $275.00    | $100.00 | $375.00 |

|                          |            |         |         |
| **Companies and Corporations:** |            |         |         |
| Located in City of McHenry | $220.00    | $150.00 | $370.00 |
| Located outside of City | $440.00    | $150.00 | $590.00 |

(B) **Special Event Park Rentals.** The daily rental for the use of parks for Special Events will be as follows:

<table>
<thead>
<tr>
<th></th>
<th>Resident</th>
<th>Non-Resident</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less that 500 people</td>
<td>$300.00</td>
<td>$500.00</td>
</tr>
<tr>
<td>500-1000 people</td>
<td>$400.00</td>
<td>$750.00</td>
</tr>
<tr>
<td>Between 1,001 and 3,000 people</td>
<td>$500.00</td>
<td>$1,000</td>
</tr>
<tr>
<td>Greater than 3000 people</td>
<td>Fees and City Services to be negotiated</td>
<td></td>
</tr>
</tbody>
</table>

(C) **Field Rentals.** The daily rental fee and deposit for the use of a baseball, softball, and soccer field by any team shall be as follows:

1. The following organizations shall be exempt from field use fees:
   a. McHenry Baseball Association;
   b. McHenry Pigtail League;
   c. McHenry Area Soccer Federation;
   d. McHenry Jr. Warriors Football;
   e. McHenry High School District 156.
2. The following rental fees shall be established:

<table>
<thead>
<tr>
<th>Field</th>
<th>Fee</th>
<th>Deposit</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Petersen Park Field #2</td>
<td>$50/game</td>
<td>$50</td>
<td>$100</td>
</tr>
<tr>
<td>b. All other ball fields</td>
<td>$25/game</td>
<td>$25</td>
<td>$50</td>
</tr>
<tr>
<td>c. Soccer/Lacrosse fields</td>
<td>$50/game</td>
<td>$50</td>
<td>$100</td>
</tr>
<tr>
<td>d. Field lighting</td>
<td>$25/2 hours</td>
<td>$15/each additional hour</td>
<td>$15/each additional hour</td>
</tr>
</tbody>
</table>

(D) **Peter J. Merkel Aquatic Center Pool Rentals (MC-15-1100; MC-15-1101).** Daily and season passes for the Peter J. Merkel Aquatic Center are available for purchase at the Parks and Recreation Department Office. The rental fee for exclusive use of Knox Park Swimming Pool will be as follows:

<table>
<thead>
<tr>
<th>Rental Fee</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Saturdays &amp; Sundays from 7:15 p.m. to 9:15 p.m. includes two lifeguards</td>
<td>$175.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Rental Fee</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Reserved) MC-09-995</td>
<td></td>
</tr>
</tbody>
</table>

(E) 16-49. Skateboards (MC-99-727) *

No person shall ride or operate a skateboard within any City park, except at such places as may be designated by the Director and then only in accordance with the rules, regulations and restrictions promulgated and posted.

* Cross-reference Traffic Code Section IX, 13-901.
Sec. 17-1. Zoning ordinance continued in effect.
The Zoning Ordinance of the City shall continue to be that ordinance adopted on December 22, 1986, as amended or revised by subsequent ordinances. Nothing contained in this Code, or in the ordinance adopting this Code, shall be construed to amend, alter or otherwise affect the provisions of the said Zoning Ordinance.

Sec. 17-2. Subdivision Control and Development Ordinance continued in effect. (MC-04-841) (MC-15-1211)
The Subdivision Control and Development Ordinance of the City shall continue to be that ordinance passed and approved on December 7, 2015, as the same may be amended, altered or changed by subsequent ordinances. Nothing contained in this Code, or in the ordinance adopting this Code, shall be construed to repeal, amend, alter or otherwise affect said Subdivision Control and Development Ordinance.

Sec. 17-3. Comprehensive Plan. (MC-99-741; MC-08-971)
(a) The City has adopted an official comprehensive plan and official map for the present and future development of the City. This plan and the maps contained therein are applicable to land situated within the corporate limits, and contiguous territory not more than one and one-half miles beyond the corporate limits and not included in another municipality.

(b) To implement this plan, the City has adopted various codes and ordinances, including the Zoning Ordinance and the Subdivision Control and Development Ordinance, which establish reasonable standards of design for subdivisions and requirements governing the location and construction of public facilities and improvements.

Sec. 17-4. Zoning for newly annexed territory.
Except as may be provided for by a Pre-Annexation Agreement or by a subsequent amendment to this Ordinance, any parcel of land hereafter annexed to the City shall be classified in the most restrictive single-family residential district that will permit the parcel, or the smallest subdivided lot therein, to conform to the minimum lot area required in that district. (MC-91-565)

* Cross Reference - Buildings generally, Ch. 7; flood control, Chap. 8.
Sec. 17-5. Retained personnel deposit.
All applications for zoning relief, except applications for Integrated Design Districts (IDD) and those matters expressly exempted therefrom by Section IID of the Zoning Ordinance of the City of McHenry, shall be accompanied by an initial retained personnel deposit in the sum of $500.00, which sum shall be used toward deferring the expenses and fees of its retained personnel as described in said Section IID of the Zoning Ordinance and the expense of providing copies of unapproved Planning and Zoning Commission Minutes, reports and recommendations as provided in Section 17-8 hereof. If multiple zoning actions are requested then the initial deposit fee shall be doubled to $1,000.00. At any time that the balance of the initial retained personnel deposit is reduced to the sum of $75.00, the zoning applicant shall make such other and further deposit, upon the request of the City, as may be necessary to restore the retained personnel fund balance to the initial sum. All proceedings in connection with the zoning application shall be stayed until the zoning applicant has complied with the retained personnel requirements of this ordinance. (MC-92-568; MC-96-648;MC-04-855; MC-07-907).

The retained personnel deposit for the establishment of an Integrated Design District (IDD) for property located within the corporate limits of the City, for property located within the mile and one-half jurisdiction outside the corporate limits of the City and property in the process of being annexed to the City shall be as set forth in Article VI of Chapter 2 of this Municipal Code. (MC-96-648; MC-07-907)

All proceedings in connection with zoning applications shall be stayed until the zoning applicant has complied with the retained personnel requirements of this Code. (MC-96-648)

Sec. 17-6. Zoning filing and hearing fees.
All applications for zoning relief, except as hereinafter otherwise provided, shall be accompanied by a filing fee in the amount of $450.00, except as hereinafter otherwise provided. Where the zoning application requests a minor variation only (as defined in the Zoning Ordinance) and the applicant elects to have the Planning and Zoning Commission hear the application on the same date that the Planning and Zoning Commission has scheduled another application for hearing, the initial filing fee shall be $175.00; in the event that the applicant for a minor variation elects a hearing date on which no other application is scheduled for hearing, the initial filing fee shall be $450.00. (MC-89-502; MC-96-648; MC-07-907)

The non-refundable filing fee for an Integrated Design District (IDD) zoning application shall be $2,500.00. (MC-96-648; MC-07-907)

Except in those cases where a zoning hearing is recessed for lack of a quorum, the zoning applicant shall pay to the City a recessed filing fee in the amount of $250.00 for each recessed meeting of the Planning and Zoning Commission held in connection with said application. All such recessed hearing fees shall be paid by the applicant to the City not less than 72 hours before the scheduled commencement of the recessed hearing. In the event that said recessed hearing fee is not paid as herein provided, the recessed hearing of the Planning and Zoning Commission shall be cancelled without further notice to the applicant.(MC-07-907)

Sec. 17-7. Reserved. (MC-07-907)
Sec. 17-8. Copies of Planning and Zoning Commission minutes.

A draft copy of the unapproved Planning and Zoning Commission minutes shall be mailed without charge to those persons who have registered their names as attendees at any Planning and Zoning Commission hearing/meeting and who have indicated on the attendance sheet of that Planning and Zoning Commission hearing/meeting that such person wants a copy of such minutes. The failure to receive mail delivery of such minutes shall not constitute a basis for objecting to the proceedings or to delay any scheduled proceedings relating to the subject matter of such meetings. Such Planning and Zoning Commission minutes shall also be furnished without charge to any person residing within the planning jurisdiction of the City who presents himself or herself at the Municipal Center and requests copies thereof. (MC-92-568; MC-07-907)


09/16

ARTICLE II.
STORM WATER MANAGEMENT


The City of McHenry hereby adopts and authorizes enforcement of the McHenry County Storm Water Management Ordinance as approved by the McHenry County Board on January 20, 2004, amended in February 2008, amended in December 2014, April 5, 2016, and as amended or revised by subsequent ordinances from time to time thereafter. Nothing contained in this Municipal Code shall be construed to amend, alter or otherwise affect the provisions of said McHenry County Storm Water Management Ordinance.
ARTICLE I. IN GENERAL

Sec. 18-1. Creation, Composition of Department (MC-05-867) (MC-16-1127).
There is hereby created a Department for the City which shall consist of the Chief of Police, a Deputy Chief, two Commanders, Sergeants, Officers and such other officers, technical employees and such other employees as may be provided for from time to time by the Council.

Sec. 18-2. Salaries, vacations and sick leaves.
All employees of the Department shall receive annual salaries which shall be established by the City Council at such times as are required by statute. Salaries of all full-time employees of the Department shall be paid in equal bi-weekly installments, unless provision is made to the contrary by the City Council. No remuneration shall be paid for part-time or special work unless specifically authorized by the Mayor by and with the consent of the Council.

Vacations and sick leave shall be granted and provided as is set forth in the Personnel Policy Manual.

Sec. 18-3. Chief of Police to head Department.
The Chief of Police shall be the head of the Department and shall have and be responsible for direct supervision over all officers and employees.

Sec. 18-4. Administrative duties of Chief of Police.
The Chief of Police shall keep such records and make such reports concerning the activities of the Department as may be required by statute or by the Council. The Chief of Police shall be responsible for the performance by the Department of all of its functions and all persons who are employees of the Department shall serve subject to the orders of the Chief of Police.

Sec. 18-5. Regulations governing Department.
The Chief of Police of the Department may make or prescribe such Rules and Regulations as are deemed advisable. Such Rules, when approved by the Council, shall be binding upon all employees of the Department. The Rules and Regulations may cover, besides the conduct of the employees, uniforms and equipment to be worn or carried, hours of service, and all other similar matters necessary or desirable for the efficiency of the Department.

Sec. 18-6. Divisions of Department.
With the approval of the Mayor and City Council the Chief of Police may establish a traffic division, detective division, or other special divisions within the Department, assigning such Officers to such divisions and designating such duties therefore, as may be deemed necessary.

Sec. 18-7. Duties of Officers.
It shall be the duty of all employees of the Department to see to the enforcement of all of the ordinances of the City and statutes applicable therein; to preserve order and to prevent infractions of the law, to follow the orders and policies of the Department as established by the Council and the Chief of Police, and to arrest violators of the law as shall be necessary.
Sec. 18-8. Conduct of Officers.
It shall be the duty of every employee of the Department to conduct himself in a proper and law abiding manner at all times, and to avoid the use of unnecessary force.

The Chief of Police shall be the sole process server for the City, except where necessity shall require some other employee of the Department to serve process. It shall be the decision of the Chief of Police as to whether or not any other employee of the Department shall be authorized to serve process for the City, but in no event shall any process be served by a Department employee on behalf of any other governmental body, agency, court, or individual, except on the express permission given by the Mayor and the Chief of Police.

Sec. 18-10. Appearance as Witnesses.
Every employee of the Department shall appear as a witness whenever this is necessary in a prosecution for a violation of an ordinance, county regulation, or any state or federal law. Any employee appearing as a witness shall turn over to the City any fee received for service as a witness in any action or suit to which the City is a party, which sum shall be deposited with the Finance Director. When it is verified that personal expense has been incurred by an employee in appearing as such witness, the City Council may, in its discretion, reimburse the employee for such personal expense.

Sec. 18-11. Deputy Chief; Commanders and Sergeants.
The positions of Deputy Chief (one) and Commander of Field Operations and Commander of Support Services are hereby established for the Department of the City and each shall be exempt ranks, and be appointed by and serve at the discretion of the Chief of Police and if removed from the position, shall revert to the rank previously held, without regard as to whether a vacancy exists in that rank. Such removal to a lower rank shall not be reviewable by the Commission and shall be deemed a final action by the Chief of Police. The Deputy Chief position shall be immediately below that of the Chief of Police and the Commander positions shall be equal to each other and both shall be immediately below that of the Deputy Chief. The rank of Sergeant is also hereby established for the Department and is a tested rank that is non-exempt and is immediately below the rank of Commander. Newly promoted Sergeants are placed on probation for a period of six months in which time their performance is evaluated and rated. The Chief of Police of the Department shall have the right to remove to a lower rank any probationary Sergeant who fails to meet the minimum performance expectations of the agency. The rank of Officer is hereby established of the Department and is a tested rank that is non-exempt and is immediately below the Sergeant. The Board of Police Commissioners shall appoint all sworn Officers and Sergeants of the Department.

Appointments to the rank of Deputy Chief and Commander shall be from the rank of sworn, full-time Officers of the City, but must have at least ten years of full-time service as Officers in the Department and hold the prior rank of Sergeant. Promotions to the rank of Sergeant are in accordance with Police Commission Rules and Regulations.

Sec. 18-12. Violation of Rules and Law.
All members of the Department are subject to the regulations of such Department and, except as otherwise provided for in applicable collective bargaining agreements, the Police Commission Rules and Regulations. Any violations of such rules or regulations or of Illinois or Federal laws may be subject to cause for filing of charges before the Board, a subsequent hearing and action by the Board on such charge.

Sec. 18-13. Created; Applicability of Illinois Law.
There is hereby created a Board of Police Commissioners consisting of three members, as provided by the Illinois
Board of Fire and Police Commissioners Act, 65 ILCS 5/10-2.1-1. et. seq. (“Act”). Except as otherwise provided for within this Chapter 18, the provisions of the Act shall control and where there is an inconsistency between the provisions of the Act and the provisions of this Chapter 18, the provisions of this Chapter 18 shall control.

Sec. 18-14. Appointment; Terms.
The Board of Police Commissioners shall be appointed by the Mayor of the City, by and with the consent of the City Council. The terms of office of the members of the Board of 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 any Mayor within thirty days before the expiration of his term of office; and 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 shall serve until the end of the municipal year next ensuing, and the third shall serve until the end of the municipal year second next ensuing; provided, that each of the first members of the Board shall serve until his successor is appointed and qualified.

Sec. 18-15. Compensation.
The members of the Board of Police Commissioners shall be paid an annual salary of $450.00.

The Rules and Regulations of the Board of Fire and Police Commissioners of the City of McHenry, State of Illinois, last revised in 2009, are hereby amended and restated in their entirety as follows, with the power to amend the Rules and Regulations in the future reserved exclusively by the City Council.

ARTICLE II – ADMINISTRATION

Sec. 18-17. Source of Authority.
These Rules and Regulations were adopted by home rule ordinance of the City of McHenry City Council.

Sec. 18-18. Definitions.
The word “Commission” and/or “Board” wherever used shall mean the Board of Fire and Police Commissioners of the City of McHenry, Illinois. The word “Officer” shall mean any person holding a permanent office in the Police Department of the City of McHenry, Illinois. The masculine noun or pronoun includes the feminine. The singular includes the plural, and the plural the singular.

Sec. 18-19. Officers of Board and their Duties.
The Board shall annually, at its first meeting in May elect a Chairman and a Secretary. They shall hold office until the end of the fiscal year of the municipality and until their successors are duly elected and qualified. The Chairman shall be the presiding officer at all meetings. The Secretary shall keep the Minutes of all meetings of the Board in a permanent record book and shall be the custodian of all the forms, papers, books, records and completed examinations of the Board.

Sec. 18-20. Meetings.
Meetings shall be held as determined necessary by the Board and all meetings shall be held in compliance with the Illinois Open Meetings Act, 5 ILCS 120/1.01, et. seq.

ARTICLE III. APPLICATIONS

Sec. 18-21. Residence.
Applicants for examination must be citizens of the United States of America.
Sec. 18-25. Application Blanks.
Applications for a position shall be filed upon blank forms furnished by the Commission, and applicants must comply with the requirements of said form in every respect. The application must be filed with the Board prior to taking an examination.

Every applicant must be of sound health and must be physically able to perform the duties of the position applied for. The burden of establishing these facts rests upon the applicant.

The applicant shall furnish with his application a copy of his Military Service Record, Discharge Papers, Social Security Card, Birth Certificate, High School Diploma or G.E.D. Certificate, a copy of his College or University Degree and, if requested, a copy of a certified transcript of his course work from an accredited College or University.

A false statement knowingly made by a person in an application for examination, participation or awareness of any false statement made in any certificate which may accompany such application or complicity in any fraud related thereto, shall be regarded as sufficient basis for disqualification.

Sec. 18-26. Disqualification.

The Board may refuse to examine an applicant or, after examination, to certify him as eligible:

a) Who is found lacking in any of the established preliminary requirements for the service applied for.
b) Who is physically unable to perform the duties of the position to which he or she seeks appointment.
c) Who is addicted to the use of drugs or intoxicating beverages.
d) Who has been convicted of a felony or any misdemeanor involving moral turpitude.
e) Who has been dismissed from any public service for cause.
f) Who has any involvement with any deception or fraud in his or her application.
g) Who may be found disqualified in personal qualifications or health.
h) Whose character and employment references are deemed unsatisfactory.

Sec. 18.27. Defective Applications.
Defective applications shall be returned to the applicant for correction, provided the applicant is not otherwise disqualified for the position sought.

Sec. 18.28. Age and Education Requirements.
Except as otherwise provided herein, applicants shall be under 35 years of age and at least 21 years of age at the time of application submission

Veterans shall be allowed to exceed the maximum age provision of this section as follows: For every year of active duty served, evidenced by a certified copy of the DD Form 214-Certificate of Release or Discharge from Active Duty, one additional year will be added not to exceed 10 or an adjusted maximum age of 45.

Applicants must have obtained a bachelor’s degree from an accredited college or university, or completed 60 hours at an accredited college or university and have prior full-time law enforcement experience consisting of at least two (2) years. Provided, however, this educational requirement will be waived if one or more of the following applies: (1) the applicant has served for 36 months of honorable active duty in the United States Armed Forces and has not been discharged dishonorably or under circumstances other than honorable or (2) the applicant has served for 180 days of active duty in the United States Armed Forces in combat duty recognized by the Department of Defense and has not been discharged dishonorably or under circumstances other than honorable.
Sec. 18-29. Notice of Acceptance.
The Secretary will notify all applicants whose applications have been accepted by the Board to be present for orientation and subsequent examination provided that, if required by the Board, the applicant has an executed Physicians Certificate that they are physically capable of participating in a strenuous “Physical Aptitude Test.”

Sec. 18-30. Release of Liability.
All applicants shall execute and deliver to the Board a release of all liability as the result of taking a “Physical Aptitude Test”, if required, in favor of the City of McHenry on a form to be presented by the Board.

ARTICLE IV. ORIGINAL APPOINTMENTS

Sec. 18-31. Notice of Examinations.
Examinations shall be held on the dates scheduled by the Board and advertised in a manner as determined by the Board.

Sec. 18-32. Examinations.
The Board shall call examinations to fill vacancies in the class of service in which vacancies are liable to occur. A call for such examination shall be entered in the Minutes of the Board and shall include a statement of:

a) The time and place where such examination will be held.
b) The location where applications may be obtained and the date by which applications must be returned to the Board.
c) The position to be filled from the resulting eligibility list.
d) Application due date.
e) Cost of application.

Sec. 18-33. Examinations – Minimum Grade.
The following examinations may be conducted by the Board and no examination shall contain questions regarding applicant’s political or religious opinions or affiliations. The sequence of testing may vary at the discretion of the Board. Failure to achieve the minimum passing grade in any examination disqualifies the applicant from any further participation. Each weighted component of the examination process shall be based upon a scale of 1 to 100.

<table>
<thead>
<tr>
<th>Examinations</th>
<th>% of Total Grade</th>
<th>Minimum Passing</th>
</tr>
</thead>
<tbody>
<tr>
<td>Orientation</td>
<td>-</td>
<td>Attendance Mandatory</td>
</tr>
<tr>
<td>Physical Aptitude Test</td>
<td>-</td>
<td>**</td>
</tr>
<tr>
<td>Written Test</td>
<td>50%</td>
<td>*</td>
</tr>
<tr>
<td>Oral Interview</td>
<td>50%</td>
<td>Pass or Fail</td>
</tr>
<tr>
<td>Background Investigation</td>
<td>-</td>
<td>Acceptable to Board</td>
</tr>
<tr>
<td>Polygraph Test</td>
<td>-</td>
<td>Acceptable to Board</td>
</tr>
<tr>
<td>Psychological Examination</td>
<td>-</td>
<td>Recommended Qualified</td>
</tr>
<tr>
<td>Medical Examination</td>
<td>-</td>
<td>Conditional Offer of Employment</td>
</tr>
</tbody>
</table>

* To be announced by the Board prior to conducting the examination and may vary based upon the examination or the testing agency used by the Board.

** Test may be given at the discretion of the Board on a pass/fail basis.
Note: To any person who is entitled to military preference points whose name appears on the register of eligible applicants, the Board shall add five (5) points upon request of applicant. Persons who were engaged in the active military or naval service of the United States for a period of at least one year and who were honorably discharged are entitled to request preference points.

Sec. 18-34. Original Appointment – Orientation.
Applicants must attend the Board presented orientation program. Failure to attend will eliminate the applicant from further consideration.

Sec. 18-35. Original Appointment – Physical Aptitude Test
Applicants may be required to submit themselves to a physical aptitude test by an agency designated by the Board and suitable to determine the physical suitability of the applicant to perform the essential function of the job. Applicants who fail to achieve a passing grade will be notified and eliminated from all further consideration. The Board may provide for the written examination to be conducted by an outside testing agency or testing vendor.

Sec. 18-36. Original Appointment – Written Test.
All examination papers shall be and remain the property of the Board and the grading thereof by the Board shall be final and conclusive and not subject to review by any other board or tribunal of any kind or description. The written exam will be conducted by an independent testing company selected by the Board. Passing exam results will be kept confidential by the Chief of Police or designee, until such time the Board has completed the oral interview process and assigned scoring. Applicants who fail to achieve a passing grade will be notified and eliminated from all further consideration.

Sec. 18-37. Original Appointment – Oral Examination.
The Board shall participate in the oral examination of the applicant and the Chief of Police or his designee shall be present. In no event shall less than a majority of the Commissioners conduct the oral examination. Questions shall be asked of the applicant that will enable the Commissioners to properly evaluate and grade the applicant on speech, alertness, ability to communicate, judgment, emotional stability, self-confidence, social skill and general fitness for the position. On completion of each oral examination the Commissioners will discuss the applicant’s abilities using the traits listed above. Applicant who fail to achieve a passing grade will be notified and eliminated from all further consideration.

Sec. 18-38. Initial Eligibility Register.
a) The Commissioners will prepare an “Initial Eligibility List” of the applicants that successfully completed the orientation, and physical aptitude test, if any, and who obtained a minimum of 70 combined points on the written test and oral interview. Applicants shall be placed on the Initial Eligibility List in order of their relative excellence. This Initial Eligibility List is subject to change with the addition of any claimed preference points as prescribed in the Act and these Rules and Regulations.
b) A dated copy of the Initial Eligibility Register shall be sent to each person appearing thereon.
c) Applicants who are eligible for veteran, educational, or law enforcement certification preference points, shall make a claim in writing with proof thereof within ten (10) days after the date of the Initial Eligibility List or such claim shall be deemed waived.

Sec. 18-39. Final Eligibility Register – Selection of Applicants.
a) The Commissioners will prepare a “Final Eligibility List” which shall include claimed preference points. In the event of a tie score, the placement of the tied applicants’ names on the Final Eligibility List shall be determined by lot, in the presence of a quorum of the Board in whatever manner the Board deems appropriate.
b) A dated copy of the Final Eligibility Register shall be posted. This copy shall include the date of expiration of the register two (2) years thereafter.

c) Applicants shall be appointed in descending order from the three (3) applicants on the Final Eligibility List having the highest rating and where there are less than three (3) names on the Final Eligibility List, as originally posted, or remaining thereon after appointments have been made therefrom, appointments to fill existing vacancies shall be made from those names or the name remaining on the Final Eligibility List.

d) Notwithstanding anything to the contrary contained within these Rules and Regulations, the Board may, at its discretion, choose to appoint an applicant who has been awarded a certificate attesting to his or her successful completion of the Minimum Standards Basic Law Enforcement Training Course, as provided in the Illinois Police Training Act, ahead of non-certified applicants.

e) Appointment from this Final Eligibility Register are subject to satisfactorily passing an Oral Interview, In-depth Psychological Examination, a Polygraph Test, Background Investigation, and a thorough Medical Examination (which may include a test of the applicant’s vision, hearing, for the presence of communicable diseases as well as a test to screen for the use of drugs and/or narcotics). A conditional offer of employment shall be extended to qualified applicants immediately preceding the psychological and/or medical examination of an applicant.

Sec. 18-40. Professional Examinations.
Applicants for original appointment shall be required to submit to the professional examinations as identified in this section as part of the hiring process.

All examinations will be conducted by a professional team and/or by licensed examiners or physicians approved by the Board. Such examinations shall be scheduled not more than ninety (90) calendar days prior to appointment. Results of all examinations are submitted to the Chief of Police for review and determination of qualification.

The confidentiality of all reports and records will be maintained to the most stringent level possible.

a) Background Investigation.

The Chief of Police shall institute the background investigation, through representative police department investigation teams, of three highest-ranking applicants remaining on the Final Eligibility Register. This investigation shall include, but not be limited to, examination of the applicant’s academic records, investigation of any civil or criminal action involving the applicant, verification of the applicant’s employment and personal history as described on his or her application, and investigation of any factors which might make the applicant unsuitable for service in the Department. Each applicant must submit to fingerprinting, as part of the background investigation, by the Department.

The applicant shall furnish to the City at this point in time, if not already provided, a certified copy of their birth certificate and verification of high school diploma and, when applicable, certified copies of their military service record and discharge papers.

In conducting this investigation, the City or its designee shall inspect such records and interview such individuals as may be necessary. The applicant shall sign authorization for such investigation, on a form prescribed by the City.
b) **Polygraph Test.**

The applicant shall submit himself or herself for a polygraph examination by a licensed polygraph operator designated and compensated by the Board, at such time and place as the City may designate. Such test shall be given without expense to the applicant. The examining professional shall submit a written report of the results of the examination to the City HR Manager and Chief of Police.

c) **Psychological Examination.**

The applicant shall submit himself or herself for a psychological examination by a licensed psychologist designated and compensated by the Board, at such time and place as the City may designate. Such test shall be given without expense to the applicant. The examining professional shall submit a written report of the results of the examination to the City HR Manager and Chief of Police. The eligible applicant shall sign a waiver allowing the psychological report to be reviewed by the Board and City Police Administration. Failure to sign such a waiver shall eliminate the applicant’s name from the Final Eligibility Register and from any further consideration.

Applicants who fail to pass any one of the above examinations (the background investigation, polygraph test or psychological examination) will be notified and removed from the Final Eligibility List and eliminated from all further consideration.

Upon the passing of the background investigation, polygraph test and psychological examination, the Chief of Police shall make a determination whether to offer the applicant a conditional offer of employment, subject to successfully passing a medical examination.

d) **Medical Examination.**

An applicant, on receipt of a conditional offer of employment from the City, shall submit himself or herself for a medical examination (which may include a test of the applicant’s vision and hearing, a test for the presence of communicable diseases, as well as a test to screen for the use of drugs and/or narcotics) by a licensed physician, as the City may designate. The examining professional shall be designated and compensated by the Board and shall submit a written report of the results of the examination to the City HR Manager. The applicant shall sign a waiver allowing the medical examination report to be reviewed by City HR Manager.

If the medical examination reveals a condition that would prevent the applicant from performing essential job functions or duties of the position for which he or she is being considered, with or without reasonable accommodation, the City shall withdraw the conditional offer of employment. If no such condition exists, the City may extend a final offer of employment.

The report of the examining physician is for the confidential use of the City, and shall not be made available to any other individual or organization unless authorized by the City.

The applicant shall sign a waiver allowing the Board to provide the medical report to the Chief of Police the Department, or his designee, for review should a condition exist that required withdrawal of a conditional offer of employment as previously identified in these rules. Failure to sign such a waiver shall eliminate the applicant's name from the Final Eligibility Register and from any further consideration.
Sec. 18-41. Refusal to Submit to Professional Examination.
If an applicant refuses to submit to a background investigation, medical, psychological or polygraph examination required by the Board and City, the applicant’s refusal to submit to such examination shall be cause to eliminate the applicant’s name from the Final Eligibility Register and from any further consideration for appointment.

Sec. 18-42. Violations.
Applicants who knowingly divulgues or receives test questions or answers before a written examination, or otherwise knowingly violates or subverts any requirement of these Rules and Regulations, commits a violation of the Rules and Regulations and may be subject to immediate disqualification from the examination process. Applicants who are the knowing recipient of test information in advance of the examination shall be disqualified from the appointment examination process.

Sec. 18-43. Probationary Appointment of New Officers.
(a) All original appointments to the Department shall be for a probationary period of fifteen (15) months, except appointments that are hired as current certified Illinois Police Officers, in which the probationary period shall be twelve (12) months. Any newly hired officer, regardless of experience or certification may have their probationary period extended an additional three (3) months at the discretion of the Chief of Police. The probationary period of a newly appointed police officer shall commence as of the first date said individual reports for work with the Department. A signed reimbursement contract shall be on file with the City prior to or on the first date of employment. The employment of any probationary officer is at will and may be terminated, during the probationary period, by the Chief of Police, for any reason or no reason at all.

(b) Any person may decline appointment. It shall be the option of the City to strike from or maintain upon the register the name of such applicant without otherwise altering the applicant’s original position on the Final Eligibility Register.

(c) Probationary employees may be summarily dismissed from employment by the Chief of Police, for any reason or no reason at all, and are not entitled to the employment protection afforded to other full-time police officers by statute, these Rules and Regulations or collective bargaining agreement.

(d) All probationary police officers, not previously certified, shall successfully complete the Basic Training Course, as mandated by the State of Illinois, within the prescribed probationary period. Inability to successfully complete this course shall result in dismissal from the Department employment.

ARTICLE V. PROMOTIONAL EXAMINATIONS

Sec. 18-44. General.
Promotion in the Department is provided for herein on the basis of ascertained merit and seniority in service and examination. All examinations for promotion shall be competitive among such members of the next lower rank who desire to apply. However, probationary police officers shall be ineligible to test for promotion during their probationary period. An officer must have served a minimum of three (3) years in the rank of patrol officer before being eligible for testing for the rank of sergeant. All promotions shall be made from the three (3) individuals having the highest rating, and where there are less than three (3) names of the promotional eligibility list, as originally posted, or remaining thereon after appointments have been made there from, appointments to fill existing vacancies shall be made from those names or the name remaining on the promotional eligibility list. The method of examination and the rules governing examinations for promotion are specified below. The Board shall strike off the names of applicants for promotional appointment after they have remained thereon for more than three (3) years, provided there is no vacancy existing which can be filled from the promotional eligibility list. For the purpose of determining that a vacancy exists, the Board must have received notice from the appropriate corporate authorities to fill an existing vacancy prior to the date the name(s) are to be stricken.
from a promotional eligibility list. Each weighted component of the examination process shall be based upon a scale of 1 to 100.

a) The final Promotional Examination score shall be determined as follows:

<table>
<thead>
<tr>
<th>Examination</th>
<th>Weight</th>
<th>Passing Grade</th>
</tr>
</thead>
<tbody>
<tr>
<td>Written Test</td>
<td>40%</td>
<td>*</td>
</tr>
<tr>
<td>Oral Interview/Assessment Center</td>
<td>45%</td>
<td>*</td>
</tr>
<tr>
<td>Departmental Merit and Efficiency</td>
<td>10%</td>
<td>N/A</td>
</tr>
<tr>
<td>Seniority</td>
<td>5%</td>
<td></td>
</tr>
</tbody>
</table>

½ of a point per year for each full year of service as a police officer with the City of McHenry Police Department not to exceed 5 points.

* To be announced by the Board prior to conducting the examination and may vary based upon the examination or the testing agency used by the Board.

b) Within 10 days of posting of the promotional eligibility register, upon written request of the applicants who are otherwise qualified, veteran’s preference points shall be granted at the rate of 7/10 of a point for each year of active military service up to 3.5 total points. This request must be evidenced by a certified copy of the DD Form 214-Certificate of Release or Discharge from Active Duty.

Sec. 18-45. Total Score.
An applicant’s total score shall consist of the combined scores of the merit/efficiency rating, written examination and oral examination (minimum combined score of 75 points) plus seniority and veteran’s preference points. Applicants shall take rank upon a promotional eligibility list in the order of the relative excellence as determined by their total score. In the event of a tie score, the placement of the tied applicants’ names on the promotional eligibility list shall be determined by lot, in the presence of a quorum of the Board, in whatever manner the Board deems appropriate.

Sec. 18-46. Promotional Vacancy.
Upon notice from the appropriate corporate authority that a promotional vacancy exists, the Board shall select the individual to be promoted in the manner specified in this chapter.

ARTICLE VI. POLICE OFFICER LATERAL ENTRY PROGRAM

Sec. 18-47. Description.
The Board may waive portions of the required examination for police applicants who have previously been full-time sworn officers in any municipal, county, university, State, or Federal law enforcement agency, provided they are certified or have the ability to be certified by the Illinois Law Enforcement Training and Standards Board and have been previously employed as a law enforcement officer within the last two years.

Sec. 18-48. Application for Lateral Entry.
Applications for lateral entry positions shall be on forms furnished by the City of McHenry and applicants must comply with the requirements of said form.
Applicants for Lateral Entry shall have been awarded a certificate attesting to their successful completion of the Minimum Standards Basic Law Enforcement Training Course, as provided in the Illinois Police Training Act. Every applicant must be of good moral character, of temperate habits, of sound health and must be physically able to perform the essential job functions of the position applied for. Applicants must speak and understand English language sufficient to discharge the duties of police officer for the City of McHenry. The burden of establishing these facts rests upon the applicant.

The applicant shall furnish with their application a copy of a Birth Certificate, High School Diploma or G.E.D. Certificate, and a copy of their certificate attesting to their successful completion of the Minimum Standards Basic Law Enforcement Training Course, as provided in the Illinois Police Training Act. If applicable, the applicant shall furnish any Military Service Records, including Discharge Papers (DD Form 214). Applicants shall also provide a certified copy of their accredited college transcripts associate’s degree in criminal justice or law enforcement or bachelor’s degree from an accredited college or university.

Any false statements, misrepresentations, or omissions, knowingly made by a person in an application for examination, connivance in any false statement made in any certificate, which may accompany such application or complicity in any fraud touching the same, shall be regarded as good cause for exclusion from the examination and bar to employment.

Sec. 18-49. Age and Education Requirements.
Age limitations do not apply to lateral entry applicants.

Applicants of the lateral entry program must be a certified police officer as defined by the Illinois Police Training Act and have an Associate’s Degree from an accredited college or university, or completed 60 hours at an accredited college or university. Provided, however, the college educational requirement will be waived if one or more of the following applies: (1) the applicant has served for 36 months of honorable active duty in the United States Armed Forces and has not been discharged dishonorably or under circumstances other than honorable or (2) the applicant has served for 180 days of active duty in the United States Armed Forces in combat duty recognized by the Department of Defense and has not been discharged dishonorably or under circumstances other than honorable.

Sec. 18-59. Notice.
A position announcement advertising the process will be placed a minimum of three (3) weeks prior to the scheduled testing process. Basic requirements and contact information will be provided in the position announcements. The Department shall continue to focus on recruiting the most qualified applicants with an emphasis on the Department’s diversified hiring practices.

Sec. 18-60. Hiring Process.
Upon the request of the Chief of Police and approval of the Board, appointments to the position of Police Officer may be made through lateral appointment. The lateral appointment procedure includes the following phases:

a) Completion of an employment application to the Police Commission
b) A pre-screening of applicant
c) Character background investigation
d) Polygraph examination
e) Oral interview – at convenience of Commission (70% minimum passing score)
f) Post offer examinations including but not limited to: psychological evaluation, medical examination, vision screening and drug screening.

Each phase of the process is pass/fail and required to proceed to the next.
Sec. 18-61. Lateral Entry Program Eligibility List.

a) The Board shall prepare a police officer lateral entry program eligibility list at such time as the testing process is enacted by recommended need. The list will be active for twelve (12) months before being recreated, and may be extended with Board approval. Applicants can reapply annually. This list will be used in parallel to the eligibility list of applicants identified in Chapter III of these Rules. Applicants can be on both lists. Applicants will be rank ordered on the list, to a maximum of ten (10) individuals annually. No additions will be made to the list during the year.

b) The applicant must be a full time police officer for 12 months in another law enforcement agency to apply.

c) Out of state applicants must meet Illinois Law Enforcement Training Standards Board requirements.

d) The Board will automatically add preference points to a lateral entry applicant’s score prior to placement on the eligibility list as required by law.

e) A dated copy of the lateral entry program eligibility list will be sent to each person appearing thereon. When applicants are stricken from the lateral entry program eligibility list, copies of the updated list will be sent to each person appearing on the list.

Sec. 18-62. Preference Points.
Under §10-2.1-8 and §10-2.1-9 of the Act, any applicant who qualifies, or is otherwise entitled to military preference points shall be awarded five (5) points to their final grade average. To any person who is entitled to military preference points whose name appears on the register of lateral applicants, the Board shall add five (5) points upon request of applicant. Persons who were engaged in the active military or naval service of the United States for a period of at least one year and who were honorably discharged are entitled to request preference points.

Sec. 18-63. Selection.

a) Applicants may be chosen from the lateral entry program eligibility list in accordance with these rules.

b) In the case of a lateral entry applicant, a conditional offer of employment shall be made only to the most qualified applicant of the top five applicants on the lateral entry program eligibility list, but not necessarily the first person on the list, as determined by the Chief of Police or his designee, based upon an evaluation of the following qualifications at minimum:

1. Law enforcement experience;
2. Law enforcement training beyond the Basic Law Enforcement Course;
3. Training and experience in specialty law enforcement functions;
4. Background investigation; and
5. Oral interview.

If the top applicant is not selected, the Chief of Police shall provide reasons for such selection. Selection is subject to final approval of the Board.

c) If a conditional offer of employment is extended, a lateral entry applicant must pass a psychological examination, and a thorough medical examination (which shall include a drug screen and tests of the applicant’s vision and hearing). Such examinations shall be without expense to the applicant. Examinations will be administered, scored, evaluated and interpreted in a uniform manner. No examinations shall contain questions regarding applicant’s political or religious opinions or affiliations.

d) The Chief of Police may conduct an exploratory discussion of matters identified by professional examinations and/or tests, which bear on the applicant’s character and background.
The Chief of Police may strike from the list of eligibles lateral applicants, any applicant who fails to meet the standards set forth for original entry. In addition, any person who is discovered to have made false representation in any document or examination or who aids in committing such fraud, to gain a position on the list shall be stricken from the lateral entry program eligibility list.

Sec. 18-64. Professional Examination and Tests.
Applicants for appointment from the lateral entry program eligibility list shall be required to submit to the professional examinations as identified in this section as part of the hiring process.

All examinations will be conducted by a professional team and/or by licensed examiners or physicians approved by the Board. Results of all examinations are submitted to the Chief of Police for review and determination of qualification.

The confidentiality of all reports and records will be maintained to the most stringent level possible.

a) Background Investigation.
The Board shall institute the background investigation, through representative police department investigation teams. This investigation shall include, but not be limited to, examination of the applicant’s academic records, investigation of any civil or criminal action involving the applicant, verification of the applicant’s employment and personal history as described on his or her application, and investigation of any factors which might make the applicant unsuitable for service in the Department. Each applicant must submit to fingerprinting, as part of the background investigation, by the Department.

The applicant shall furnish to the City at this point in time, if not already provided, a certified copy of their birth certificate and verification of high school diploma and, when applicable, certified copies of their military service record and discharge papers.

In conducting this investigation, the Chief of Police or designee shall inspect such records and interview such individuals as may be necessary. The applicant shall sign authorization for such investigation, on a form prescribed by the City.

b) Polygraph Test.
The eligible applicant shall submit himself or herself for a polygraph examination by a licensed polygraph operator designated and compensated by the Board, at such time and place as the City may designate. Such test shall be given without expense to the applicant. The examining professional shall submit a written report of the results of the examination to the City HR Manager and Chief of Police.

c) Psychological Examination.
The applicant shall submit himself or herself for a psychological examination by a licensed psychologist designated and compensated by the Board, at such time and place as the City may designate. Such test shall be given without expense to the applicant. The examining professional shall submit a written report of the results of the examination to the City HR Manager and Chief of Police. The applicant shall sign a waiver allowing the psychological report to be reviewed by the Board and City Police Administration. Failure to sign such a waiver shall eliminate the applicant’s name from the Final Eligibility Register and from any further consideration.

Applicants who fail to pass the background investigation, polygraph or psychological examinations will be notified and removed from the lateral entry eligibility program list and eliminated from all further consideration.
Upon the passing of the background investigation, polygraph and psychological examinations, the Chief of Police shall make a determination whether to offer the lateral applicant a conditional offer of employment, subject to successfully passing a medical examination.

d) Medical Examination.
An applicant, on receipt of a conditional offer of employment from the City, shall submit himself or herself for a medical examination (which may include a test of the applicant’s vision and hearing, a test for the presence of communicable diseases, as well as a test to screen for the use of drugs and/or narcotics) by a licensed physician, as the City may designate. The examining professional shall be designated and compensated by the Board and shall submit a written report of the results of the examination to the City HR Manager. The applicant shall sign a waiver allowing the medical examination report to be reviewed by City HR Manager.

If the medical examination reveals a condition that would prevent the applicant from performing essential job functions or duties of the position for which he or she is being considered, with or without reasonable accommodation, the City shall withdraw the conditional offer of employment. If no such condition exists, the City may extend a final offer of employment.

The report of the examining physician is for the confidential use of the City, and shall not be made available to any other individual or organization unless authorized by the City.

The applicant shall sign a waiver allowing the City HR Manager to provide the medical report to the Chief of Police of the Department, or his designee, for review should a condition exist that required withdrawal of a conditional offer of employment as previously identified in these rules. Failure to sign such a waiver shall disqualify the applicant from further consideration.

Sec. 18-65. Appointments.
Vacancies shall be filled by the Chief of Police in the manner that it deems to be in the best interest of the City. No applicant shall be eligible for appointment unless he or she has met all requirements previously listed.

Sec. 18-66. Probationary Appointment.
All lateral transfer appointments to the Department shall be for a probationary period of twelve (12) months, with the Chief of Police having the discretion to extend the probationary period an additional three months. The probationary period shall commence as of the first date said individual is sworn in with the Department. The employment of any probationary officer is at will and may be terminated, during the probationary period, by the Chief of Police, for any reason or no reason at all.

ARTICLE VII. ORDER OF RANK, CLASSIFICATION AND OATH OF OFFICE

Sec. 18.66. Rank.
The order of rank in the Department shall be as provided by ordinance and municipal budget.

Sec. 18-67. Classification.
The Board classifies such offices in the police department for the purpose of establishing and maintaining standards of examinations and promotions based upon job descriptions and departmental regulations.

Sec. 18-68. Oath of Office.
Before entering duty, any person about to become a member of the Department, shall take the following oath, before any persona authorized to administer oaths in the State of Illinois:
“I _____________, do solemnly swear or affirm that I will support the Constitution of the United States, and the Constitution of the State of Illinois, and the ordinances of the City of McHenry, and that I will faithfully discharge the duties of the office of ________________ according to the best of my ability.”

ARTICLE VIII. HEARING OF CHARGES, REMOVAL TO LOWER RANK, SUSPENSIONS AND DISCHARGE.

Sworn officers who are not guaranteed the right of arbitration through their respective collective bargaining agreement are subject to the provisions of this chapter.

Sec. 18-69. Hearing of Charges.

a) Hearing before the Board are not common law proceedings. The provisions of the “Code of Civil Procedure” do not apply to hearings before the Board.

b) “Counsel” as used herein means: One who has been admitted to the bar as an attorney-at-law in this State.

c) No rehearing, reconsideration, modification, vacation, or alteration of a decision of the Board shall be allowed.

d) “Cause” is some substantial shortcoming which renders continuance in employment in some way detrimental to the discipline and efficiency of the public services and something which the law and sound public opinion recognizes as cause for the officer no longer occupying his position. The right to determine what constitutes cause is in the Board.

e) The complainant or appellant initiating any proceedings which call for a hearing before the Board shall have the burden of proof to establish by a preponderance of the evidence that cause for discipline exists or that a suspension, previously imposed by the Chief of Police of the Department, is unwarranted. Should the question of a crime be involved, the rule of “reasonable doubt” shall not control.

f) The phrase “preponderance of evidence” is defined as the greater weight of the evidence, that is to say, it rests with that evidence which, when fairly considered produces the stronger impression, and has a greater weight, and is more convincing as to its truth when weighted against the evidence in the opposition thereto.

g) All hearings shall be public, in accordance with the Open Meetings Act.

h) At the time and place of hearing, both parties may be represented by counsel, if they so desire.

i) All proceedings before the Board during the conduct of the hearing shall be recorded by a court reporter to be employed by the Board.

j) The records of all hearings will not be transcribed by the court reporter unless requested to do so by the Board or any party of interest.

k) All witnesses shall be sworn prior to testifying and the matter will be decided by the Board solely on evidence presented at the hearings.

l) The Board will first hear the witnesses either substantiating the charges which have been made against the respondent or in support of an appeal brought by a suspended police officer. Thereafter the other party may present and examine those witnesses whom he desires the Board to hear. All parties shall have the right to cross-examine witnesses presented by the opposite party.

Sec. 18-70. Hearing Procedure.

a) Complainants: In all cases, written complaints shall be filed in quintuple, setting forth a plain and concise statement of the facts upon which the complaint is based.

b) Probable Cause: The Board shall have the right to determine whether there is or is not probable cause for hearing a complaint and may conduct such informal hearings as may be necessary for such purpose.
c) **Notification of Hearing:** Upon the filing of a complaint in quintuple with the Secretary of the Board, and the determination by the Board of probable cause for entertaining said complaint, the Secretary of the Board shall notify both the complainant and the respondent, either by registered or certified mail,

d) return receipt requested, or personally, of the time and place of the hearing of the charges contained in the complaint. The respondent shall also be served with a copy of the complaint, and if an Order of Suspension Pending a Hearing is entered by the Board, the respondent, the complainant, the Chief of Police of the Department, the treasurer, comptroller, manager, or other finance officer of the municipality shall be notified of the entry of such Order of Suspension Pending a Hearing, and be served either personally or by registered or certified mail, return receipt requested, with a copy of such Order.

e) **Continuances:** The matter of granting or refusing to grant a continuance of a hearing is within the discretion of the Board.

f) **Sufficiency of Charges:** Motions or objections to the sufficiency of written charges must be filed or made prior to or at the hearing before the Board.

**Sec. 18-71. Subpoenas.**

a) Any party to an administrative hearing may, at any time before the hearing, make application to the Board by filing with it a written request for subpoenas for any individual to appear for a hearing or have them produce books, papers, records, accounts and other documents as may be deemed by the Board to be relevant to the hearing. On the filing of such application, subpoenas will be issued for the named persons. Subpoenas may be served by any person 21 years of age or older designated by the party requesting the subpoenas. Application for subpoenas should contain the names and addresses of the individuals to be subpoenaed, and the identity of any documents which they are to produce. Subpoenas will not be issued for anyone residing outside of the State of Illinois.

b) Any request for continuance by reason of inability to serve subpoenas shall be filed in the office of the Board at least three (3) days before the date set for such hearing, provided, however, that the Board, in its discretion, may waive this rule.

**Sec. 18-72. Service.**

All papers required by these Rules and Regulations to be served shall be delivered personally to the party designated or mailed, by United States mail in an envelope properly addressed with postage prepaid, to the designated party at his last known residence as reflected by the complaint filed with the Board, except as herein otherwise provided. Proof of service of any paper may be made by the certification of any person so mailing the paper or delivering the same to the designated party personally, or by filing a return receipt showing that a paper was mailed, by either registered or certified mail, return receipt requested, to a party’s address where it was received by a named party.

**Sec. 18-73. Filing**

All papers may be filed with the Board by mailing them or delivering them personally to the Secretary of the Board at the City of McHenry, Illinois. For the purpose of these Rules and Regulations, the filing date of any paper shall be the date it was received in the Board’s Office, in the event the paper is delivered personally or by messenger. In the event a paper is forwarded by mail, then the filing date shall be the date which is postmarked on the envelope of such paper.

**Sec. 18-74. Forms of Paper.**

a) All papers filed in any proceeding should be typewritten or printed and shall be on one side of the paper only.

b) If typewritten, the lines shall be double spaced, except that long quotations may be single spaced and indented.
c) All papers shall not be larger than 8 ½” by 11” with inside margins of not less than one inch.

d) The original of all papers filed shall be signed in ink by the party filing the paper or by an officer, agent, or attorney thereof and copies thereof provided the opposing party or his counsel. If papers are filed by

e) an attorney, his name and address shall appear thereon.

Sec. 18-75. Computation of Time.
The time within which any act under these Rules and Regulations is to be done shall be computed by excluding the first day and including the last, unless the last day is 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 Sunday or holiday is also a holiday or a Sunday then such succeeding day shall also be excluded.

Sec. 18-76. Date of Hearing.
The time for the hearing of charges shall be set by the Board, within thirty (30) days of the time of the filing of such charges. Continuances may be granted from time to time upon motion of any party to the proceedings by order of the Board. This time limitation is not applicable to hearings conducted to review suspensions of fifteen (15) days or less imposed by the Chief of Police.

Sec. 18.76. Alternative Discipline.

a) Upon a finding of cause, the Board may suspend for a period of time not exceeding thirty (30) days without pay, at any one time, or terminate the employment of any member of the Department who are not subject to the provisions of an applicable collective bargaining agreement, against whom charges have been filed, pending a hearing of the charges by the Board.

b) In addition to the right to remove to lower ranks, the Chief of Police of the Department shall have the right to suspend any officer (who is not subject to the provisions of an applicable collective bargaining agreement), under his command for a period not to exceed fifteen (15) days, providing no charges on the same offense have been filed and are pending before the Board, and he shall notify the Board in writing within twenty-four (24) hours of the time of such suspension. Except for the Deputy Chief and Commander positions, any police officer removed to a lower rank or so suspended may appeal to the Board for a review of the removal to a lower rank or suspension within five (5) days after receiving notice of such action by the Chief of the Police by filing notice of such appeal in writing with the Secretary of the Board of Police Commissioners. A hearing shall be had upon such appeal, and due notice given to the Chief of Police and to the employee. The burden of establishing that a removal to the lower rank or suspension was unwarranted shall be upon the individual bringing the appeal. Upon such appeal and depending on the evidence presented, the Board may sustain the action of the Chief of Police, may reverse it and order that the employee receive his pay for the period involved, may suspend the employee for a period of not more than thirty (30) days or discharge him.

Sec. 18-77. Findings and Decision.
The findings and decision of the Board, following a hearing of charges, shall be preserved by the Secretary of the Board, and notice of said finding and decision sent to the officer involved and the department head for enforcement. If the finding or decision is that an officer or employee is guilty of charges investigated, and demotion or discharge is ordered, such order of demotion or discharge shall become effective forthwith.

Sec. 18-78. Rules – Conflict.
The personnel who are subject to the provisions of this chapter shall be governed by the Rules as adopted by the Council and the Regulations of the Department as adopted by ordinance. In case of conflict, the Rules of the Council shall govern.
Sec. 18-79. Leave of Absence – Probationary Period.
If a leave of absence is granted by the City during a probationary period, such probationary period shall be tolled until the probationary employee returns from his leave of absence.

Sec. 18-80. Political Contributions.
No person in the Department of the City of McHenry, Illinois, shall be under any obligation to contribute any funds to render any political service, and no such person shall do so or be removed or otherwise prejudiced for refusing to do so. No person in the Department of the City of McHenry, Illinois, shall discharge or promote or reduce, or in any manner change the official rank or compensation of any other person in such service, or promise or threaten so to do, for withholding or refusing to make any contribution of money or service or any other valuable thing for any political purpose, or in any other manner, directly or indirectly, use his official authority or influence to compel or induce any other person to pay or render any political assessment, subscription, contribution or service.

Sec. 18-80 thru 18.89. Reserved.
ARTICLE XI  POLICE ALARM SYSTEMS
(MC-89-510; MC11-1028)

Sec. 18-90. Definitions.

Police Alarm System - The alarm monitoring and control system located in the McHenry Municipal Center onto which any person or business (a "subscriber") may connect the alarm system of their premises for a fee.

Alarm System - An assembly of equipment arranged to signal the presence of a life or property threatening hazard, requiring urgent attention, and to which the police department is expected to respond.

Alarm User, or User - Any person or business on whose premises an alarm system is maintained other than alarm systems on a motor vehicle.

False Alarm - Means the activation of an alarm system through mechanical or electronic failure, malfunction, improper installation or the negligence of the owner, user or lessee of an alarm system, or his employees or agents, except that the following shall not be considered false alarms:

(a) Alarms caused by the failure or malfunction of the equipment located in the McHenry Municipal Center.

(b) Alarms caused by an attempted, or actual illegal entry.

(c) Alarms caused by an on-premises fire.

(d) Alarms intentionally caused by a person acting under a reasonable belief that a need exists to call the police department.
(e) Alarms caused by tornadoes, earthquakes, major floods, or other natural disasters.

**Sec. 18-91. False alarms prohibited.**

It shall be unlawful for any person to knowingly activate an alarm system for the purpose of summoning the police if such person knows or suspects that there is no actual or prospective emergency.

**Sec. 18-92. Charges.**

When six or more false alarms are received from any subscriber's premises during any calendar year by the alarm monitoring and control system, a service charge of $25.00 for the seventh false alarm and $25.00 for each and every false alarm thereafter shall be assessed and billed to the subscriber.

**Sec. 18-93. Subscriber's request to reconsider service charge.**

Within fifteen days after receiving a bill for false alarm charges, the subscriber may file a written request with the Chief of Police to reconsider whether such alarm was false. Such request shall state the subscriber's opinion with respect to the cause of the alarm and shall indicate the facts upon which the subscriber bases said opinion. Within five days after the receipt of such a request from a subscriber, the Chief of Police, or his designee, shall make a determination whether the alarm was false or not and shall notify the subscriber of that decision in writing by personal delivery or by mail.

**Sec. 18-94. Disconnection of subscriber's premises from police alarm system.**

(a) If more than ten false alarms are received from the same premises in any calendar year, the Chief of Police may initiate proceedings to disconnect said premises from the police alarm system by forwarding a written request for such disconnection proceedings, along with any and all reports of false alarms at such premises in such calendar year, to the City Council.

(b) Upon receipt of such request from the Chief of Police, the City Council shall set a date for hearing to consider whether or not the subscriber's premises should be disconnected from the police alarm system. A written notice of such hearing and hearing date shall be mailed to the subscriber at least fifteen days prior to such hearing date.

(c) The City Council shall conduct the aforesaid disconnection hearings and the Chief of Police and subscriber shall be permitted to present evidence in support of or in opposition to such disconnection. At said hearing a determination by a majority vote of the Corporate Authorities, shall be made whether or not to disconnect the subscriber's premises from the police alarm system and the City Clerk shall notify the subscriber of the Council's decision in writing within seven days of the hearing date.

(d) In determining whether or not to disconnect any subscriber's premises from the police alarm system, the City Council may consider the following factors:

1. The number of false alarms from the subscriber's premises.
2. Whether or not the subscriber responded to deactivate the false alarms within one hour after such false alarms began.
3. The efforts made, if any, by the subscriber to control, direct, and instruct the subscriber's employees with regard to the proper use of the subscriber's alarm system.

4. The efforts made by the subscriber to repair and maintain the alarm system in proper working order.

(a) Any other matter the City Council deems relevant.

Sec. 18-95 Police/Fire Alarms, Generally (MC-11-1028).

1. Fire alarm systems shall be designed and installed in accordance with the provisions of the International Building Code (IBC)/2006 Edition as adopted by the City and amended from time to time, International Fire Code (IFC)/2006 Edition as adopted by the City and amended from time to time, and this Ordinance. Devices, appliances and equipment shall be listed and approved for the purpose for which they are installed. Automatic fire detection shall be by smoke detectors, except that an approved alternative type of detector shall be installed where a smoke detector is inappropriate.

2. An approved fire alarm and detection system shall be provided within the City of McHenry (City) where required by the IBC/IFC.

3. Single and multiple station smoke detection shall be provided in accordance with the IFC, as amended from time to time.

4. Where a fire alarm system control unit is provided for the required supervision of fire protection system as indicated in the IBC or IFC as adopted and amended from time to time, alarm, supervisory (where applicable) and trouble signals shall be transmitted to the remote supervising station at the City of McHenry Police Department (“Police Department”) in accordance with the IBC or IFC. The method of connection to the remote supervising station shall be in accordance with Section 18-96 of this Ordinance.

5. All existing required fire alarm and security systems connected to the City’s remote station by phone line as of May 1, 2011, shall convert to the City’s Network on or before December 1, 2011.

6. All existing required fire alarm and security systems not connected to the City’s remote station by phone line as of May 1, 2011 shall convert to the City’s Network in accordance with Section 18-96 of this Ordinance on or before May 1, 2016.

7. Where a non-required fire alarm system is directly connected to the City’s remote station the method of connection shall be in accordance with Section 18-96 of this Ordinance.
Sec. 18-96 Wireless Alarm Network.

1. **Connection.** The method of connecting directly to the remote supervising station shall be by the City of McHenry’s Wireless Alarm Network (“Network”), or other alternate connection means as approved by the Director of Construction and Neighborhood Services. All fire alarm system control panels connected to a Network radio transceiver shall be provided with at least one reverse polarity output except that fire alarm control panels monitoring supervisory signals (tamper switches, fire pump conditions, etc.) shall be provided with two reverse polarity outputs. All fire alarm control panels shall be UL listed for remote station signaling of Manual, Automatic, Waterflow (where applicable) and Supervisory (where applicable) signals by the reverse polarity method. Other listed and supervised methods of connection between the fire alarm control unit and the radio transceiver shall be permitted. A minimum 12V filtered DC signal shall be provided from the fire alarm control unit to the radio transceiver.

2. **Primary Power Required.** The fire alarm contractor shall provide a 1900 box directly above and within three feet of the fire alarm control unit. The 1900 box shall house the A/C primary power source for the fire alarm control panel. Sufficient additional wire shall be left in the 1900 box to allow for the City’s radio vendor to splice into the A/C conductors to obtain power for the radio. When the 1900 box, and A/C primary power source is not provided, other wiring methods may be permitted by the City.

3. **Application Process.** All connections to the Network shall be preceded by an application process. The City shall provide to owners, agents or occupants of buildings within the City, requiring or requesting connection to the City’s Network, appropriate forms and contracts which shall be completed and returned to the City prior to the approval of such a connection.

4. **Fire System Monitoring Fees.** Fees for the monthly monitoring of signals shall be as follows:

   A. Fire, supervisory, trouble signals from fire alarm control units: $90 per month.

   B. The monthly fees for City buildings will be waived.

   C. Connections made to the Network on the 1st through the 15th of the month will be charged the applicable full monthly monitoring fee for the first month of service. Connections made on the 16th through the last day of the month will be charged ½ of the applicable monthly fee for the first month.

   D. Invoices will be mailed monthly and are required to be paid within thirty days. All fees shall be paid to the City of McHenry. A late payment penalty of ten percent (10%) will be assessed to any delinquent invoices. The Wireless Alarm Board may deny alarm monitoring service if a customer falls more than sixty days delinquent on any outstanding invoice. If the Wireless Alarm Board decides to temporarily suspend the fire alarm monitoring to a given building, specifically in cases where this monitoring is required by the IFC or IBC, this action may result in the City revoking the building’s certificate of occupancy until the condition has been corrected.
Sec. 18-97 Fire Systems Registration and Fees.

1. This section shall apply to all fire alarm systems connected to the City’s Network. Each fire alarm and security system within the City shall be registered if connected to the City’s Network. Registration of the fire alarm system is intended to provide the City with current information related to the fire alarm system including, but not limited to, its owner, the responsible party, night/after hour call information, fire alarm system maintenance contractor, and the results of the required annual fire alarm inspection. Each fire alarm and security system owner shall complete a registration form provided by the City at the time of initial connection to the Network, and annually when the connection to the Network is renewed.

2. All fees charged for the registration of radios as determined by Council shall be paid to the City of McHenry.

3. Annual registration fees for City buildings will be waived.

Sec. 18-98 Initial Connection Fees.

A one-time connection fee as determined by Council shall be charged for all new fire alarm systems connected to the Network. This fee shall be collected by the City prior to the initial connection to the Network. Connection fees for City buildings shall be waived.

Sec. 18-99 Renewal of Monitoring and Registration Fees.

Subscribers to the Network will be invoiced by the City quarterly for monitoring services. Annually, the cost for the renewal registration fee will be invoiced. All annual monitoring and registration fees shall be paid prior to the start of the new annual renewal period. All fees shall be paid to the City of McHenry. A late-payment penalty of ten percent (10%) will be applied to all invoices that are delinquent.

Sec. 18-100 Network Equipment.

1. The City is the owner of all equipment associated with the Network. Subscribers to the Network will be provided with a radio transceiver that replaces the traditional phone circuit for connection to the remote supervising station. The subscriber, through the quarterly monitoring fee, is leasing the radio transceiver from the City.

2. The installation, annual and necessary maintenance, testing, and repair of the radio transceiver at the subscriber’s premise will be completed solely by a fire alarm company chosen by the City. The City will contract with a single vendor to provide this service. Subscribers to the Network will be advised of the City’s vendor identity. Subscriber’s shall allow the City’s vendor access to the radio transceiver during normal business hours for all required or necessary installation, annual maintenance, testing, and repair.
3. The City will install the necessary radio transceiver at the subscriber’s location at no cost to the subscriber, other than those indicated in Sections 18-95 through 18-98 of this Ordinance, when a standard installation can be accomplished by the City’s vendor. The Wireless Alarm Board is responsible for determining the components that must be provided within a standard installation. When the City’s vendor cannot perform a standard installation, and an antenna other than the one provided on the radio must be used to permit Network connectivity, the subscriber will be invoiced a non-standard installation fee by the City in accordance with a fee schedule agreed to with the City’s vendor. Fees for non-standard installations shall be paid to the City within thirty days of installation.

4. All fire alarm systems shall be subject to inspection, testing and maintenance. Inspection, testing and maintenance shall be documented. Documented annual test results shall be provided to the City as part of the annual registration renewal. While the City will repair and maintain its Network equipment, including the radio transceiver at the subscriber’s location, it is the responsibility of owner of the fire alarm system within the premise to provide the required inspection, testing and maintenance at their own expense.

Sec. 18-101 Automatic dialer alarms.

Automatic dialer alarms that dial directly into the Police Department are not allowed to be used within the corporate limits of the City, with the exception of those used by the City and those authorized by the Chief of Police or his/her designee based upon special facts involving medical and/or life threatening circumstances.

Sec. 18-102 Audible Security Alarms.

Any security alarm that emits an audible alarm is required to have a cut-off timer that will shut the alarm off automatically after thirty minutes.

Sec. 18-103 Limitation on city liability.

The City shall take reasonable precautions to assure that the alarm signals and alarm activations received by the City either directly or indirectly are given appropriate attention and are acted upon by the McHenry Police Dispatch Center. Nevertheless, the City shall not be liable for:

1. Any defects in the operation of an automatic signaling device;

2. Any failure or neglect to respond appropriately upon receipt of an alarm from any source;

3. For failure or neglect of any person in connection with the installation and operation of equipment, the transmission of alarm signals and/or prerecorded alarm messages or the relaying of such signals and messages.

In the event the City finds it necessary to disconnect a defective alarm detection system, the City shall incur no liability for such action.
Sec. 18-104- 18-105. Reserved.

Sec. 18-106. Penalties.

Any person who violates or neglects to comply with any provision of this Chapter 18 or any regulation promulgated pursuant thereto, shall, upon conviction thereof, be punishable by a fine of not less than $50.00 nor more than $750.00. A separate offense shall be deemed committed on each day during or on which such violation occurs or continues.
Sec. 18.50-1. Definitions.
For the purpose of this Chapter, certain terms used herein are defined as set forth below:

BUILDING PERMIT means a permit issued by the City for the construction, erection or alteration of a structure or building.

CERTIFY or CERTIFICATION means formally attesting that the specific inspections and tests where required have been performed, and that such tests comply with the applicable requirements of this Chapter.

CLEARING means any activity which removes vegetative ground cover.

CUBIC YARDS means the amount of material in excavation and/or fill measured by the method of "average end areas."

DIRECTOR OF PUBLIC WORKS means the officer of the City holding such title.

EXCAVATION means any act by which organic matter, earth, sand, gravel, rock or any other similar material is cut into, dug, quarried, uncovered, removed, displaced, relocated or bulldozed and shall include the conditions resulting therefrom.

EXISTING GRADE means the vertical location of the existing ground surface prior to excavation or filling.

FILL means any act by which earth, sand, gravel, rock or any other material is deposited, placed, replaced, pushed, dumped, pulled, transported or moved by man to a new location and shall include the conditions resulting therefrom.

FINAL GRADE means the vertical location of the ground or pavement surface after the work is completed in accordance with the site development plan.

GRADING means excavation or fill or any combination thereof and shall include the conditions resulting from any excavation or fill.

NATURAL DRAINAGE means channels formed in the existing surface topography of the earth prior to changes made by unnatural causes.

PARCEL means all contiguous land in one ownership.
PERMITTEE means any person to whom a site development permit is issued.

PERSON means any individual, firm or corporation, public or private, the State of Illinois and its agencies or political subdivisions, and the United States of America, its agencies and instrumentalities, and any agent, servant, officer or employee of any of the foregoing.

REMOVAL means cutting vegetation to the ground or stumps, complete extraction, or killing by spraying, and hauling away and/or disposal of all vegetative materials.

SITE means a lot or parcel of land, or a contiguous combination thereof, where grading work is performed as a single unified operation.

SITE DEVELOPMENT means altering terrain and/or vegetation and constructing improvements.

SITE DEVELOPMENT PERMIT means a permit issued by the City for the construction or alteration of ground improvements and structures for the control of erosion, runoff and grading.

STREAM means any river, creek, brook, branch, flowage, ravine, or natural or man-made drainageway which has a definite bed and banks or shoreline, in or into which surface or groundwater flows, either perennially or intermittently.

STRIPPING means any activity which removes the vegetative surface cover including tree removal, clearing, and storage or removal of top soil.

VACANT means land on which there are no structures or only structures which are secondary to the use or maintenance of the land itself.

WETLAND means areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

Sec. 18.50-2. General principles.
It is the objective of this Chapter to control soil erosion and sedimentation caused by development activities including clearing, grading, stripping, excavating, and filling of land in the City. Measures taken to control soil erosion and offsite sediment runoff should be adequate to assure that sediment is not transported from the site by a storm event of ten-year frequency or less. The following principles shall apply to all development activities within the City and to the preparation of the submissions required under this Chapter.

1. Development should be related to the topography and soils of the site so as to create the least potential for erosion. Areas of steep slopes where high cuts and fills may be required should be avoided wherever possible, and natural contours should be followed as closely as possible.
2. Natural vegetation should be retained and protected wherever possible. Areas immediately adjacent to natural watercourses, lakes, ponds and wetlands should be left undisturbed wherever possible. Temporary crossings, when permitted, must include appropriate stabilization measures.

3. Special precautions should be taken to prevent damages resultant from any necessary development activity within or adjacent to any stream, lake, pond or wetland. Preventive measures should reflect the sensitivity of the areas to erosion and sedimentation.

4. The smallest practical area of land should be exposed for the shortest practical time during development.

5. Sediment basins or traps, filter barriers, diversions, and any other appropriate sediment or runoff control measures should be installed prior to site clearing and grading and maintained to remove sediment from run-off waters from land undergoing development.

6. The selection of erosion and sedimentation control measures should be based on assessment of the probable frequency of climatic and other events likely to contribute to erosion, and on evaluation of the risks, costs, and benefits involved.

7. In the design of erosion control facilities and practices, aesthetics and the requirements of continuing maintenance should be considered.

8. Provision should be made to accommodate the increased run-off caused by changed soil and surface conditions during and after development. Drainage ways should be designed so that their final gradients and the resultant velocities of discharges will not create additional erosion.

9. Permanent vegetation and structures should be installed and functional as soon as practical during development.

10. Those areas being converted from agricultural purposes to other land uses should be vegetated with an appropriate protective cover prior to development.

11. All waste generated as a result of site development activity should be properly disposed of and should be prevented from being carried off the site by either wind or water.

12. All construction sites should provide measures to prevent sediment from being tracked onto roadways.

Sec. 18.50-3. Site development permit required.
Except as otherwise provided in this Chapter, no person shall commence or perform any clearing, grading, stripping, excavating, or filling of land which meets the following provisions without having first obtained a site development permit from the Director of Public Works of the City:

1. Any land disturbing activity that will affect an area in excess of 5,000 square feet; or

2. Any land disturbing activity that will affect an area in excess of 500 square feet if the activity is within 25 feet of a lake, pond, stream, or wetland; or

3. Excavation, fill, or any combination thereof that will exceed 100 cubic yards.
Sec. 18.50-4. **Exceptions to permit requirement.**
Although prior written notification of any site work shall be given to the Director of Public Works by any person performing site work, a permit shall not be required for any of the following:

1. Development of a site of one acre or less for residential use, or of one acre or less for commercial or industrial use; provided that the person responsible for any such development shall implement necessary soil erosion and sediment control measures to satisfy the principles set forth in this Chapter;

2. Excavation below final grade for the foundation of a single family residence and appurtenant structures on a site one acre or less for which a building permit has been issued by the City; provided that the person responsible for any such development shall implement necessary soil erosion and sediment control measures to satisfy the principles set forth in this Chapter;

3. Agricultural use of land;

4. Installation, renovation, or replacement of a septic system to serve an existing dwelling or structure.

Sec. 18.50-5. **Application for permit.**
Application for a site development permit shall be made by the owner of the property or his authorized agent to the Director of Construction and Neighborhood Services on a form furnished for that purpose. Each application shall bear the name(s) and address(es) of the owner or developer of the site and of any consulting firm retained by the applicant together with the name of the applicant's principal contact at such firm, and shall be accompanied by a filing fee of $37.50. Each application shall include certification that any land clearing, construction, or development involving the movement of earth shall be in accordance with the plans approved upon issuance of the permit.

Sec. 18.50-6. **Accompanying application for permit.**
Each application for a site development permit shall be accompanied by the following information:

I. A Certificate of Insurance in the amount of $1,000,000 General Liability naming the City of McHenry as additionally insured.

2. A vicinity map in sufficient detail to enable easy location in the field of the site for which the permit is sought, and including the boundary line and approximate acreage of the site, existing zoning, and a legend and scale.

3. A development plan with a maximum size of 24” by 36” of the site showing:
   a. Existing topography of the site and adjacent land within approximately 100 feet of the boundaries, drawn at no greater than two-foot contour intervals and clearly portraying the conformation and drainage pattern of the area.
   b. The location of existing buildings, structures, utilities, streams, lakes, flood plains, wetlands and depressions, drainage facilities, vegetative cover, paved areas, and other significant natural or man-made features on the site and adjacent land within 100 feet of the boundary.
c. A general description of the predominant soil types on the site, their location, and their limitations for the proposed use.

d. Proposed use of the site, including present development and planned utilization; areas of clearing, stripping, excavation, grading, and filling; proposed contours, finished grades including conveniently accessible bench marks on the site, and street profiles; provisions for storm drainage, including storm sewers, swales, detention basins and any other measures to control the rate of runoff, with a drainage area map indicating flow direction and computations; kinds and locations of utilities; and areas and acreages proposed to be paved, covered, sodded or seeded, vegetatively stabilized, or left undisturbed.

4. An erosion and sedimentation control plan showing all measures necessary to meet the objectives of this Chapter throughout all phases of construction and permanently after completion of development of the site, including:

   a. Location and description, including standard details, of all sediment control measures and design specifics of sediment basins and traps, including outlet details.

   b. Location and description of all soil stabilization and erosion control measures, including seeding mixtures and rates, types of sod, method of seedbed preparation, expected seeding dates, type and rate of lime and fertilizer application, and kind and quantity of mulching for both temporary and permanent vegetative control measures and types of non-vegetative stabilization measures.

   c. Location and description of all runoff control measures, including diversions and outlets.

   d. Location and description of methods to prevent sediment off site, including construction entrance details.

   e. Description of dust and traffic control measures.

   f. Location of stockpiles and description of stabilization methods.

   g. Description of off-site fill or borrow volumes, locations, and methods of stabilization.

   h. Provisions for maintenance of control measures, including type and frequency of maintenance, including easements, and estimates of the cost of maintenance.

   i. Identification (name, address, and telephone) of the person(s) or entity which will have legal responsibility for maintenance of erosion control structures and measures during development and after development is completed.
5. The proposed phasing of development of the site, including stripping and clearing, rough grading and construction, and final grading and landscaping. Phasing should identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas, and the sequence of clearing, installation of temporary soil stabilization measures, clearing and grading, installation of storm drainage, final grading, and the establishment of permanent vegetative cover and removal of temporary measures. The applicant shall notify the City of site development schedule changes after plan approval.

These submissions shall be prepared in accordance with the standards and requirements of this ordinance and the standards and requirements contained in "Illinois Procedures and Standards for Urban Soil Erosion and Sedimentation Control" prepared by the Northeastern Illinois Erosion and Sedimentation Control Steering Committee and adopted by the McHenry County Soil and Water Conservation District, and Standards and Specifications for Soil Erosion and Sediment Control published by the Illinois Environmental Protection Agency which standards and requirements are on file in the Office of the City Engineer and hereby incorporated into this Chapter by reference.

The Director of Construction and Neighborhood Services may waive specific requirements for the content of submissions upon finding that the information submitted is sufficient to show that the work will comply with the objectives and principles of this Chapter.

Sec. 18.50-7. Bonds
The applicant shall file with the City a faithful performance bond or bonds, letter of credit, or other improvement security in a form satisfactory to the City Attorney and in an amount deemed sufficient by the City Engineer to cover all costs of improvements, landscaping, and maintenance of improvements, and landscaping and soil erosion and sediment control measures for a period of one year after the installation thereof or for such other period that the City Engineer may determine and specify, and engineering and inspection costs to cover the cost of failure or repair of improvements installed on the site.

Sec. 18.50-8. Review and approval.
Each application for a site development permit shall be reviewed and acted upon according to the following procedures:

(1) The Director of Construction and Neighborhood Services will review each application for a site development permit to determine its conformance with the provisions of this Chapter. The Director of Construction and Neighborhood Services may also refer any application to the City Engineer, the McHenry County Soil and Water Conservation District and/or any other local government or public agency within whose jurisdiction the site is located for review and comment. Within sixty days after receiving an application, the Director of Public Works shall in writing:

(a) approve the permit application if it is found to be in conformance with the provisions of this Chapter, and issue the permit; or
(b) approve the permit application subject to such reasonable conditions as may be necessary to secure substantially the objectives of this Chapter, and issue the permit subject to these conditions; or
(c) disapprove the permit application, indicating the deficiencies and the procedure for submitting a revised application and/or submission.
(2) No site development permit shall be issued for an intended development site unless:

   (a) The development, including but not limited to subdivisions and Integrated Design Districts, has been approved by the City where applicable, or

   (b) Such permit is accompanied by or combined with a valid building permit issued by the City, or

   (c) The proposed earth moving is coordinated with an overall development program previously approved by the City for the area in which the site is situated, and

   (d) All relevant federal and state permits have been received for the portion of the site subject to soil disturbance.

Sec. 18.50-9. Appeals.
The applicant, or any person or agency which received notice of the filing of the application, may appeal the decision of the Director of Construction and Neighborhood Services to the City Council. Such appeals shall be filed with the City Clerk in writing within ten days after the applicant has received the decision of the Director and the appeal shall specify the decision from which the appeal is taken and the basis and reasons for the appeal. Factors to be considered on appeal shall include, but need not be limited to:

   (1) the effects of the proposed development activities on the surface water flow to tributary and downstream lands and any comprehensive watershed management plans;

   (2) the use of any retention facilities; possible saturation of fill and unsupported cuts by water, both natural and domestic;

   (3) runoff surface waters that produce erosion and silting of drainageways;

   (4) nature and type of soil or rock which when disturbed by the proposed development activities may create earth movement and produce slopes that cannot be landscaped;

   (5) excessive and unnecessary scarring of the natural landscape through grading or removal of vegetation.

Sec. 18.50-10. Operation standards and requirements.
All clearing, grading, stripping, excavating, and filling which is subject to the permit requirements of this Chapter, shall be subject to the applicable standards and requirements set forth herein.

Sec. 18.50-11. Permittee's responsibility; City immunity.
The permittee is not relieved of responsibility for damage to persons or property otherwise imposed by law, and the City, its officers, agents, servants and employees shall not be liable for such damage, by:

   (1) the issuance of a permit under this Chapter;

   (2) compliance or non-compliance with the provisions of that permit or with conditions attached to it by the Director of Construction and Neighborhood Services;
(3) failure to observe or recognize hazardous or unsightly conditions;

(4) failure to recommend denial of or to deny a permit; or

(5) exemptions from the permit requirements of this Chapter.

Sec. 18.50-12. Site Design Requirements.

A. On-site sediment control measures, as specified by the following criteria, shall be constructed and functional prior to initiating clearing, grading, stripping, excavating or fill activities on the site.

1. For disturbed areas draining less than 1 acre, filter barriers (including filter fences, straw bales, or equivalent control measures) shall be constructed to control all offsite runoff as specified in the referenced handbooks. Vegetated filter strips, with a minimum width of 25 feet, may be used as an alternative only where runoff in sheet flow is expected.

2. For disturbed areas draining more than 1 but less than 5 acres, a sediment trap or equivalent control measure shall be constructed at the downslope point of the disturbed area.

3. For disturbed areas draining more than 5 acres, a sediment basin or equivalent control measure shall be constructed at the downslope point of the disturbed area.

4. Sediment basin and sediment trap designs shall provide for both detention storage and sediment storage and shall be composed of equal volumes of "wet" detention storage and "dry" detention storage and each shall be sized for the 2-year, 24-hour runoff from the site under maximum runoff conditions during construction. The release rate of the basin shall be that rate required to achieve minimum detention times of at least 10 hours. The elevation of the outlet structure shall be placed such that it only drains the dry detention storage.

5. The sediment storage shall be sized to store the estimated sediment load generated from the site over the duration of the construction period with a minimum storage equivalent to the volume of sediment generated in one year. For construction periods exceeding 1 year, the 1-year sediment load and a sediment removal schedule may be substituted.

B. Stormwater conveyance channels, including ditches, swales, and diversions, and the outlets of all channels and pipes shall be designed and constructed to withstand the expected flow velocity from the 10-year frequency storm without erosion. All constructed or modified channels shall be stabilized within 48 hours, consistent with the following standards:

1. For grades up to 4 percent, seeding in combination with mulch, erosion blanket, or an equivalent control measure shall be applied. Sod or erosion blanket or mat shall be applied to the bottom of the channel.

2. For grades of 4 to 8 percent, permanent ditch checks and sod or an equivalent control measure shall be applied in the channel.
3. For grades greater than 8 percent, rock, riprap, or an equivalent control measure shall be applied, or the grade shall be effectively reduced using drop structures.

C. Disturbed areas shall be stabilized with temporary or permanent measures within 7 calendar days following the end of active disturbance, or re-disturbance, consistent with the following criteria:

1. Appropriate temporary or permanent stabilization measures shall include seeding, mulching, sodding, and/or non-vegetative measures.

2. Areas having slopes greater than 12 percent shall be stabilized with sod, mat or blanket in combination with seeding, or equivalent.

D. Land disturbance activities in stream channels shall be avoided, where possible. If disturbance activities are unavoidable, the following requirements shall be met:

1. Construction vehicles shall be kept out of the stream channel to the maximum extent practicable. Where construction crossings are necessary, temporary crossings shall be constructed of non-erosive material, such as riprap or gravel.

2. The time and area of disturbance of stream channels shall be kept to a minimum. The stream channel, including bed and banks, shall be re-stabilized within 48 hours after channel disturbance is completed, interrupted, or stopped.

3. Whenever channel relocation is necessary, the new channel shall be constructed and fully stabilized before flow is diverted.

E. Storm sewer inlets and culverts shall be protected by sediment traps or filter barriers meeting accepted design standards and specifications.

F. Soil storage piles containing more than 10 cubic yards of material shall not be located with a downslope drainage length of less than 25 feet to a roadway or drainage channel. Filter barriers, including straw bales, filter fence, or equivalent, shall be installed immediately on the downslope side of the piles.

G. If dewatering devices are used, discharge locations shall be protected from erosion. All pumped discharges shall be routed through appropriately designed sediment traps or basins, or equivalent.

H. Each site shall have a graveled (or equivalent) entrance road, access drive, and parking area of sufficient length and width to prevent sediment from being tracked onto public or private roadways. Any sediment reaching a public or private road shall be removed by shoveling or street cleaning (not flushing) before the end of each workday and transported to a controlled sediment disposal area.

I. All temporary and permanent erosion and sediment control practices must be maintained and repaired as needed to assure effective performance of their intended function.
J. All temporary erosion and sediment control measures shall be disposed of within 30 days after final site stabilization is achieved with permanent soil stabilization measures. Trapped sediment and other disturbed soils resulting from the disposition of temporary measures should be permanently stabilized to prevent further erosion and sedimentation.

The standards and specifications contained in "Standards and Specifications for Soil Erosion and Sedimentation Control" and "Illinois Procedures and Standards for Urban Soil Erosion and Sedimentation Control" cited in Section 18.50-6 of this Chapter are hereby incorporated into this Chapter and made a part hereof by reference for the purpose of delineating procedures and methods of operation under site development and erosion and sedimentation control plans approved under this Chapter. In the event of conflict between provisions of said manual and of this Chapter, this Chapter shall govern.

Sec. 18.50-14. Maintenance of Control Measures
All soil erosion and sediment control measures necessary to meet the requirements of this ordinance shall be maintained periodically by the applicant or subsequent land owner during the period of land disturbance and development of the site in a satisfactory manner to ensure adequate performance. Construction sites greater than 5 acres must also comply with the maintenance provisions of the required National Pollutant Discharge Elimination System (NPDES) stormwater discharge permit.

Sec. 18.50-15. Inspection.
The Director of Construction and Neighborhood Services shall make inspections, or shall cause them to be made, and shall either approve that portion of the work completed or shall notify the permittee wherein the work fails to comply with the site development or erosion and sedimentation control plan as approved. Plans for grading, stripping, excavating, and filling work bearing the signature of the Director of Construction and Neighborhood Services shall be maintained at the site during progress of the work. The permittee shall give notice and request inspection at the completion of each of the work stages in the plan including: installation of sediment and runoff control measures prior to other earth disturbance or grading; after stripping and clearing; after rough grading; after final grading; after seeding and landscaping; after final stabilization and landscaping; prior to removal of sediment controls.

Sec. 18.50-16. Special precautions.
1. If at any stage of the grading of any development site the Director of Construction and Neighborhood Services determines by inspection that the nature of the site is such that further work authorized by an existing permit is likely to imperil any property, public way, stream, lake, wetland, watercourse or drainage structure, the Director of Construction and Neighborhood Services may require, as a condition of allowing the work to be done, that such reasonable special precautions be taken as is considered advisable to avoid the likelihood of such peril. "Special precautions" may include, but shall not be limited to, a more level exposed slope, construction of additional drainage facilities, berms, terracing, compaction, or cribbing, installation of plant materials for erosion control, and the recommendations of the City Engineer.

2. Where it appears that storm damage may result because the grading on any development site is not complete, work may be stopped and the permittee required to install temporary structures or take such other measures as may be required to protect adjoining property or the public safety. On large developments or where unusual site conditions prevail, the Director of Construction and Neighborhood Services may specify the time of starting grading and time of completion or may require that the operations be conducted in specific stages so as to insure completion of protective measures or devices prior to the advent of seasonal rains.
Sec. 18.50-17. Amendment of plans.
Major amendments of the site development or erosion and sedimentation control plans shall be submitted to the Director of Construction and Neighborhood Services and shall be processed and approved or disapproved in the same manner as the original plans. Field modifications of a minor nature may be authorized in writing by the Director of Construction and Neighborhood Services.

Sec. 18.50-18. Expiration of permit.
Every site development permit shall expire and become null and void if the work authorized by such permit has not been commenced within 180 days of the permit date, or is not completed by a date which shall be specified in the permit; except that the Director of Construction and Neighborhood Services may, if the permittee presents satisfactory evidence that unusual difficulties have prevented work being commenced or completed within the specified time limits, grant a reasonable extension of time if written application is made before the expiration date of the permit.

Sec. 18.50-19. Exceptions from requirements and regulations.
The City Council may, in accordance with the following procedures, authorize exceptions to any of the requirements and regulations set forth in this Chapter:

1. Application for any exception shall be made by a verified petition of the applicant for a site development permit, stating fully the grounds of the petition and the facts relied upon by the applicant. Such petition shall be filed with the site development permit application. No petition shall be granted unless the City Council expressly finds:

   a. That the land is of such shape or size or is affected by such physical conditions or is subject to such title limitations of record that it is impossible or impractical for the applicant to comply with all of the requirements of this Chapter; and,

   b. That the exception is necessary for the preservation and enjoyment of a substantial property right of the applicant; and

   c. That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the vicinity of the subject property.

2. Each application for an exception shall be referred to the Director of Public Works for review. The Director of Public Works shall transmit his recommendations to the City Council, which shall review such recommendations prior to granting or denying the exception.

3. The City Council shall hold a public hearing on each application for exception. After public hearing, the City Council may approve the site development permit application with the exceptions and conditions it deems necessary or it may disapprove such site development permit application and exception application or it may take such other action as appropriate.
Sec. 18.50-20. Stop-work order; revocation of permit.
In the event any person holding a site development permit pursuant to this Chapter violates the terms of the permit, or carries on site development in such a manner as to materially adversely affect the health, welfare, or safety of persons residing or working in the neighborhood of the development site or so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the Director of Public Works may suspend or revoke the site development permit.

1. Suspension of a permit shall be by a written stop-work order issued by the Director of Construction and Neighborhood Services and delivered to the permittee or his agent or the person performing the work. The stop-work order shall be effective immediately, shall state the specific violations cited, and shall state the conditions under which work may be resumed. A stop-work order shall remain in effect until the next regularly scheduled meeting of the City Council at which the conditions of sub-paragraph 2 below can be met.

2. No site development permit shall be permanently suspended or revoked until a hearing is held by the City Council. Written notice of such hearing shall be served on the permittee, either personally or by registered or certified mail, and shall state:
   a. The grounds or reasons for suspension or revocation;
   b. The date, time and place of such hearing.

3. Such notice shall be served on the permittee at least five days prior to the date set for the hearing. At such hearing, the permittee shall be given an opportunity to be heard and may call witnesses and present evidence on his behalf. At the conclusion of the hearing the City Council shall determine whether the permit shall be suspended or revoked.

Sec. 18.50-21. Violations and penalties.
No person, firm, corporation or entity shall construct, enlarge, alter, repair, or maintain any grading, excavation or fill, or cause the same to be done, contrary to or in violation of any terms of this Chapter. Any person violating any of the provisions of this Chapter shall be deemed guilty of a misdemeanor, and each day during which any violation of any of the provisions of this Chapter is committed, continued, or permitted shall constitute a separate offense. Upon conviction of any such violation, such person, firm, corporation or entity shall be punished by a fine of not less than $25.00 nor more than $500.00 for each offense. In addition to any other penalty authorized by this section, any person, firm, corporation or entity convicted of violating any of the provisions of this Chapter shall be required to restore the site to the condition existing prior to commission of the violation, or to bear the expense of such restoration.

Sec. 18.50-22. Separability.
The provisions and sections of this Chapter shall be deemed to be separable, and the invalidity of any portion of this Chapter shall not affect the validity of the remainder.
Sec. 18.50-23. Fees and expenses to be reimbursed to City by Permittee.
Permittees shall pay and reimburse the City for any and all Council and Administrative expenses and costs, and for any and all fees, salaries or compensations incurred and charged to the City by retained personnel of the City in connection with planning, reviewing, evaluating, advising, approving, implementing or enforcing any site development application or permit by the City.

1. Retained personnel shall be defined as any engineer, attorney, planner, economist, or other technical, professional or other expert paid and retained by said City to assist or advise said City, directly and indirectly, in planning, reviewing, evaluating, advising, approving, implementing or enforcing any site development application or permit by said City.

2. The permittee shall deposit with the City into a specified account, the following amounts to be used toward defraying expenses and fees of its retained personnel:

   The sum of $100.00 per acre or fraction thereof, involved in the site development, with a minimum deposit of $200.00 and a maximum deposit of $1,500.00.

3. An acre for the purposes of this Subsection 2 aforesaid shall be defined as that measurement of land that is the dimension of an acre notwithstanding any roads, buildings or other physical structures or obstacles located on, within or adjacent to said measurement.

4. All proceedings and work in connection with such application shall be stayed until said sum so designated is deposited with the City as aforesaid.

5. Any statement or bill submitted to the City by the retained personnel shall segregate and identify the charges and fees incurred directly or indirectly connected with said site development. A duplicate statement shall be forwarded to said permittee at the time said charges and fees are withdrawn from said specified amount.

6. At any time the balance of the specified amount reaches $300.00, the Finance Director may demand from the permittee a sum of money, that, in addition to the balance in said specified amount, shall equal the amount originally required hereunder or such lesser fraction thereof that the City Council might, in such cases, determine.

7. All proceedings and work, with regard to such site development shall be stopped until said subsequent demands for payment of fees shall be deposited in said specified account.

8. Any demand or subsequent demand of the City Clerk, not deposited by the permittee within six months of the date of said demand shall terminate and render null and void the proposed site development plan.

9. All retained personnel funds required to be deposited by the permittee shall be deposited by the City into a specified account and shall be held in the name of the City.

10. The City Council may, for good cause shown by the permittee in writing, grant continuances in writing to said permittee in connection with said deposits.
11. The City Council may, at their discretion and upon written resolution, waive the requirements of this section.

12. Upon the presentment of the final statement of the retained personnel and within 60 days of the approval of the work done pursuant to said permit, any balance remaining in the specified account, excluding any interest, shall be returned and repaid to the permittee. Any interest that may be earned in connection with said deposit shall be retained by the City.

13. The aforesaid retained personnel deposit shall not be required during the time that any retained personnel funds are on deposit pursuant to the requirements of the Subdivision Control and Development Ordinance of the City in connection with any subdivision development."
Sec. 19-1. Definitions.
Terms used in this Chapter shall mean as follows:

Non-profit Organization. An organization or institution organized and conducted on a not-for-profit basis with no personal profit inuring to anyone as a result of the operation.

Peddling. The selling, bartering or exchanging or the offering for sale, barter or exchange any tangible personal property or service upon or along the streets, highways or public places of the City, where the person does not own or lease for a term of at least 6 months the property from which the selling, bartering or exchanging business is conducted.

Peddler. A person, organization, association, corporation or any entity engaged in Peddling. This definition does not include persons engaged in activity permitted pursuant to 65 ILCS 5/11-80-9.

Soliciting. Nonprofit organization(s) seeking to obtain gifts or contributions of money, clothing or any other valuable thing for the support or benefit of any association, organization, corporation or project. This definition does not include persons engaged in door to door sale of books, periodicals and other publications to be delivered at a date later than that of the sale or offer of sale.

Solicitor. A person, organization, association, corporation or any entity affiliated with a not-for-profit corporation engaged in Soliciting and whose job involves talking to many people and trying to persuade them to buy things, donate money, etc. This definition does not include persons engaged in activity permitted pursuant to 65 ILCS 5/11-80-9.

Insurance Company. See the definition of “Company” as given in the Illinois Insurance Code, 215 ILCS 5/2(e).

Sec. 19-2. Insurance Companies Exempt from Fees.
Nothing in this Chapter shall be applied so as to impose any fee on an Insurance Company or any agent or employee thereof. All other provisions of this Chapter, including penalty provisions, shall nonetheless apply in full force to insurance companies and their agents and employees to the extent permitted by the Illinois Insurance Code.

ARTICLE 1.
PEDDLERS

Sec. 19-11. Number of Licensees Permitted.
The City hereby creates ten Peddler’s licenses to be annually issued within the City. These Peddler’s licenses shall be issued exclusively for Peddling on or adjacent to the McHenry Riverwalk.
Sec. 19-12. License required. No unlicensed Peddling shall be allowed in the City.

Sec. 19-13. License application required; contents.
An application for a Peddling license shall be made to the Community and Economic Development Department upon forms provided by the City. Such applications shall be sworn to and filed with the Community and Economic Development Department at least 15 days prior to the time of which the license applied for shall become effective. The City may, for good cause shown, allow the filing of an application less than 15 days prior to the effective date of the license applied for. The application shall contain the following information, or in lieu thereof, a detailed statement of the reason or reasons why such information cannot be furnished:

(a) The name, business and residence addresses and date of birth of each person applying for a license. (b) If the applicant is an organization, the names and addresses of the organizations’ principal officers and managers;
(c) The purpose for which such Peddling is to be made and the use or disposition to be made of any receipts;
(d) The name, address and birth date of all persons who will be in direct charge of conducting the Peddling; the names of all promoters connected or to be connected with the proposed Peddling; and the year, make, color and plate number and State of registration of the vehicle(s) being used in the Peddling (Note. All persons who will be Peddling must complete an individual application and must be present when applying for the license. In order to process the permit the entire application must be completed);
(e) The proposed location for the Peddling. (Note. Peddlers shall not be located adjacent to or within 250-feet of an existing merchant or business in the City selling the same or similar items as determined by the City Administrator);
(f) A statement that if the license is granted, it will not be used or represented in any way as an endorsement by the City or by any of its departments or offices;
(g) Whether the applicant(s) or the Peddler on its behalf pursuant to the license applied for, has ever been convicted of a violation of any ordinance of any municipality regarding Peddling;
(h) Whether the applicant(s) or any person Peddling on its behalf pursuant to the license applied for has ever been convicted of committing a felony or any law involving dishonesty under the laws of any state or a federal law of the United States;
(i) Such other information as may be required by the City Administrator to enable them to determine the kind and character of the proposed Peddling and whether such Peddling is adverse to the public welfare (Note. Each Peddler must provide the name, phone number, address and a contact of the person and/or company, organization, association or other entity from which they receive any type of compensation for Peddling services).

Sec. 19-14. Licensing standards.
When considering whether to issue a Peddler’s license, the City shall consider the following:
(a) Whether the applicant is of good character and has a reputation for honesty and integrity. In the event the applicant is not an individual person, whether every member, managing officer or agent of the applicant is of good character and has a reputation for honesty and integrity.
(b) Whether control and supervision of the Peddling will be under a responsible and reliable person. Supervision must be by persons who are at least eighteen years of age.
(c) Whether the applicant has been convicted of any crimes involving dishonesty or fraudulent transactions or enterprises.
(d) Whether the applicant has previously been issued a Peddler’s or Solicitor’s license within the City failing to return the license to the City upon its expiration.
Sec. 19-15. License restrictions.
(a) Peddling licenses are restricted as follows: Not more than ten (10) licenses shall be issued within the City each of which shall be limited to Riverwalk Peddling activity only at designated locations along the Riverwalk as depicted on the attached map. No more than two (2) Peddler licenses shall be issued for Riverwalk Peddling activity providing the same or similar goods for sale, [i.e. no more than two apparel merchants, or no more than two flower merchants].

Sec. 19-16. License fee.
Before any Peddler’s license is issued, the following fees and deposit shall be paid to the City*:
Basic Peddler license fee: .............. $250
Additional fee for each person authorized to peddle:.... $50
Deposit: A $500 deposit is required at time of application, to be refunded upon receipt of all licenses issued to Peddlers working for the same company, organization, association or other entity.

Sec. 19-17. License duration.
A license shall not be granted for more than a period of one-(1) year from its date of issuance.

Sec. 19-18. License non-transferable; return on expiration.
Any license issued under this Article shall be non-transferable and shall be returned to the City Clerk within two days of its date of expiration, together with all facsimile copies thereof.

Sec. 19-19. Fraud and misrepresentation.
It shall be unlawful for any Peddler to engage in any fraud, cheating or misrepresentation, whether through himself or through an employee, while Peddling in the City.

Sec. 19-20. Altering information in application.
If, while any application is pending, or during the term of any license granted thereon, there is any change in information given in the application, the applicant shall notify the City Clerk in writing thereof within twenty-four hours after such change.

Sec. 19-21. Hours of Peddling.
It is hereby declared to be unlawful and shall constitute a nuisance for any person, whether licensed pursuant to this Chapter, or not, to conduct Peddling activities prior to 9:00 a.m. or after 9:00 p.m. on any weekday (Monday thru Friday). Peddling shall be permitted on weekends between the hours of 9:00 a.m. and 11:00 p.m.

Sec. 19-22. Appeal.
Any applicant for a Peddler’s license, whose application is denied by the City Administrator, may seek review of such denial within forty-five days thereof before the City Council. This review process must be exhausted before suit is filed to compel approval of the application.

Sec. 19-23. Penalty.
Any person, firm or corporation found in violation of any section of this Article 19 of the City Code shall be subject to a fine not less than $100, plus attorney’s fees incurred by the City in prosecution of all such violations.
ARTICLE 2.
SOLICITORS

Sec. 19-31. Number of Permits Allowed.
The City hereby provides for a maximum of twenty-four (24) Solicitor’s permits to be issued annually within the City. A maximum of two Solicitor’s permits shall be issued per calendar month with no more than one allowed per weekend within the City.

Sec. 19-32. Permit required.
It shall be unlawful for any Solicitor to engage in Soliciting upon any public right-of-way or property within the City without first having obtained a permit to do so from the City. No unlicensed Soliciting shall be allowed in the City. Provided, however, no permit shall be required for soliciting by McHenry Elementary School District 15 and McHenry High School District 156 when conducting fundraising activities so long as the activity is a McHenry District 15 or McHenry District 156-sanctioned and/or sponsored fundraiser. In addition Boy Scout and Girl Scout Organizations are also exempt from the requirements of this ordinance.

Sec. 19-33. Permit application required; contents.
An application for a Solicitor’s permit shall be made to the City Clerk upon forms provided by the City. Such applications shall be filed with the City Clerk at least 15 days prior to the time of which the permit applied for shall become effective. The City may, for good cause shown, allow the filing of an application less than 15 days prior to the effective date of the permit applied for. The application shall contain the following information:

(a) The name of the organization, contact name, address and telephone number of the person applying for the permit;
(b) The purpose for which such solicitation is to be made and the use or disposition to be made of any receipts (Note. Each Solicitor must provide the name, phone number, address and a contact of the person, organization, company, association or other entity which they are representing and if the organization is not based within the City proof of an organization’s establishment as a local chapter based within the City must be provided.)
(c) All Solicitors and Soliciting organizations must be based and have a street address within the corporate limits of the City or alternatively be a local City-based chapter of a larger umbrella organization, which is not based within the corporate limits of the City.
(d) All Solicitors and Soliciting organizations with a Post Office Box address must also have a street address in the City where their organization is based, works out of or where meetings are held.
(e) No more than five Solicitors shall be permitted, at any one time, from any company, organization, association or other entity.
(f) Soliciting organizations must present documentation depicting their not-for-profit status.
(g) Such other information as may be requested by the City.

Sec. 19-34. Soliciting Permit Restrictions.
Solicitation Permits shall be issued on a first-come first-served basis and no more than two solicitation permits shall be issued in any given calendar month.

Sec. 19-35. Permit fee.
No permit fee shall be required for a Solicitor’s permit.

Sec. 19-36. Permit duration.
The terms of the permit duration shall be clearly stated on the permit.

Sec. 19-37. Permit non-transferable.
Any Solicitor permit issued under this Article shall be non-transferable.
Sec. 19-38. Fraud and misrepresentation.
It shall be unlawful for any Solicitor to engage in any fraud, cheating or misrepresentation, while Soliciting in the City.

Sec. 19-39. Solicitor not to enter or remain on premises of another after notice.
(a) No Solicitor shall enter upon the land, or any part thereof, of another after receiving notice, prior to such entry, from the owner, occupant or person entitled to possession of the premises, that there are to be no Solicitors. Nor shall a Solicitor remain upon the land of another, after receiving such notice, verbal or otherwise.
(b) A Solicitor shall be deemed to have received notice from the owner, occupant or person entitled to possession of the premises, within the meaning of this Section, when he has been notified personally, either orally or in writing, or if a printed or written notice stating "No Solicitors/Peddlers" has been conspicuously posted or exhibited at the main entrance to the land or premises.
(c) It is hereby declared to be unlawful and shall constitute a nuisance for any person to go upon any premises and ring the doorbell upon or near any door, or create any sound in any other manner calculated to attract the attention of the occupant of any premises, for the purpose of securing an audience with the occupant thereof and engage in soliciting in defiance of the notice exhibited at any premises in accordance with the provisions of this Section.
(d) Any Solicitor who has gained entrance to any residence, whether invited or not, shall immediately and peacefully depart from the premises when requested to do so by the occupant.
(e) No literature of any kind shall be placed on any vehicle(s).
(f) No literature of any kind shall be placed on any mailbox.

Sec. 19-40. Hours of Soliciting in a public place (along the Riverwalk).
It is hereby declared to be unlawful and shall constitute a nuisance for any person to conduct Solicitation activities prior to 9:00 a.m. or after 9:00 p.m.

Sec. 19-41. Hours of solicitation in residential areas.
It is hereby declared to be unlawful and shall constitute a nuisance for any person, whether permitted pursuant to this Article, or not, to go upon any premises and ring the doorbell upon or near any door of a residence located thereon, or rap or knock upon any door, or create any sound in any other manner calculated to attract the attention of the occupant of such residence for the purpose of securing an audience with the occupant thereof and engage in Soliciting, prior to 9:00 a.m. or after 6:00 p.m. on any weekday or weekend.

Sec. 19-42. Appeal.
Any applicant for a Solicitor’s permit, whose application is denied by the City may seek review of such denial within forty-five days thereof before the City Council. This review process must be exhausted before suit is filed to compel approval of the application.

Sec. 19-43. Penalty.
Any person, firm or corporation found in violation of any section of this Article of the City Code shall be subject to a fine not less than $100, plus attorney’s fees incurred by the City in prosecution of all such violations.
RIVERWALK PEDDLING LOCATIONS

Completed Segment of Riverwalk
Proposed Future Phases of Riverwalk
TIF District Boundary/Downtown Overlay District
Block Number
Riverwalk Peddling Locations

The next page is 630
Sec. 20-1. Definitions.
For the purposes of this Chapter the following terms, phrases, words and their derivations shall have the meaning given herein:

Fire and other altered goods sale means a sale conducted in such a manner as to reasonably cause the public to believe that the sale will offer goods damaged or altered by fire, smoke, water or other means.

Going out of business sale means a sale conducted in such a manner as to reasonably cause the public to believe that upon the disposal of the stock of goods on hand the business will cease and be discontinued, including but not limited to the following:

- Adjuster's Sale;
- Adjustment Sale;
- Alteration Sale;
- Assignee's Sale;
- Bankruptcy Sale;
- Benefit of Administrator's Sale;
- Benefit of Creditors' Sale;
- Benefit of Trustees' Sale;
- Building Coming Down Sale;
- Closing or Close-Out Sale;
- Creditors' Committee Sale;
- Creditor's Sale;
- End Sale;
- Executor's Sale;
- Final Days Sale;
- Forced Out Sale;
- Forced Out of Business Sale;
- Insolvents' Sale;
- Last Days Sale;
- Lease Expires Sale;
- Liquidations Sale;
- Loss of Lease Sale;
- Mortgage Sale;
- Receiver's Sale;
- Trustees' Sale;
- Quitting Business Sale.
Goods includes any goods, wares, merchandise or other property capable of being the object of a sale regulated hereunder.

Removal of business sale means a sale conducted in such a manner as to reasonably cause the public to believe that the person conducting the sale will cease and discontinue business at the place of sale upon disposal of the stock of goods on hand and will then move to and resume business at a new location in the City or will then continue business from other existing locations in the City.

Sec. 20-2. License required.*
A license issued by the City Clerk shall be obtained by any person before selling or offering to sell any goods at a sale to be advertised or held out by any means to be one of the following kinds:

(a) Going-out-of-business sale;

(b) Removal of business sale; or

(c) Fire and other altered stock sale.

Sec. 20-3. Provisions supplement general licensing provisions.*
The provisions of this Article are intended to augment and be in addition to the provisions of the general licensing provisions of this Code.

Where this Article imposes a greater restriction upon persons, premises, businesses, or practices than is imposed by the general licensing provisions of this Code, this Article shall control.

Sec. 20-4. Application required; contents.
A person desiring to conduct a sale regulated by this Article shall make a written application to the City Clerk setting forth and containing the following information:

(a) The name and address of the owner of the goods to be the object of the sale;

(b) The name and address of the person from whom he purchased the goods to be sold and the price therefore, and if not purchased, the manner of such acquisition;

(c) Address of the premises where such sale is to be held;

(d) The nature of the occupancy, whether by lease or sublease and the effective date of termination of such occupancy;

(e) The dates during which the sale is to be held;

* Cross Reference - Licenses generally, Ch. 12
(f) A full and complete statement of the facts in regard to the sale, including the reason for the urgent and expeditious disposal of goods thereby and the manner in which the sale will be conducted;

(g) The means to be employed in advertising such sale together with the proposed content of any advertisement;

(h) A complete and detailed inventory of the goods to be sold at such sale as disclosed by the applicant's records. Said inventory shall be attached to and become part of the required application.

(1) All goods included in such inventory shall have been purchased by the applicant for resale on bona fide orders without cancellation privileges and shall not comprise goods purchased on consignment.

(2) Such inventory shall not include goods ordered in contemplation of conducting a sale regulated hereunder. Any unusual purchase, or additions to the stock of goods of the business hereby affected, within fourteen days before the filing of an application hereunder shall be deemed to be of such character.

Sec. 20-5. Established business requisite to license.
Any person who has not been the owner of a business advertised or described in the application for a license hereunder for a period of at least twelve months prior to the date of the proposed sale shall not be granted a license.

Sec. 20-6. Exception for survivors of business person.
Upon the death of a person doing business in this City his or her heirs, devisees or legatees shall have the right to apply at any time for a license hereunder.

Sec. 20-7. Persons exempted.
The provisions of this Article shall not apply to or affect the following persons:

(a) Persons acting pursuant to an order or process of a court of competent jurisdiction;

(b) Persons acting in accordance with their powers and duties as public officials;

(c) Auctioneers, selling at auction;

(d) Any publisher of a newspaper, magazine or other publication, who publishes in good faith, any advertisement, without knowledge of its false, deceptive or misleading character, or without knowledge that the provisions of this Article have not been complied with.
Sec. 20-8. Interval between sales.
Any person who has held a sale, and regulated hereunder, at the location stated in the application, within one year previous to the date of such application shall not be granted a license.

Sec. 20-9. Location restricted.
Where a person applying for a license hereunder operates more than one place of business the license issued shall apply to the one store or branch specified in the application and no other store or branch shall advertise or represent that it is cooperating with it, or in any way participating in the licensed sale; nor shall the store or branch conducting the licensed sale advertise or represent that any other store or branch is cooperating with it or participating in any way in the licensed sale.

Section 20-10. License fee.
Any applicant for a license hereunder shall submit to the City Clerk with his application a license fee of $25.00.

Any applicant for a renewal license hereunder shall submit to the City Clerk with his renewal application a renewal license fee of $25.00.

Sec. 20-11. License period; renewal.

(a) Period. The license shall authorize the sale described in the application for a period of not more than seven consecutive days, Sundays and legal holidays excluded, following the issuance thereof.

(b) Renewal. The City Clerk shall renew a license for one time period only, such period to be in addition to the seven days permitted in the original license and not to exceed fourteen consecutive days, Sundays, and holidays excluded, when she finds:

(1) That facts exist justifying the license renewal;
(2) That the licensee has filed an application for renewal;
(3) That the licensee has submitted with the application for renewal a revised inventory showing the items listed on the original inventory remaining unsold and not listing any goods not included in the original application and inventory.
(4) For the purposes of this subsection, any application for a license under the provisions of this Chapter covering any goods previously inventoried as required hereunder, shall be deemed to be an application for renewal, whether presented by the original applicant, or by any other person.

Sec. 20-12. License limited to particular sale and location.
The license shall authorize only the one type of sale described in the application at the location named therein.
Sec. 20-13. License limited to inventoried goods.
The license shall authorize only the sale of goods described in the inventory attached to the application.

Sec. 20-14. Surrender of other licenses.
Upon being issued a license hereunder for a going-out-of-business sale the licensee shall surrender to the City Clerk all other business licenses he may hold at that time applicable to the location and goods covered by the application for a license under this Chapter.

Any license herein provided for shall not be assignable or transferable.

Sec. 20-16. Duties of licensee.
A licensee hereunder shall:

(a) Make no additions whatsoever, during the period of the licensed sale, to the stock of goods set forth in the inventory attached to the application for license.

(b) Refrain from employing any untrue, deceptive or misleading advertising.

(c) Conduct the licensed sale in strict conformity with any advertising or holding out incident thereto.

(d) Keep available at the place of sale a duplicate copy of the inventory submitted with the application and shall present such duplicate to inspecting officials upon request.

(e) Keep any other goods separate and apart from the goods listed in the field inventory as being objects of sale and shall make such distinction.
Sec. 21-1. General supervision.**
All maintenance and repair of public streets, alleys, sidewalks and other public ways shall be under the supervision and the direct control of the Director of Public Works. The Director shall be charged with the enforcement of all ordinances pertaining to such public ways (except traffic ordinances) and is hereby authorized to enforce such ordinances.

Sec. 21-2. Permits for construction.**
It shall be 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 subject to the following:
1. Applications for such permits shall be made to the Director of Public Works;
2. Application shall state the location of the intended pavement or repair, the extent thereof, and the person or firm who is to do the actual construction work;
3. Application submittal shall be accompanied by an approved Performance Bond in an amount acceptable to the Director of Public Works. Said Bond shall be kept on file in the Office of the City Clerk;
4. Application submittal shall be accompanied with a Certificate of Insurance naming the City of McHenry as additionally insured.
5. No such permit shall be issued except on order of the Director of Public Works.

Sec. 21-3. Specifications; acceptance of work.
All street, sidewalk and alley pavements shall be in conformity with uniform specifications which shall be laid down or approved from time to time by the Council, and all completed work shall be accepted by the City only upon approval by the City Engineer or Director of Public Works.

Sec. 21-4. Injury to new pavements.
It shall be unlawful to walk upon or drive any vehicle or animal upon, or injure any newly laid street, sidewalk or alley pavement while the same is guarded by a barricade, or to knowingly injure any soft or newly laid pavement.

* Cross Reference - Posting advertising on public ways, Sec. 3-1; use of streets during construction operations, Sec. 7-14; obstructing, removing sidewalks during construction operations, Sec. 7-15; regulation of moving of buildings, Sec. 7-161 et seq.; taking materials from public property, Sec. 14-20; traffic, Ch. 13.
** Cross Reference - Director of Public Works, Sec. 2-129 et seq.
*** Cross Reference - Permits generally, Ch. 12.
Sec. 21-5. Repairs.
All public street, alley and sidewalk pavement 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 Director of Public Works.

Sec. 21-6. Report of defects.
It shall be the duty of every City officer or employee becoming cognizant of any defect in any street, alley or
sidewalk, or any obstruction thereof, to report the same to the Director of Public Works as soon as possible.

Sec. 21-7. Obstructions generally.*
It shall be 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 Director of Public Works.

Sec. 21-8. Barricades required; lighting.
Any person laying or repairing any pavement on a street, sidewalk or 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 a light at nighttime.

Any defects in any such pavement shall be barricaded to prevent any such 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.

Sec. 21-9. Disturbing barricades.
It shall be unlawful to disturb or interfere with any barricade or lights lawfully placed to protect or mark any
new pavement or excavation or opening in any public street, alley or sidewalk.

Sec. 21-10. Private use; defacing.
It shall be unlawful for any person, without permission of the Council, to use any street, sidewalk or other
public place as space for the display or sale of goods or merchandise; or to write or mark any signs or
advertisements on any such pavements.

Sec. 21-11. Obstructing drains and filling and obstructing open ditches.
It shall be unlawful to obstruct or cause to be obstructed any open ditch or drain in any street right-of-way, alley
or public property, or to fill in any such open ditch.

* Cross Reference - Trees obstructing streets, Sec. 24-9; Sec. 14-21 - Maintenance of streets during
construction (MC97-671).
Sec. 21-12. Reserved (MC-07-927)

Sec. 21-13. Gas pumps prohibited.
It shall be unlawful to erect or maintain any gasoline pump on any public street or sidewalk in the City.

Sec. 21-14. Playing games.
It shall be unlawful to play any games upon any street, alley or sidewalk or other public place, where such games cause unnecessary noise or interfere with traffic or pedestrians.

Sec. 21-15. Permit for openings; protection.*
It shall be unlawful to construct or maintain any opening or stairway in any public street, alley or sidewalk without a permit from the City. All lawfully maintained openings shall be guarded by a suitable cover or railing which meets with the approval of the City Engineer and Director of Public Works.

Sec. 21-16. Deposits on streets.
It shall be 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.

Materials may be deposited in streets preparatory to delivery or use, provided such deposit does not reduce the usable width of the roadway at the point to less than 18 feet; provided that such material, other than the material to be used in actual building construction, shall not be permitted to remain on such street for more than 3 hours.

Any such material shall be guarded by lights if it remains upon any street after sunset.

Sec. 21-17. Deposits on sidewalks.
It shall be unlawful to deposit on any public sidewalk any material which may be harmful to the pavement thereof, or any waste material, or any glass or other articles which might cause injury to persons, animals or property.

Merchandise or other articles may be deposited on sidewalks preparatory to delivery, provided that the usable width of the walk is not thereby reduced to less than 4 feet; and provided that no such article shall remain on such sidewalk for more than one-half hour.

* Cross Reference - Permits generally, Ch. 12.
** Cross Reference - Open fires generally, Sec. 10-1 et al.
Sec. 21-18. Duty to remove deposits on sidewalks.
The owners or occupants or all property facing on or abutting sidewalks shall keep the said abutting or adjacent sidewalks clean and free from debris and litter at all times. (MC-13-1076)

Sec. 21-19. Burning prohibited.**
It shall be unlawful for any person to burn any materials, rubbish or any substance upon any public street, sidewalk or alley in the City.

Sec. 21-20 – 21-21. Reserved.

Sec. 21-22. Curb ramps for the handicapped.
All new curbs and all existing curbs which are part of any reconstruction which is contiguous to any highway shall comply with this Section. In order to enable persons using wheel chairs to travel freely and without assistance, at each cross-walk, a ramp with non-slip surface shall be built into the curb so that the sidewalk and street blend to a common level. Such ramp shall not have a slope greater than one inch rise per 12 inch length. Where, because of surrounding buildings or other restrictions, it is impossible to conform the slope to this requirement, the ramp shall contain a slope with as shallow a rise as possible under the circumstances. In all ramps there shall be a gradual rounding at the bottom of the slope.

Sec. 21-23. Unlawful curb cuts.
It shall be unlawful to cut any concrete curb and gutter in any street in the City for use in connection with the discharge of sump pump water into the street, or for any other purpose, provided, however, that curb cuts may be permitted in conjunction with a driveway permit issued pursuant to the ordinances of the City.

Secs. 21-24 - 21-31. Reserved.

ARTICLE II. EXCAVATIONS AND TUNNELING*

Sec. 21-32. Permit required.**
It shall be unlawful for any person to tunnel under or to make any excavation in any street, alley or other public place in the City without having obtained a permit as is herein required, or without complying with the provisions of this Article or in violation of or variance from the terms of any such permit.

* Cross Reference - Precautions to protect trees during excavations, Sec. 24-14; excavations for water service pipes, Sec. 26-34.
** Cross Reference - Permits generally, Ch. 12.
Sec. 21-33. Application for permit.
Applications for permits required by this Article shall be made to the Director of Public Works and shall include the following:

1. Description of the location of the intended excavation or tunnel;
2. The size of the project;
3. The purpose of the project;
4. The person doing the actual excavating work;
5. The name of the person for whom the work is being done;
6. An agreement that the applicant will comply with all ordinances and laws relating to the work to be done;

Sec. 21-34. Permit fee.
Before any excavation is started, the contractor or owner shall pay to the Director of Public Works a $15.00 permit fee. (MC-94-617)

Sec. 21-35. Insurance required.
No excavating permit shall be issued to the applicant until such applicant has filed with the City Clerk a certificate of public liability insurance coverage, in the sum of $1,000,000, to indemnify the City for any claim, loss, liability or damage that may result or accrue from or be caused by the making, existence, or manner of guarding or constructing any such tunnel or excavation.

Sec. 21-36. Deposit required.
In addition to the public liability insurance coverage required by Section 21-35, the applicant shall deposit with the City Clerk cash in an amount equal to 25% of the cost of the project, or an amount to be determined by the Director of Public Works, whichever is greater, for which the permit is being sought, if the pavement is to be broken. The minimum deposit shall be $500.00. The purpose of this deposit is to insure the proper restoration of the pavement. From this deposit shall be deducted the cost and expense to the City of restoring the pavement, and the balance thereof shall be returned to the applicant without interest after the tunnel or excavation is completely refilled and the pavement is restored.

Sec. 21-37. Supervision.
The Director of Public Works shall from time to time inspect, or cause to be inspected, all excavations and tunnels being made in or under any public street, alley or other public place in the City to see to the enforcement of the provisions of this Article. Notice shall be given to the Director of Public Works at least 48 hours prior to the start of any work in or under any public street, alley or other public place in the City.
Sec. 21-38. Manner regulated.

(a) It shall be unlawful to make any such excavation or tunnel in any way contrary to or at variance with the terms of the permit therefore.

(b) Proper bracing shall be maintained to prevent collapse of adjoining ground; and, in excavations, the excavation shall not have anywhere below the surface any portion which extends beyond the opening at the surface.

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

(d) No unnecessary damage or injury shall be done to any tree or shrub or the roots thereof.

Sec. 21-39. Restoring surface.
Any person making any excavation or tunnel in or under any public street, alley or other public place in the City shall restore the surface to its original condition. Refills shall be properly tamped down, and any bracing in such tunnel or excavation shall be left in the ground.

Any opening in a paved or improved portion of a street shall be repaired and the surface re-laid by the applicant, in compliance with the ordinances of the City and under the supervision of the Director of Public Works.

Sec. 21-40. Temporary sidewalks required.
If any sidewalk is blocked by any such work a temporary sidewalk shall be constructed or provided which shall be safe for travel and convenient for users.

Secs. 21-41 - 21-50. Reserved.

ARTICLE III.
MCHENRY RIVERWALK
(MC-07-921)

Sec. 21-51. McHenry Riverwalk defined.
The McHenry Riverwalk is defined as the improved area designated along and adjacent to the Boone Creek from the Elm Street Route 120 Bridge east to the Fox River; thence curving north along the west side of the Fox River up to and including Weber Park. The McHenry Riverwalk is improved with sidewalk, boardwalk, concrete and/or paver brick walking paths and includes a pedestrian bridge crossing Boone Creek at Riverside Drive.

Sec. 21-52. Skateboard, Roller Blades, In-Line Skates, Bicycles Prohibited.
The use of skateboards, roller blades, in-line skates, scooters, pedacycles (motorized or non-motorized), and bicycles is prohibited on the McHenry Riverwalk. However, motorized or non-motorized scooters, pedacycles, ambulatory chairs or power chairs, utilized by the infirm, elderly or disabled, requiring them for ambulation, are hereby exempt from this Section.

Sec. 21-53. Reserved.
Sec. 21-54. Transient Merchant Licenses.
A total of ten transient merchant licenses are permitted on the McHenry Riverwalk annually. Each transient merchant shall be granted a license to peddle their wares at one specific location on the Riverwalk. See also Chapter 19 Solicitors and Transient Merchants.

Sec. 21-55. Fishing.
It shall be unlawful to fish on the McHenry Riverwalk except at specifically designated locations.

Secs. 21-56 – 21-70. Reserved (MC-04-850; MC-07-921)

ARTICLE IV. ENCROACHMENTS.

Sec. 21-71. Definitions.
Definitions as used in this Article:

Construction easement area is defined as that area lying between the project right-of-way limits and the platted street limits within which the City, by concurrence in the establishment of the project right-of-way lines, will permit the State to enter to perform all necessary construction operations.

Encroachment is defined as 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, under, or over any portion of the project right-of-way or the roadway right-of-way where no project right-of-way line has been established.

Permissible encroachment is defined as any existing awning, marquee, advertising sign or similar overhanging structure supported from a building immediately adjacent to the limits of the platted street where there is a sidewalk extending to the building line and which does not impair the free and safe flow of traffic on the highway; the permissive retention of overhanging signs is not to be construed as being applicable to those signs supported from poles constructed outside the project right-of-way line and not confined by adjacent buildings.

Project right-of-way is defined as those areas within the project right-of-way lines established jointly by the City and State, which will be free of encroachments except as hereinafter defined.

Roadway right-of-way is defined as 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.

Sec. 21-72. Prohibited.
It shall be unlawful for any person to erect or cause to be erected, to retain or cause to be retained, any encroachment, except as provided in Section 21-74, within the limits of the project right-of-way or roadway right-of-way where no project right-of-way lines have been established.

Sec. 21-73. Project right-of-way lines established.
Project right-of-way lines have been established at the following locations:

Along the north and south sides of Waukegan Street at the right-of-way line.
Sec. 21-74. Permissible encroachments.
Revocable permits have been issued by the City for the temporary retention of the following permissible encroachments: None.

Sec. 21-75. Provisions declared additional.
This Article 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.

Sec. 21-76. Penalty.
Any person violating this Article shall be fined not less than $50.00 nor more than $750.00 for each offense, and a separate offense shall be deemed committed for each and every day during which a violation continues or exists. (MC-96-654)

Secs. 21-77 - 21-88. Reserved.
ARTICLE V.
CONSTRUCTION OF UTILITY FACILITIES IN THE RIGHTS-OF-WAY
(MC-07-927, MC-16-1131)

Sec. 21-89 Purpose and scope.

A. **Purpose**: The purpose of this Chapter is to establish policies and procedures for constructing facilities on rights-of-way within the City’s jurisdiction, which will provide public benefit consistent with the preservation of the integrity, safe usage and visual qualities of the City rights-of-way and the City as a whole.

B. **Intent**: In enacting this Chapter, the City intends to continue to exercise its authority over the rights-of-way in the City and, in particular, the use of the public ways and property by utilities, by establishing uniform standards to address issues presented by utility facilities, including without limitation:

1. Prevent interference with the use of streets, sidewalks, alleys, parkways and other public ways and places;

2. Prevent the creation of visual and physical obstructions and other conditions that are hazardous to vehicular and pedestrian traffic;

3. Prevent interference with the facilities and operations of the City’s utilities and of other utilities lawfully located in rights-of-way or public property;

4. Protect against environmental damage, including damage to trees, wetlands and other sensitive areas from the installation of utility facilities;

5. Protect against increased stormwater runoff due to structures and materials that increase impermeable surfaces;

6. Preserve the historical and aesthetic character of the neighborhoods in which facilities are installed;

7. Preserve open space, particularly the tree-lined parkways that characterize the City’s residential neighborhoods;

8. Prevent visual blight from the proliferation of facilities in the rights-of-way; and

9. Assure the continued safe use, maintenance of property values and enjoyment of private properties adjacent to utility facilities locations.

C. **Facilities Subject to this Chapter**: This Chapter applies to all facilities on, over, above, along, upon, under, across, or within the rights-of-way within the jurisdiction of the City or City property including but not limited to cabinets, ancillary sheds and utility poles. A facility lawfully established prior to the effective date of this Chapter may continue to be maintained, repaired and operated by the utility as presently constructed and located, and so long as the existing footprint and height is not expanded, except as may be otherwise provided in any applicable franchise, license or similar agreement.

No “facility”, as defined herein, shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered unless the required permits have been submitted to the City and approved by the City.
D. Franchises, Licenses, or Similar Agreements: The City, in its discretion and as limited by law, may require utilities to enter into a franchise, license or similar agreement for the privilege of locating their facilities on, over, above, along, upon, under, across, or within the City rights-of-way. Utilities that are not required by law to enter into such an agreement may request that the City enter into such an agreement. In such an agreement, the City may provide for terms and conditions inconsistent with this Chapter.

E. Effect of Franchises, Licenses, or Similar Agreements:
   1. Utilities Other Than Telecommunications Providers: In the event that a utility other than a telecommunications provider has a franchise, license or similar agreement with the City, such franchise, license or similar agreement shall govern and control during the term of such agreement and any lawful renewal or extension thereof.
   2. Telecommunications Providers: In the event of any conflict with, or inconsistency between, the provisions of this Chapter and the provisions of any franchise, license or similar agreement between the City and any telecommunications provider, the provisions of such franchise, license or similar agreement shall govern and control during the term of such agreement and any lawful renewal or extension thereof.

F. Conflicts with Other Chapters: This Chapter supersedes all Chapters or parts of Chapters adopted prior hereto that are in conflict herewith, to the extent of such conflict.

G. Conflicts with State and Federal Laws: In the event that applicable federal or state laws or regulations conflict with the requirements of this Chapter, the utility shall comply with the requirements of this Chapter to the maximum extent possible without violating federal or state laws or regulations.

H. Sound Engineering Judgment: The City shall use sound engineering judgment when administering this Chapter and may vary the standards, conditions, and requirements expressed in this Chapter 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.

Sec. 21-90. Definitions.
As used in this Chapter and unless the context clearly requires otherwise, the words and terms listed shall have the meaning ascribed to them in this Section. Any term not defined in this Section shall have the meaning ascribed to it in Appendix A of this Code or 92 Ill. Adm. Code § 530.30, unless the context clearly requires otherwise.

AASHTO: American Association of State Highway and Transportation Officials.


Applicant: A person applying for a permit under this Chapter.


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

Bore or Boring: To excavate an underground cylindrical cavity for the insertion of a pipe or electrical conductor.
**Cable Operator:** That term as defined in 47 U.S.C. 522(5).

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

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

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

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

**Clear Zone:** The total roadside border area, starting at the edge of the pavement, available for safe use by errant vehicles. This area may consist of a shoulder, recoverable slope, non-recoverable slope, and a clear run-out area. The desired width is dependent upon the traffic volumes and speeds, and on the roadside geometry. Distances are specified in the AASHTO Roadside Design Guide.

**Coating:** Protective wrapping or mastic cover applied to buried pipe for protection against external corrosion.

**Conductor** Wire carrying electrical current.

**Conduit:** A casing or encasement for wires or cables.

**Construction** or **Construct:** The installation, repair, maintenance, placement, alteration, enlargement, demolition, modification or abandonment in place of facilities.

**Cover:** The depth of earth or backfill over buried utility pipe or conductor.

**Crossing facility:** A facility that crosses one or more right-of-way lines of a right-of-way.

**Disrupt the right-of-way:** For the purposes of this Chapter, 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:** Any immediate maintenance to the facility required for the safety of the public using or in the vicinity of the right-of-way or immediate maintenance required for the health and safety of the general public served by the utility.

**Encasement:** Provision of a protective casing.

**Equipment:** Materials, tools, implements, supplies, and/or other items used to facilitate construction of facilities.

**Excavation:** The making of a hole or cavity by removing material, or laying bare by digging.

**Extra heavy pipe:** Pipe meeting ASTM standards for this pipe designation.
Facility: All structures, devices, objects, poles, monopoles and materials (including, but not limited to, track and rails, wires, ducts, fiber optic cable, antennas, vaults, boxes, equipment enclosures, cabinets, pedestals, poles, conduits, grates, covers, pipes, cables and appurtenances thereto) located on, over, above, along, upon, under, across or within rights-of-way under this Chapter. For purposes of this Chapter, the term “facility” shall not include any facility owned or operated by the City.

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

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

Government entity: Any local, county, state or federal unit of government including, such as, by way of example, townships, counties, park districts and school districts.

Hazardous materials: Any substance or material which, due to its quantity, form, concentration, location or other characteristics, is determined by the Public Works Director 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: 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.

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

IDOT: Illinois Department of Transportation.


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

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

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

JULIE: The Joint Utility Locating Information for Excavators utility notification program, operated pursuant to 220 ILCS 5/1 et seq.

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

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

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

Parkway: Any portion of the right-of-way not improved by street or sidewalk.
**Pavement cut**: The removal of an area of pavement for access to facility or for the construction of a facility.

**Permittee**: That entity to which a permit has been issued pursuant to Sections 21-92 and 21-93 of this Chapter.

**Personal Wireless Services Antennae**: A structure, antenna, equipment, accessory equipment and related improvements used, or designed to be used, to provide wireless transmission of voice, data, images, or other information, including, but not limited to, cellular phone service, personal communication service, and paging service.

**Practicable**: That which is performable, feasible or possible, rather than that which is simply convenient.

**Pressure**: The internal force acting radially against the walls of a carrier pipe expressed in pounds per square inch gauge (psig).

**Petroleum products pipelines**: Pipelines carrying crude or refined liquid petroleum products including, but not limited to, gasoline, distillates, propane, butane or coal-slurry.

**Prompt**: That which is done within a period of time specified by the City. If no time period is specified, the period shall be 30 days.

**Public entity**: A legal entity that constitutes or is part of the government, whether at local, state or federal level.

**Restoration**: The repair of a right-of-way, highway, roadway or other area disrupted by the construction of a facility.

**Right-of-way or rights-of-way**: Any street, alley, other land or waterway, dedicated or commonly used for pedestrian or vehicular traffic or other similar purposes, including utility easements, in which the City has the right and authority to authorize, regulate or permit the location of facilities other than those of the City. Right-of-way or rights-of-way shall not include any real or personal City property that is not specifically described in the previous two sentences and shall not include City buildings, fixtures and other structures or improvements, regardless of whether they are situated in the right-of-way.

**Roadway**: That part of the highway that includes the pavement and shoulders.

**Sale of telecommunications at retail**: The transmitting, supplying or furnishing of telecommunications and all services rendered in connection therewith for a consideration, other than between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries, when the gross charge made by one such corporation to another such corporation is not greater than the gross charge paid to the retailer for their use or consumption and not for sale.

**Security fund**: That amount of security required pursuant to Section 21-98.

**Shoulder**: A width of roadway, adjacent to the pavement, providing lateral support to the pavement edge and providing an area for emergency vehicular stops and storage of snow removed from the pavement.
Sound engineering judgment: A decision(s) consistent with generally accepted engineering principles, practices and experience.

Telecommunications: This term includes, but is not limited to, messages or information transmitted through use of local, toll and wide area telephone service, channel services, telegraph services, teletypewriter service, computer exchange service, private line services, mobile radio services, cellular mobile telecommunications services, stationary two-way radio, paging service and any other form of mobile or portable one-way or two-way communications, and any other transmission of messages or information by electronic or similar means, between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite or similar facilities. Private line means a dedicated non-traffic sensitive service for a single customer that entitles the customer to exclusive or priority use of a communications channel, or a group of such channels, from one or more specified locations to one or more other specified locations.

Telecommunications shall not include:

1. Value added services in which computer processing applications are used to act on the form, content, code and protocol of the information for purposes other than transmission.

2. Purchase of telecommunications by a telecommunications service provider for use as a component part of the service provided by such provider to the ultimate retail consumer who originates or terminates the end-to-end communications.

3. The provision of cable services through a cable system as defined in the Cable Communications Act of 1984 (47 U.S.C. Sections 521 and following), as now or hereafter amended, or cable or other programming services subject to an open video system fee payable to the City through an open video system as defined in the Rules of the Federal Communications Commission (47 C.F.R. §76.1500 and following), as now or hereafter amended.

Telecommunications provider: Any person who installs, owns, operates or controls facilities in the right-of-way used or designed to be used to transmit telecommunications in any form.

Telecommunications retailer: Every person engaged in making sales of telecommunications at retail as defined herein.

Trench: A relatively narrow open excavation for the installation of an underground facility.

Utility: The individual or entity owning or operating any facility as defined in this Chapter.

Vent: A pipe to allow the dissipation into the atmosphere of gases or vapors from an underground casing.

Video service: That term as defined in section 21-201 (v) of the Illinois Cable and Video Competition Law of 2007, 220 ILCS 21-201(v).

Water lines: Pipelines carrying raw or potable water.

Wet boring: Boring using water under pressure at the cutting auger to soften the earth and to provide a sluice for the excavated material.
Wireless communication facility: an unstaffed facility for the transmission and/or reception of radio frequency (RF), microwave or other signals for commercial communications purposes, typically consisting of an equipment enclosure, an antenna support structure or an alternative antenna support structure, and one or more antennas.

City initiated improvements or City operations shall include but not be limited to, anything required by the City in annexation, final plat requirements or other agreements with third parties including those intended to benefit other property within the City, City road construction, expansion or relocation projects, public works projects, or other City operations, maintenance, and planning projects.

Public right-of-way shall include but not be limited to, any street, alley, parkway, other land or waterway, dedicated or commonly used for utility or cable purposes, including utility or cable easements.

Utility shall include, in addition to all other commonly and legally accepted definitions of the term, cable providers and facilities, and video service providers.

Sec. 21-91 Annual registration required.

Every utility that occupies right-of-way within the City, exclusive of those utilities which have entered into a franchise agreement with the City, shall register by January 1 of each year with the Public Works Director, 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 21-08, in the form of a certificate of insurance.

Sec. 21-92 Permit required; application and fees.

A. Permit Required: Except as otherwise provided in this Chapter, no person, unit of government or utility shall construct any facility on, over, above, along, upon, under, across or within any City right-of-way, public utility easement, utility easement or drainage easement that contains existing City facilities such as potable water, sanitary sewer or stormwater pipes, structures, mains or equipment which (1) changes the location of the facility, (2) adds a new facility, (3) disrupts the right-of-way, or (4) materially increases the amount of area or space occupied by the facility on, over, above, along, under across or within the right-of-way, without first filing an application with the Public Works Director and obtaining a permit from the City. A permit shall be required for installation and maintenance of service connections to customers’ premises where there will be no disruption of the right-of-way.

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

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

1. The utility’s corporate name and address, telephone and telecopy numbers and an e-mail address contact, as well as a local contact.
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 detailed description of the proposed work and the purposes and intent of the facility and the uses to which the facility will be put. The scope and detail of such description shall be appropriate to the nature and character of the work to be performed, with special emphasis on those matters likely to be affected or impacted by the work proposed.

5. Evidence that the utility has placed on file with the City:
   a. A written traffic control plan demonstrating the protective measures and devices that will be employed consistent with the *Illinois Manual on Uniform Traffic Control Devices*, to prevent injury or damage to persons or property and to minimize disruptions to efficient pedestrian and vehicular traffic; and
   b. An emergency contingency plan which shall specify the nature of potential emergencies, including, without limitation, construction and hazardous materials emergencies, and the intended response by the applicant. The intended response shall include notification to the City and shall promote protection of the safety and convenience of the public. Compliance with ICC regulations for emergency contingency plans constitutes compliance with this Section unless the City finds that additional information or assurances are needed.

6. Drawings, plans and specifications showing the work proposed, including the certification of an engineer that such drawings, plans, and specifications comply with applicable codes, rules, and regulations. Such applicant shall also provide to the City written evidence of insurance with professional liability insurance of $1,000,000. Drawings shall include a location map, dimensions of the right-of-way line and a legend of all symbols and an RF study demonstrating proof of need, and maximum permissible radio exposure levels.

7. Evidence of insurance as required in Section 21-96.

8. Evidence of posting of the security fund as required in Section 21-98.

9. Any request for a variance from one or more provisions of this Chapter (see Section 21-109).

10. All licenses issued by any agency authorizing the provision of the services to be provided;

11. A detailed site plan showing the location of the proposed facilities including the existing structure and all adjacent improvements;

12. All engineering plans depicting in detail the proposed facilities;

13. Written analysis of the projected diameter of service coverage;

14. A landscape plan;

15. A lighting plan;
16. Engineering plans;

17. Projected diameter of coverage;

18. Map of all existing towers, public facilities, and buildings within a 6 mile radius of the proposed site;

19. Written proof describing why the facility cannot be located on any of the identified existing towers, public facilities or buildings.

20. Such additional information as may be reasonably required by the City.

Each identified site must be addressed through separate application.

Once a completed application is received the City shall review the provided materials and return comments back to the applicant. The applicant shall address all of staff’s comments and make a complete re-submittal.

D. Supplemental Application Requirements for Specific Types of Utilities: In addition to the requirements of Section 21-92-C, the permit application shall include the following items, as applicable to the specific utility that is the subject of the permit application:

1. In the case of the installation of a new electric power, communications, telecommunication, cable television service, video service or natural gas distribution system, evidence that any “Certificate of Public Convenience and Necessity” or other regulatory authorization that the applicant is required by law to obtain, or that the applicant has elected to obtain, has been issued by the ICC or other jurisdictional authority.

2. In the case of natural gas systems, state the proposed pipe size, design, construction class and operating pressures.

3. In the case of water lines, indicate that all requirements of the Illinois Environmental Protection Agency, Division of Public Water Supplies, have been satisfied.

4. In the case of sewer line installations, indicate that the land and water pollution requirements of the Illinois Environmental Protection Agency, Division of Water Pollution Control, and City have been satisfied.

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.

6. Any other federal or state agency approvals, if applicable.

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 Fees: Unless otherwise provided by franchise, license, or similar agreement, all applications for permits pursuant to this Chapter shall be accompanied by a fee in the amount of $500.00 plus reimbursement for all technical consultant, attorney and other retained personnel costs incurred by the
City in reviewing said application. To that end, the applicant shall deposit $7,500 with the City at the time of the application from which the City shall reimburse itself for such cost. The applicant shall restore the balance of the fund to $7,500 after the City reimburses itself. After the decision on the proposed facility and all invoices have been paid, the remainder the balance shall be returned to the applicant.

Sec. 21-93  Action on permit applications.

A.  City Review of Permit Applications: Completed permit applications, containing all required documentation, shall be examined by the Public Works Director within a reasonable time after filing. If the application does not conform to the requirements of applicable ordinances, codes, laws, rules and regulations, the Public Works Director shall reject such application in writing, stating the reasons. If the Public Works Director is satisfied that the proposed work conforms to the requirements of this Chapter and applicable ordinances, codes, laws, rules and regulations, the Public Works Director shall issue a permit as soon as practicable. In all instances, it shall be the duty of the applicant to demonstrate, to the satisfaction of the Public Works Director, that the construction proposed under the application shall be in full compliance with the requirements of this Chapter.

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 Chapter 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 10 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 Public Works Director shall specify the portion of the right-of-way upon which the facility may be placed, used and constructed.

2.  In the event the Public Works Director fails to provide such specification of location to the telecommunications retailer within either (i) 10 days after service of notice to the City by the telecommunications retailer in the case of work not involving excavation for new construction or (ii) 25 days after service of notice by the telecommunications retailer in the case of work involving excavation for new construction, the telecommunications retailer may commence work without obtaining a permit under this Chapter, although in all other appropriate respects, the telecommunications retailer shall be bound by the provisions of this Chapter.

3.  Upon the provision of such specification by the City, where a permit is required for work pursuant to Section 21-92 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 Section 21-93-A.

C.  Additional City Review of Applications of Holders of State Authorization Under the Cable and Video Competition Law of 2007: Applications by a utility that is a holder of a State-issued authorization under the Cable and Video Competition Law of 2007 shall be deemed granted 45 days after submission to the City, unless otherwise acted upon by the City, provided the holder has complied with applicable City codes, ordinances and regulations.
Sec. 21-94  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 Chapter on City rights-of-way, and does not create a property right or grant authority to the permittee to impinge upon the rights of others who may have an interest in the rights-of-way.

B. Duration: No permit issued under this Chapter shall be valid for a period longer than 6 months unless construction is actually begun within that period and is thereafter diligently pursued to completion.

C. Pre-Construction Meeting Required: At the election of the City, no construction shall begin pursuant to a permit issued under this Chapter prior to attendance by the permittee and all major contractors and subcontractors who will perform any work under the permit at a pre-construction meeting. The pre-construction meeting shall be held at a date, time and place designated by the City with such City representatives in attendance as the City deems necessary. The meeting shall be for the purpose of reviewing the work under the permit, and reviewing special considerations necessary in the areas where work will occur, including, without limitation, presence or absence of other utility facilities in the area and their locations, procedures to avoid disruption of other utilities, use of rights-of-way by the public during construction, and access and egress by adjacent property owners.

D. Compliance with All Laws Required: The issuance of a City permit does not excuse the permittee from complying with other requirements of the City and applicable statutes, laws, ordinances, rules and regulations.

Sec. 21-95  Revised permit drawings.

In the event 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 Chapter, it shall be treated as a request for a variance in accordance with Section 21-109. If the City denies the request, then the permittee shall either remove the facility from the right-of-way or modify the facility so it conforms to the permit and submit revised drawings or plans there for.

Sec. 21-96  Insurance.

A. Required Coverages and Limits: Unless otherwise provided by franchise, license or similar agreement, each utility occupying right-of-way or constructing any facility in the right-of-way shall secure and maintain the following liability insurance policies insuring the utility as named insured and naming the City, and its elected and appointed officers, officials, agents and employees as additional insureds on the policies listed 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 ($5,000,000) for bodily injury or death to each person;
b. Five million dollars ($5,000,000) for property damage resulting from any one accident; and

c. Five million dollars ($5,000,000) for all other types of liability:

2. Automobile liability for owned, non-owned and hired vehicles with a combined single limit of $1,000,000 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 per employee and per accident.

If the utility is not providing such insurance to protect the contractors and subcontractors performing the work, then such contractors and subcontractors shall comply with this Section.

B. Excess or Umbrella Policies: The coverages required by this Section may be in any combination of primary, excess and umbrella policies. Any excess or umbrella policy must provide excess coverage over underlying insurance on a following-form basis such that when any loss covered by the primary policy exceeds the limits under the primary policy, the excess or umbrella policy becomes effective to cover such loss.

C. Copies Required: The utility shall provide copies of any of the required policies to the City on an annual basis and/or within 10 days following receipt of a written request 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 10 days after receipt by the City of said notice, and in no event later than 10 days prior to 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 Section 21-96-A, or the requirements of Sections 21-96-B, C and D. 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 Section 21-96-A, such as evidence that the utility is a “private self insurer” under the Workers Compensation Act.

F. Effect of Insurance and Self-Insurance on Utility’s Liability: The legal liability of the utility to the City and any person for any of the matters that are the subject of the insurance policies or self-insurance required by this Section shall not be limited by such insurance policies or self-insurance or by the recovery of any amounts thereunder.
G. **Insurance Companies:** All insurance provided pursuant to this Section shall be effected under valid and enforceable policies, issued by insurers legally able to conduct business with the licensee in the State of Illinois. [All insurance carriers and surplus line carriers shall be rated “A-” or better and of a class size “X” or higher by A.M. Best Company.]

**Sec. 21-97 Indemnification.**

By occupying or constructing facilities in the right-of-way, a utility shall be deemed to agree to defend, indemnify and hold the City and its elected and appointed officials and officers, employees, agents and representatives harmless from and against any and all injuries, claims, demands, judgments, damages, losses and expenses, including reasonable attorney’s fees and costs of suit or defense, arising out of, resulting from or alleged to arise out of or result from the negligent, careless or wrongful acts, omissions, failures to act or misconduct of the utility or its affiliates, officers, employees, agents, contractors or subcontractors in the construction of facilities or occupancy of the right-of-way, and in providing or offering service over the facilities, whether such acts or omissions are authorized, allowed or prohibited by this Chapter 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 Chapter by the City, its officials, officers, employees, agents or representatives.

**Sec. 21-98 Security.**

A. **Purpose:** The permittee shall establish a Security Fund in a form and in an amount 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 Chapter;
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 Chapter; and
3. The payment by permittee of all liens and all damages, claims, costs or expenses that the City may pay or incur by reason of any action or non-performance by permittee in violation of this Chapter including, without limitation, any damage to public property or restoration work the permittee is required by this Chapter 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 Chapter or any other applicable law.

B. **Form:** The permittee shall provide the Security Fund to the City in the form of an unconditional letter of credit in a form acceptable to the City. Such letter of credit provided pursuant to this Section shall, at a minimum:

1. Provide that it will not be canceled without 30 days’ prior written notice by certified mail to the City and the permittee;
2. Not require the consent of the permittee prior to the collection by the City of any amounts covered by it; and
3. Shall provide a location convenient to the City and within the State at which it can be drawn.

C. **Amount:** The dollar amount of the Security Fund shall be sufficient to provide for 125% of 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 Public Works Director, 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 Public Works Director 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 Section 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 Section, 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 non-performance by the permittee; or
4. Fails to comply with any provision of this Chapter 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 this Section.

F. **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 Chapter 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.

G. **Rights Not Limited:** The rights reserved to the City with respect to the Security Fund are in addition to all other rights of the City, whether reserved by this Chapter 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.
H. **Security for Removal of Facility:** In addition, as a condition precedent to the commencement of work in the City right of way, the applicant shall deposit with the City an unconditional letter of credit in the amount of 150% of the City’s engineer’s estimated amount to remove the facility from the City’s right of way in the event that the facility is not used to provide service for 90 days in which case it will be deemed abandoned and may be removed by the City.

**Sec. 21-99 Permit suspension and revocation.**

A. **City Right to Revoke Permit:** The City may revoke or suspend a permit issued pursuant to this Chapter for one or more of the following reasons:

1. Fraudulent, false, misrepresenting or materially incomplete statements in the permit application;
2. Non-compliance with this Chapter or the permit as issued;
3. Permittee’s physical presence or presence of permittee’s facilities on, over, above, along, upon, under, across or within the rights-of-way presents a direct or imminent threat to the public health, safety or welfare; or
4. Permittee’s failure to construct the facilities substantially in accordance with the permit and approved plans.

B. **Notice of Revocation or Suspension:** The City shall send written notice of its intent to revoke or suspend a permit issued pursuant to this Chapter 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 5 working days after receipt of the written notice of revocation; or
3. Immediately remove the facilities located on, over, above, along, upon, under, across or within the rights-of-way and restore the rights-of-way to the satisfaction of the City providing written proof of such removal to the City within 10 days after receipt of the written notice of revocation.

The City may, in its discretion, for good cause shown, extend the time periods provided in this Section.

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 this Section.
E. Failure or Refusal of the Permittee to Comply: If the permittee fails to comply with the provisions 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 calendar days’ notice to the permittee, remove the subject facilities or equipment; or (3) after not less than 30 calendar 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.

Sec. 21-100 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 applicable laws, ordinances, rules and regulations, including this Chapter, 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.

Sec. 21-101 General construction standards.

A. Standards and Principles: All construction in the right-of-way shall be consistent with applicable ordinances, codes, laws, rules and regulations, and commonly recognized and accepted traffic control and construction principles, sound engineering judgment and, where applicable, the principles and standards set forth in the following IDOT publications, as amended from time to time:

1. Standard Specifications for Road and Bridge Construction;
2. Supplemental Specifications and Recurring Special Provisions;
3. Highway Design Manual;
4. Highway Standards Manual;
5. Standard Specifications for Traffic Control Items;
7. Flagger’s Handbook;
8. Work Site Protection Manual for Daylight Maintenance Operations; and
9. State of Illinois Plumbing Code, to the extent applicable
B. Interpretation of Municipal Standards and Principles: If a discrepancy exists between or among differing principles and standards required by this Chapter, the Public Works Director shall determine, in the exercise of sound engineering judgment, which principles apply and such decision shall be final. If requested, the Public Works Director shall state which standard or principle will apply to the construction, maintenance or operation of a facility in the future.

Sec. 21-102 Traffic control.

A. Minimum Requirements: The City’s minimum requirements for traffic protection are contained in IDOT’s *Illinois Manual on Uniform Traffic Control Devices* and this Code.

B. Warning Signs, Protective Devices and Flaggers: The utility is responsible for providing and installing warning signs, protective devices and flaggers, when necessary, meeting applicable federal, state, and local requirements for protection of the public and the utility’s workers when performing any work on the rights-of-way.

C. Interference with Traffic: All work shall be phased so there is minimum interference with pedestrian and vehicular traffic. Any lane closures and detours must be outlined and inserted into the permit drawing and approved during the permitting phase of the project.

D. Notice When Access is Blocked: At least 72 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 21-108, 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.

Sec. 21-103 Location of facilities.

A. General Requirements: In addition to location requirements applicable to specific types of utility facilities, all utility facilities, regardless of type, shall be subject to the general location requirements of this Section.

1. No Interference with City Facilities: No utility facilities shall be placed in any location if the Public Works Director determines that the proposed location will require the relocation or displacement of any of the City’s utility facilities or will otherwise interfere with the operation or maintenance of any of the City’s utility facilities.

2. Minimum Interference and Impact: The proposed location shall cause only the minimum possible interference with the use of the right-of-way and shall cause only the minimum possible impact upon, and interference with the rights and reasonable convenience of property owners who adjoin said right-of-way.

3. No Interference with Travel: No utility facility shall be placed in any location that interferes with the usual travel on such right-of-way.

4. No Limitations on Visibility: No utility facility shall be placed in any location so as to limit visibility of or by users of the right-of-way.
5. **Size of Utility Facilities**: The proposed installation shall use the smallest suitable vaults, boxes, equipment enclosures, power pedestals and/or cabinets then in use by the facility owner, regardless of location, for the particular application.

6. **Exclusive Conduit**: No permittee shall insert any wire, cable, conduit or pipe through an existing conduit that traverses under the roadway or right-of-way such as a storm sewer. All utilities’ facilities must be in its own exclusive conduit unless prior permission of the other utility or the Public Works Director is obtained.

**B. Parallel Facilities Located Within Highways:**

1. **Overhead Parallel Facilities**: An overhead parallel facility may be located within the right-of-way 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 or other drainage way; 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 8 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 5 feet (1.5 m) from the right-of-way line and any above-grounded appurtenance shall be located within 1 foot (0.3 m) of the right-of-way line or as near as practicable.

**C. Facilities Crossing Highways:**

1. **No Future Disruption**: The construction and design of crossing facilities installed between the ditch lines or curb lines of City highways may require the incorporation of materials and protections (such as encasement or additional cover) to avoid settlement or future repairs to the roadbed resulting from the installation of such crossing facilities.
2. **Cattle Passes, Culverts or Drainage Facilities**: Crossing facilities shall not be located in cattle passes, culverts or drainage facilities.

3. **90 Degree Crossing Required**: Crossing facilities shall cross at or as near to a 90 degree angle to the centerline as practicable.

4. **Overhead Power or Communication Facility**: An overhead power or communication facility may cross a highway only if:
   
a. It has a minimum vertical line clearance as required by ICC’s rules entitled, “Construction of Electric Power and Communication Lines” (83 Ill. Adm. Code 305);
   
b. Poles are located within 1 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.
   
c. Any installation of a pipe, wire or other facility that is 3 inches in diameter shall be constructed in either a carrier pipe or encased in concrete. The carrier/casting pipe shall be constructed of a rigid material that is at least 2 inches larger in diameter from the utility installed within.

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

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

E. **Freestanding Facilities**:
   
1. The City may restrict the location and size of any freestanding facility located within a right-of-way subject to applicable law.

2. The City may require any freestanding facility approved located within a right-of-way to be screened from view in a manner appropriate for the surrounding environment, and the City may require the facility’s owner to maintain such screening.

F. **Facilities Installed Above Ground**: Above ground facilities may be installed only if:
1. Other above ground facilities owned by a utility or utilities are located within 100 yards of the proposed site for the facility;

2. New underground installation is not technically feasible; and

3. The proposed installation will be made at a location, and will employ suitable design and materials, to provide the greatest protection of aesthetic qualities of the area being traversed without adversely affecting safety. Suitable designs include, but are not limited to, self-supporting armless, single-pole construction with vertical configuration of conductors and cable. Existing utility poles and light standards shall be used wherever practicable; the installation of additional utility poles is strongly discouraged.

G. Facility Attachments to Bridges or Roadway Structures:

1. Facilities may be installed as attachments to bridges or roadway structures only where the utility has demonstrated that all other means of accommodating the facility are not practicable. No attachment shall be in excess of twelve feet in height from the underlying structure. Other means shall include, but are not limited to, underground, underwater, independent poles, cable supports and tower supports, all of which are completely separated from the bridge or roadway structure. Facilities transmitting commodities that are volatile, flammable, corrosive or energized, especially those under significant pressure or potential, present high degrees of risk and such installations are not permitted.

2. A utility shall include in its request to accommodate a facility installation on a bridge or roadway structure supporting data demonstrating the impracticability of alternate routing. Approval or disapproval of an application for facility attachment to a bridge or roadway structure will be based upon the following considerations:

   a. The type, volume, pressure or voltage of the commodity to be transmitted and an evaluation of the resulting risk to persons and property in the event of damage to or failure of the facility;

   b. The type, length, value and relative importance of the highway structure in the transportation system;

   c. The alternative routings available to the utility and their comparative practicability;

   d. The proposed method of attachment;

   e. The ability of the structure to bear the increased load of the proposed facility;

   f. The degree of interference with bridge maintenance and painting;

   g. The effect on the visual quality of the structure; and

   h. The public benefit expected from the utility service as compared to the risk involved.

H. Appearance Standards:

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

3. The City may require the installation of landscape screening of facilities which shall be determined during the permit review process.

4. WCF’s shall be designed to blend in with their surroundings. This may mean that the facility be designed as a flag pole, tree or other similar structure. It can also mean that the WCF may be designed and painted to blend in with the adjacent area, or structure on which it is located.

5. The WCF site shall be landscaped to provide sufficient screening in accordance with a landscape plan.

6. The WCF shall have no exposed wiring. All wiring must be enclosed within the structure or pole.

I. **Monopole Application and Supplemental Standards:** The application to install a new utility pole in excess of 30 feet in height within City right of way (or “monopole”) must, in addition to any other permit requirements in this Chapter for any new utility pole, include documented evidence that:

1. Such proposed monopole is necessary to provide the utility service because it is not physically or financially feasible to provide the utility service through existing utility poles or other facilities or from City owned buildings or structures;

2. The technology providing the utility service through such monopole cannot be provided through underground facilities; and

3. The utility service associated with such proposed monopole cannot be feasibly provided with a monopole or utility pole of a lower height than the proposed monopole.

In addition, the proposed monopole shall satisfy each of the following standards:

1. The monopole location shall be situated at least a minimum distance of twice the height of the monopole from any residential structure;

2. Such monopole shall not exceed 50 feet in height and shall be of steel construction;

3. The monopole shall be designed to withstand a wind force of 100 m.p.h. without the use of supporting guy wires;

4. The monopole shall be a color that blends with the surroundings;

5. Any wiring on the pole must be covered with an appropriate cover or cable shield in a matching color;
6. Such monopole is necessary to provide the utility because the utility service provided is not physically or financially feasible to provide the utility service through existing utility poles or other facilities or from City owned buildings or structures as set forth in documentation submitted with the application;

7. The technology providing the utility service through such monopole cannot be provided through underground facilities;

8. The utility service associated with such proposed monopole cannot be feasibly provided with a monopole or utility pole of a lower height than the proposed monopole; and

9. Power must be provided via small solar cells or underground cable. No overhead power corrections shall be utilized

J. Personal Wireless Services Antennae and Related Equipment on Utility Poles and Monopoles: Personal wireless services antennae and related equipment shall be permitted to be attached to utility poles and monopoles within public rights-of-way, subject to the following regulations:

1. Unavailability of City Sites: No personal wireless services antenna shall be permitted on any utility pole or monopole unless the applicant is able to demonstrate that no such City-owned building or structure is available, on commercially reasonable terms, and sufficient for the location of an antenna necessary for the provision of personal wireless services.

2. Attachment to Utility Poles or Monopoles: Limitations: No such personal wireless services antenna or antenna support structure shall be attached to a utility pole or monopole unless all of the following conditions are satisfied:

   a. **Size:** The personal wireless services antenna and related equipment shall not exceed 4 square feet in antenna surface area or 4 feet in any dimension.

   b. **Height:** The personal wireless services antenna and related equipment shall not extend more than 7 feet above the height of the utility pole or monopole to which it is attached.

   c. **Mounting:** The personal wireless services antenna and related equipment shall be designed to withstand a wind force of 100 miles per hour without the use of supporting guy wires.

   d. **Color:** The personal wireless services antenna and related equipment shall be a color that blends with the surroundings of the pole or monopole on which it is mounted. Any wiring on the pole must be covered with an appropriate cover or cable shield.

   e. **Grounding:** The personal wireless services antenna and related equipment structure shall be bonded to a grounding rod.

   f. **Other Standards:** The personal wireless services antenna and related equipment shall satisfy such other design and construction standards as are required in the Building Code and other ordinances, codes or regulations to ensure safe construction and maintenance of the personal wireless services antenna and its support structure.
3. **Separation and Setback Requirements:** Personal wireless services antennae and related equipment attached to a utility pole or monopole shall be located no closer than 100 feet to any residential building, and no closer than 500 feet from any other personal wireless services antenna.

4. **Guy Wires Restricted:** No guy or other support wires shall be used in connection with such personal wireless services antenna or its related equipment.

5. **Maintenance:** The appearance and safety of the WCF shall be maintained at all times. A maintenance agreement shall be filed with the City which details the WCF provider’s manner in which it will maintain the site. It shall contain a contact name, with a direct phone line number, fax number and mailing address. Each year the WCF provider shall submit to the City updated contact information. Failure to maintain the site properly will be considered a property maintenance violation and is regulated by the City’s Municipal Code.

6. **Abandonment and Removal:** When one or more personal wireless services antennae or related equipment are not operated for the provision of personal wireless services for a continuous period of 12 months or more, such personal wireless services antenna, antenna support structure, or related equipment may be deemed to be abandoned by the City. The owner of such personal wireless services antenna or related equipment shall remove such items within 90 days following the mailing of written notice that removal is required. Time is of the essence. Such notice shall be sent by certified or registered mail, return receipt requested, by the City to such owner at the last known address of such owner. In the event that the structure is not removed within such 90 day interval, the City may draw upon the utility letter of credit for funds to remove same and such letter of credit shall expressly for such purpose.

7. All WCF’s must meet all applicable requirements established by the FCC and FAA.

8. No WCF provider identification signage may be erected on site.

9. Site lighting shall conform to the City’s lighting ordinance and all FAA or other State or Federal agency requirements.

10. WCF providers shall notify the City of abandonment of a facility within 30 days. All WCFs shall be removed within 90 days of abandonment unless an extension is otherwise requested and granted.

11. All WCFs shall be repaired within 14 days of damage.

12. The WCF providers shall submit copies of all licenses as required by State or Federal authorities.

13. The WCF provider shall submit all information regarding the ownership of the property, a copy of the lease agreement and contact information for the WCF provider company.

14. The sighting of any WCF shall not interfere with any public safety communications, the City’s wireless network or the City’s wireless internet service network.
15. Co-location is required.

16. All new freestanding WCF’s shall be of a pole design.

Sec. 21-104 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 Public Works Director 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 6 Inches: Borings over 6 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 1 inch (25 mm).

   d. Borings with Diameters 6 Inches or Less: Borings of 6 inches or less in diameter may be accomplished by either jacking, guided with auger, or auger and following pipe method.

   e. Tree Preservation: Any facility located within the drip line of any tree designated by the City to be preserved or protected shall be bored under or around the root system and shall comply with the City’s Tree Preservation Ordinance.

2. Trenching: Trenching for facility installation, repair or maintenance on rights-of-way shall be done in accord with the applicable portions of Section 603 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 Public Works Director.

   b. Open Trench and Excavated Material: Open trench and windrowed excavated material shall be protected as required by Chapter 6 of the Illinois Manual on Uniform Traffic Control Devices. Where practicable, the excavated material shall be deposited between the roadway and the trench as added protection. Excavated material shall not be allowed to remain on the paved portion of the roadway. Where right-of-way width does not allow for windrowing excavated material off the paved portion of the roadway, excavated material shall be hauled to an off-road location.
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 3 years from the date construction of a facility is completed, the utility shall be responsible to remove and restore any backfilled area that has settled due to construction of the facility. If so ordered by the Public Works Director, 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 Public Works Director.

4. **Pavement Cuts:** In addition to the utility permit for construction, all pavement cuts shall be subject to final approval of the Public Works Director and shall require a road opening permit. 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 paragraph is permitted under Section 21-21, the following requirements shall apply:

   a. Any excavation under pavements shall be backfilled and compacted as soon as practicable with granular material of CA-6 or CA-10 gradation, as designated by the Public Works Director.

   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 and shall be done in a workman like manner and must be squared off into a rectangular shape that encompasses the entire area disturbed by the excavation.

   d. For all rights-of-way which have been reconstructed with a concrete surface/base in the last 7 years, or resurfaced in the last 3 years, permits shall not be issued unless such work is determined to be an emergency repair or other work considered necessary and unforeseen before the time of the reconstruction or unless a pavement cut is necessary for a JULIE locate.

5. **Encasement:**

   a. Casing pipe shall be designed to withstand the load of the 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 1 foot (0.3 m) of the right-of-way line. No above-ground vent pipes shall be located in the area established as clear zone for that particular section of the highway.

c. In the case of water main or service crossing, encasement shall be furnished between bore pits unless continuous pipe or City-approved jointed pipe is used under the roadway. Casing may be omitted only if pipe is installed prior to highway construction and carrier pipe is continuous or mechanical joints are of a type approved by the City. Bell and spigot type pipe shall be encased regardless of installation method.

d. In the case of gas pipelines of 60 psig or less, encasement may be eliminated.

e. In the case of gas pipelines or petroleum products pipelines with installations of more than 60 psig, encasement may be eliminated only if: (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.

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

<table>
<thead>
<tr>
<th>TYPE OF FACILITY</th>
<th>MINIMUM COVER</th>
</tr>
</thead>
<tbody>
<tr>
<td>Electric lines</td>
<td>30 inches (0.8 m)</td>
</tr>
<tr>
<td>Communication, cable or video service lines</td>
<td>18-24 inches (0.6 m, as determined by the City)</td>
</tr>
<tr>
<td>Gas or petroleum products</td>
<td>30 inches (0.8 m)</td>
</tr>
<tr>
<td>Water line</td>
<td>Sufficient cover to provide freeze protection</td>
</tr>
<tr>
<td>Sanitary sewer, storm sewer or drainage line</td>
<td>Sufficient cover to provide freeze protection</td>
</tr>
</tbody>
</table>

B. Standards and Requirements for Particular Types of Facilities:

1. Electric Power or Communication Lines:


   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: (a) the crossing is installed by the use of “moles,” “whip augers” or other approved method which compress the earth to make the opening for cable installation or (b) the installation is by the open trench method which is only permitted prior to roadway construction or (3) Cable shall be grounded in accordance with the National Electrical Safety Code.

d. **Burial of Drops:** All temporary service drops placed between November 1 of the prior year and March 15 of the current year, also known as snowdrops, shall be buried by May 31 of the current year, weather permitting, unless otherwise permitted by the City. Weather permitting, utilities shall bury all temporary drops, excluding snowdrops, within 10 business days after placement.

2. **Underground Facilities Other than Electric Power or Communication Lines:** Underground facilities other than electric power or communication lines may be installed by:

   a. The use of “moles,” “whip augers” or other approved methods which compress the earth to move the opening for the pipe;

   b. Jacking or boring with vented encasement provided between the ditch lines or toes of slopes of the highway;

   c. Open trench with vented encasement between ultimate ditch lines or toes of slopes, but only if prior to roadway construction; or

   d. Tunneling with vented encasement, but only if installation is not possible by other means.

3. **Gas Transmission, Distribution and Service:** Gas pipelines within rights-of-way shall be constructed, maintained and operated in a City-approved manner and in conformance with the Federal Code of the Office of Pipeline Safety Operations, Department of Transportation, Part 192 – Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards (49 CFR §192), IDOT’s *Standard Specifications for Road and Bridge Construction* and all other applicable laws, rules and regulations.

4. **Petroleum Products Pipelines:** Petroleum products pipelines within rights-of-way shall conform to the applicable sections of ANSI Standard Code for Pressure Piping. (Liquid Petroleum Transportation Piping Systems ANSI-B 31.4).

5. **Water Lines, Sanitary Sewer Lines, Storm Water Sewer Lines or Drainage Lines:** Water lines, sanitary sewer lines, storm sewer lines and drainage lines within rights-of-way shall meet or exceed the recommendations of the current *Standard Specifications for Water and Sewer Main Construction in Illinois* and the current *City of Algonquin Standards for Construction and Estimating*.

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 1 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 Public Works Director. With the approval of the Public Works Director, shrubbery surrounding the appurtenance may be used in place of vegetation-free area. The housing for ground-mounted appurtenances shall be painted a neutral color to blend with the surroundings.

C. Materials:

1. **General Standards:** The materials used in constructing facilities within rights-of-way shall be those meeting the accepted standards of the appropriate industry, the applicable portions of IDOT’s *Standard Specifications for Road and Bridge Construction*, the requirements of the ICC or the standards established by other official regulatory agencies for the appropriate industry.

2. **Material Storage on Right-of-Way:** No material shall be stored on the right-of-way without the prior written approval of the Public Works Director. When such storage is permitted, all pipe, conduit, wire, poles, cross arms or other materials shall be distributed along the right-of-way prior to and during installation in a manner to minimize hazards to the public or an obstacle to right-of-way maintenance or damage to the right-of-way and other property. If material is to be stored on right-of-way, prior approval must be obtained from the City.

3. **Hazardous Materials:** The plans submitted by the utility to the City shall identify any hazardous materials that may be involved in the construction of the new facilities or removal of any existing facilities.

D. Operational Restrictions:

1. Construction operations on rights-of-way may, at the discretion of the City, be required to be discontinued when such operations would create hazards to traffic or the public health, safety and welfare. Such operations may also be required to be discontinued or restricted when conditions are such that construction would result in extensive damage to the right-of-way or other property.

2. These restrictions may be waived by the Public Works Director 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 Section 14-8 of this Code.

E. **Location of Existing Facilities:** Any utility proposing to construct facilities in the City shall contact JULIE and ascertain the presence and location of existing above-ground and underground facilities within the rights-of-way to be occupied by its proposed facilities. The City will make its permit 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 Illinois Underground Facilities Damage Prevention Act (220 ILCS 50/1 et seq.)

Sec. 21-105   Vegetation control.

A. **Electric Utilities – Compliance with State Laws and Regulations:** An electric utility shall conduct all tree-trimming and vegetation control activities in the right-of-way as dictated by the City Arborist and in accordance with applicable state laws and regulations, and additionally, with such local franchise or other agreement with the City as permitted by law.
B. Other Utilities – Tree Trimming Permit Required: Tree trimming that is done by any other utility with facilities in the right-of-way and that is not performed pursuant to applicable state laws and regulations specifically governing same, shall not be considered a normal maintenance operation, but shall require the application for, and the issuance of, a permit from the City Arborist, in addition to any other permit required under this Chapter and shall also comply with the requirements of Chapter 24, Trees, Shrubs and Noxious Growths, of this Code.

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’s root pruning standards must also be adhered to. The City will require compensation for trees extensively damaged and for trees removed without authorization. The formula developed by the International Society of Arboriculture will be used as a basis for determining the compensation for damaged trees or unauthorized removal of trees. The City may require the removal and replacement of trees if trimming or radical pruning would leave them in an unacceptable condition.

C. Specimen Trees or Trees of Special Significance: The City may require that special measures be taken to preserve specimen trees or trees of special significance. The required measures may consist of higher poles, side-arm extensions, covered wire or other means.

D. Chemical Use:

1. Except as provided in the following paragraph, no utility shall spray, inject or pour any chemicals on or near any trees, shrubs or vegetation in the City for any purpose, including the control of growth, insects or disease.

2. Spraying of any type of brush-killing chemicals will not be permitted on rights-of-way unless the utility demonstrates to the satisfaction of the Public Works Director that such spraying is the only practicable method of vegetation control.

Sec. 21-106 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, protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of any utility facilities within the rights-of-way whenever the corporate authorities have determined that such removal, relocation, change or alteration, is reasonably necessary for the construction, repair, maintenance or installation of any City improvement in or upon, or the operations of the City in or upon, the rights-of-way.

B. Removal of Unauthorized Facilities: Within 30 days following written notice from the City, any utility that owns, controls or maintains any unauthorized facility or related appurtenances within the rights-of-way shall, at its own expense, remove all or any part of such facilities or appurtenances from the rights-of-way. A facility is unauthorized and subject to removal in the following circumstances:
1. Upon expiration or termination of the permittee’s license or franchise, unless otherwise permitted by applicable law;

2. If the facility was constructed or installed without the prior grant of a license or franchise, if required;

3. If the facility was constructed or installed without prior issuance of a required permit in violation of this Chapter; or

4. If the facility was constructed or installed at a location not permitted by the permittee’s license, permit 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 City shall attempt to notify the utility, if known, prior to cutting or removing a facility and shall notify the utility, if known, after cutting or removing a facility.

D. Abandonment of Facilities: Upon abandonment of a facility within the 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 Public Works Director determines that such removal will be in the best interest of the public health, safety and welfare. In the event 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.

Sec. 21-107 Clean-up and restoration.

The utility shall remove all excess material and restore all turf and terrain and other property within 10 days after any portion of the rights-of-way are disturbed, damaged or destroyed due to construction or maintenance by the utility, all to the satisfaction of the City. This includes restoration of entrances and side roads. Restoration of roadway surfaces shall be made using materials and methods approved by the Public Works Director. Such cleanup and repair may be required to consist of backfilling, regrading, reseeding, resodding or any other requirement to restore the right-of-way to a condition substantially equivalent to that which existed prior to the commencement of the project. The time period provided in this Section may be extended by the Public Works Director for good cause shown.

Sec. 21-108 Maintenance and emergency maintenance.

A. General: Facilities and any associated screening or landscaping on, over, above, along, upon, under, across or within rights-of-way are to be maintained by or for the utility in a manner satisfactory to the City and at the utility’s expense.

B. Emergency Maintenance Procedures: Emergencies may justify non-compliance 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 Public Works Director, or his or her duly authorized agent, of the emergency, informing him or her as to what steps have been taken for protection of the traveling public and what will be required to make the necessary repairs. If the nature of the emergency is such as to interfere with the free movement of traffic, the Police Department shall be notified immediately. If applicant does not act in accordance with these provisions, the City may do so and all costs incurred by City must be reimbursed by the applicant.

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

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

Sec. 21-109 Variances.

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

B. Authority to Grant Variances: The Public Works Director shall decide whether a variance is authorized for each provision of this Chapter identified in the variance request on an individual basis.

C. Conditions for Granting of Variance: The Public Works Director 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 not practical in relation to the requested approach.

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

E. Right to Appeal: Any utility aggrieved by any order, requirement, decision or determination, including denial of a variance, made by the Public Works Director under the provisions of this Chapter shall have the right to appeal to the City Council, or such other board or commission as it may designate. The application for appeal shall be submitted in writing to the City Clerk within 30 calendar days after the date of such order, requirement, decision or determination. The City Council shall commence its consideration of the appeal at a City Council’s regularly scheduled meeting occurring at least 14 days after the filing of the appeal. The City Council shall timely decide the appeal.
Sec. 21-110  **Penalties.**

Any person who violates, disobeys, omits, neglects or refuses to comply with any of the provisions of this Chapter shall be subject to a 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 Chapter. Unless the utility shows that another allocation of the cost of undertaking the requested action is appropriate, the utility shall bear the City’s costs of damages and its costs of installing, maintaining, modifying, relocating or removing the facility that is the subject of the permit. No other administrative agency or commission may review or overrule a permit-related cost apportionment of the City. Sanctions may be imposed upon a utility that does not pay the costs apportioned to it.

Sec. 21-111  **Enforcement.**

Nothing in this Chapter shall be construed as limiting any additional or further remedies that the City may have for enforcement of this Chapter.
ARTICLE VI
SNOW AND ICE
(MC-16-1134)

Sec. 21-112. Definitions:

Roadway: That portion of a street or highway improved, designed, or ordinarily used for public vehicular travel, exclusive of the berm or shoulder.

Sidewalk: That portion of a street between the curb line, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.

Street or Highway: The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

Sec. 21-113. Deposits Restricted. It is unlawful for any person to deposit or cause to be deposited any snow and/or ice from private property on or against a fire hydrant, or on any public sidewalk, public roadway, or loading and unloading areas of a public transportation system, including the windrowing of snow and ice upon the curbs of public streets, roadways and highways. Provided snow and ice may be windrowed on curbs incident to the cleaning of public roadways.

Sec. 21-114. Penalties. Any person who violates any provision of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined as provided under General Penalty in Chapter 1, Sec 1-8 of this code. Each day such violation of this Code continues or is permitted to continue, will constitute a separate offense.

ARTICLE VII
CURBSIDE MAILBOXES
(MC-16-1133)

Sec. 21-115. Definitions

Curbside Mailbox: Defined as any design made to be served by a carrier from a vehicle on any city, rural or highway contract route. This standard is not applicable to mailboxes intended for door delivery service.

Sec. 21-116. Mailboxes.

A. Only one (1) curbside mailbox per residence or per nonresidential lot may be placed within the city right-of-way except for multiple user mailboxes approved by the United States Postal Service. All curbside mailboxes placed within city right-of-way shall conform to the following regulations:

B. Mailbox shall be maintained by the property owner in good condition at all times, including prompt repair of any element in need of repair.

C. Mailbox may not be rebuilt, enlarged, or moved unless it is in conformance with the regulations as outlined in this Ordinance.
D. Mailbox shall be removed from the city right-of-way immediately after the building it serves has closed or been removed or relocated.

E. Mailbox shall be removed from the right-of-way immediately if the city determines in the exercise of its sole discretion that such mailbox poses a particular threat to public safety.

Sec. 21-117. Permitted Models.
A. Manufacturers whose mailboxes have been approved by the United States Postal Service and that meet United States Postmaster (PMG) guidelines.

B. Any curbside mailbox installed as of September 7, 2016, shall conform to the specifications as described herein. Nonconforming mailboxes installed prior to September 7, 2016, must serve an occupied dwelling, business, or institution and may remain at the present location until or unless such mailbox is destroyed, damaged, deteriorated, or not properly maintained.

Sec. 21-118. Support Structure.
A. Curbside mailboxes permitted within the city right of way shall be mounted on a wooden post no smaller than four (4) inches by four (4) inches and firmly secured in the ground. Alternate materials used for mailbox support structure must be approved by City Administrator and/or Director of Public Works. Use of masonry columns is prohibited.

B. As of September 7, 2016, if an existing support structure consists of a masonry column, concrete structure, railroad rails or ties, or object such as but not limited to a tractor wheel, plow blade, milk can, barrel, lawn tractor, or any similar device; under no circumstances shall it be permitted to be reconstructed, replaced, moved, or repaired.

C. Structures erected on the parkway to protect mailboxes such as large boulders, steel beams, concrete structures, brick structures or similar devices are prohibited.

D. Mailboxes that do not conform to the provisions of this Ordinance shall be removed.

Sec. 21-119. Placement Requirements.
Placement of curbside mailboxes within any city right-of-way except when required by federal law or regulations for delivery of United States mail, is not permitted. The placement and construction of mailboxes and supporting structures in the public streets shall be deemed a revocable license to the owner and shall confer no property right or interest in the public street, except as provided in this Ordinance.

A. Mailboxes and support structures shall be installed within but not closer than six (6) to eight (8) inches from the edge of the street pavement or the back of the street curb where such curb exits.

B. The bottom surface of the mailbox shall be not less than forty-one (41) inches and not more than forty-five (45) inches from the ground surface, as illustrated in Figure 1:
C. Curbside Mailboxes and support structures shall not be installed within ten (10) feet of the point of curvature at any street intersection as illustrated in Figure 2.

Sec. 21-120. Damaged Mailboxes.

A. In the event there is damage to any mailbox that conforms to the standards set forth in this Ordinance as a result of and caused by snow removal activities conducted by the city, the city shall not be responsible for any cost of repair or replacement thereto in excess of fifty-dollars ($50.00). Any such reimbursement of cost to the owner of a damaged mailbox shall be made only upon the presentation of satisfactory evidence of sales receipts for materials used in such repair and replacement. All labor or cost of labor to install or reinstall said mailbox shall be the responsibility of the owner of the mailbox. Mailboxes damaged by the city will be replaced with mailboxes that conform to the standards outlined in this Ordinance.

B. The city shall not be responsible for mailboxes damaged or knocked-down by snow coming off the city plow and not a direct result of the plow blade striking the mailbox or support structure.

C. Landscaping and planting materials added to the parkway around mailboxes or on parkways will be the sole responsibility of the property owner.
MUNICIPAL CODE
CHAPTER 22
SWIMMING POOLS
(MC-07-940)


700
The next page is 730.
MUNICIPAL CODE
CHAPTER 23
TAXATION

ARTICLE I.
HOTEL/MOTEL TAX (MC-04-858)

Sec. 23-1 –Definitions.

Hotel: Any building or buildings, in which the public may, for a consideration, obtain living quarters, sleeping or housekeeping accommodations. The term includes inns, motels, tourist homes or courts, lodging houses, rooming houses and apartment houses with more than five guest units for rent.

Operator: Any person operating a hotel.

Occupancy: The use or possession, or the right to the use or possession, of any rooms in a hotel for any purpose, or the right to the use or possession of the furnishings, or to the services and accommodations accompanying the use and possession of the room or rooms.

Room or Rooms: Any living quarters, sleeping or housekeeping accommodations.

Permanent Resident: Any person who has occupied or has the right to occupy any room or rooms, regardless to whether or not it is the same room or rooms, in a hotel for at least 30 consecutive days.

Rent or Rental: The consideration received for occupancy, valued in money, whether received in money or otherwise, including all receipts, cash, credits, property or services of any kind or nature.

Person: Any natural individual, firm, partnership, association, joint stock company, joint adventure, public or private corporation, limited liability company or a receiver, executor, trustee, guardian or other representative appointed by order of any court.

Sec. 23-2. Tax Imposed. (MC-10-1005)

A tax be imposed upon persons engaged in the business of renting, letting or leasing rooms in a hotel at the rate of five percent (5.0%) of the gross rental receipts from such renting, leasing or letting, excluding, however, from gross rental receipts, the proceeds of such renting, leasing or letting to permanent residents of that hotel.

Sec. 23-3. Payment and Collection

The tax levied herein shall be paid in addition to any and all other taxes. It shall be the duty of the operator of every hotel to collect said tax from the guest or lodger, and to pay over to the City Administrator or his/her designee said tax on a monthly basis as provided herein.

Every person required to collect the tax levied by this ordinance shall receive said tax from the guest or lodger at the time the room charge is paid. A receipt, invoice or other statement or memorandum showing the itemized rental and all taxes shall be issued to the user, lessee or tenant.
Sec. 23-4. Administration and Enforcement

(a) **Inspections.** The City Administrator or his/her designee may enter the premises of any hotel for inspection and examination of books and records for the proper administration of this ordinance and enforcement and collection of the tax imposed. It shall be unlawful for any person to prevent, hinder or interfere with the City Administrator or his/her designee in enforcing this ordinance.

(b) **Records Required.** It shall be the duty of every person operating a hotel in the City to keep accurate and complete books and records to which the City Administrator or his/her designee shall, at all times, have full access, which records shall include a daily sheet showing:

1. The number of hotel rooms rented during the 24 hour period, including multiple rentals of the same hotel when such occurs; and

2. The actual hotel room tax receipts collected from the date in question

(c) **Monthly Tax Returns.** Every person operating a hotel shall file tax returns showing tax receipts received with respect to each hotel during each month of each year, within 30 days after the end of the respective date, upon forms prescribed by the rules and regulations of the City Administrator or his/her designee. At the time of filing said tax returns, the operator shall pay to the City Administrator or his/her designee all taxes due for the period to which the tax return applies. Each return shall be accompanied by payment to the City of all taxes due and owing for the quarter covered by the return.

(d) **Failure to Pay Tax**

1. **Interest and Penalty.** In the event any hotel owner, manager or operator fails to collect and pay to the City the tax required hereunder within 30 days after the same is due, interest shall accumulate and be due upon said tax at the rate of one percent per month commencing as of the first day of the month following the month for which the tax was to have been collected. In addition, a penalty of 10 percent of the tax and interest due shall be assessed and collected against any hotel owner, manager or operator.

2. **Suit for Collection.** Whenever any person fails to pay a tax required herein, the City Attorney shall, upon the request of the City Administrator or his/her designee, bring or cause to be brought an action to enforce the payment of said tax on behalf of the City in any court of competent jurisdiction. Any legal fees incurred by the City in the cost of collection shall be paid by the operator.

3. **Revocation of City Licenses.** If the City Administrator or his/her designee, after conducting a hearing, finds that any person has willfully avoided payment of the tax imposed herein, he may suspend or revoke all City licenses held by the hotel. The operator shall have an opportunity to be heard at a hearing, held not less than five days after notice of the time and place of the hearing, with said notice addressed to the operator at the last known place of business, has been delivered to the operator.
Sec. 23-5. Penalty

Any person found guilty of violating any provision of this ordinance shall, upon conviction, be fined not less than $100.00 nor more than $1,000.00 for each offense and be responsible for the City's cost of prosecution, including reasonable attorney fees. Each day that a violation continues shall be considered a separate offense.

Sec. 23-6 – 23-15 reserved.

ARTICLE II.
RETAILER'S OCCUPATION TAX

Sec. 23-16. Imposed.

A tax is hereby imposed upon all persons engaged in the business of selling tangible personal property at retail in this City at the rate of one per cent (1%) of the gross receipts from such sales made in the course of such business, in accordance with the provisions of Section 8-11-1 of the Illinois Municipal Code.

Sec. 23-17. Report required.

Every such person engaged in the business of selling tangible personal property at retail 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 law.

Sec. 23-18. Payment.

At the time the report required by Section 23-17 is filed, there shall be paid to the State Department of Revenue the amount of tax hereby imposed on account of the receipt from sales of tangible personal property during the preceding month.


ARTICLE III.
SERVICE OCCUPATION TAX

Sec. 23-31. Imposed.

A tax is hereby imposed upon all persons engaged in this municipality in the business of making sales of service at the rate of one per cent (1%) of the cost price of all tangible personal property transferred by said servicemen either in the form of tangible personal property or in the form of real estate as an incident to a sale of service, in accordance with the provisions of Section 8-11-5 of the Illinois Municipal Code.

Sec. 23-32. Report required.

Every supplier or serviceman required to account for municipal service occupation tax for the benefit of this municipality shall file, on or before the last day of each calendar month, the report to the State Department of Revenue required by law.
Sec. 23-33. Payment.
At the time the report required by Section 23-32 is filed, there shall be paid to the State Department of Revenue the amount of tax hereby imposed.

Secs. 23-34 - 23-35. Reserved.

ARTICLE IV.
HOME RULE MUNICIPAL RETAILERS’ OCCUPATION TAX
AND HOME RULE SERVICE OCCUPATION TAX
(MC-10-1016; MC-10-1022)

Sec. 23-36. Home Rule Municipal Retailers’ Occupation Tax.

A tax is hereby imposed upon all persons engaged in the business of selling tangible personal property (other than an item of tangible personal property titled and registered with an agency of this State’s government) at retail in the City of McHenry at the rate of ½ of 1% of the gross receipts from such sales made in the course of such business. Such “Home Rule Municipal Retailers’ Occupation Tax” shall not be applicable to the sale of food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks and food that has been prepared for immediate consumption) and prescription and non-prescription medicines, drugs, medical appliances, and insulin, urine testing materials, syringes and needles used by diabetics.

Sec. 23-37. Home Rule Municipal Service Occupation Tax.

A tax is hereby imposed upon all persons in the City of McHenry engaged in the City of McHenry in the business of making sales of service at the rate of ½ of 1% 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. Such “Home Rule Municipal Service Occupation Tax” shall not be applicable to the sale of food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks and food that has been prepared for immediate consumption) and prescription and non-prescription medicines, drugs, medical appliances, and insulin, urine testing materials, syringes and needles used by diabetics.

Sec. 23-38. Collection and Enforcement.

The taxes hereby imposed, and all civil penalties that may be assessed as an incident thereto, shall be collected and enforced by the Department of Revenue of the State of Illinois. The Department of Revenue shall have full power to administer and enforce the provisions of this ordinance.

Sec. 23-39. Effective Date.

Said Home Rule Municipal Retailer’s Occupation Tax and Home Rule Municipal Service Occupation Tax shall be effective January 1, 2011.
ARTICLE V
TAX ABATEMENT

Sec. 23-40. Consideration.

The City Council of the City of McHenry, will consider granting tax abatement on the City share of the property tax for any new industrial plant construction by an industrial firm considering locating in the City of McHenry from out of state and for existing or newly created McHenry industrial firms considering the construction of new facilities or the expansion of existing McHenry facilities.

Sec. 23-41. Application and evaluation.

Any industrial firm from out of state or from the City of McHenry wishing to request tax abatement for any proposed new construction shall contact the Office of the Mayor for the purpose of having the request referred to the Finance Committee of the City Council for evaluation and recommendation to the full Council. The request of the applicant shall be accompanied by the name and location of the firm, the estimated fair market value of the new construction, the estimated number of new employees to be added as a consequence of said construction, the tax year in which the first tax abatement is requested to commence, and such other information as the applicant, the Mayor and Finance Committee deem desirable.

Sec. 23-42. Recommendation.

Upon receipt of a recommendation from the Finance Committee concerning the request for tax abatement, the City Council, in its sole discretion, may pass a resolution to abate any portion of its taxes on said property for any period of time up to, but not exceeding, ten (10) years. Any resolution awarding a tax abatement should, as a minimum, specify the amount of the taxes abated (the amount to be either in the form of a percentage or dollar figure), the number of years for which such abatement is awarded and the specific tax years to which such abatement applies.

Sec. 23-43. Abatement of tax.

The Mayor will advise the applicant by letter of the action taken by the City Council. Thereafter, contemporaneously with the enactment of the annual levy ordinance, the City Council and the Mayor shall, without further request from the applicant, enact an appropriate tax abatement ordinance or ordinances and shall file the same with the County Clerk in sufficient time to implement such tax abatements for the tax years in question.
ARTICLE VI.
SIMPLIFIED MUNICIPAL TELECOMMUNICATIONS TAX
(MC-06-887)

Sec. 23-44 Simplified Municipal Telecommunications Tax

A tax is hereby imposed upon the privilege of originating and receiving telecommunications and on retailers engaged in the business of transmitting such telecommunications as prescribed by the State of Illinois Department of Revenue effective January 1, 2004, which stated that any/all repealment of municipal telecommunications tax ordinance shall result in the automatic implementation of a simplified municipal telecommunications tax.

The tax shall be at a rate of one percent (1%).

Such tax shall be collected by the Illinois Department of Revenue for the City.

Sec. 23-45 through 23-54 Reserved.
MUNICIPAL CODE
CHAPTER 24
TREES, SHRUBS AND NOXIOUS GROWTHS
ARTICLE 1. IN GENERAL

(MC-07-946)

Sec. 24-1. Street tree defined.  
A "Street Tree/Parkway Tree" is defined herein so as to include trees growing or to be planted between property lines on either side of all streets, avenues, boulevards, alleys or other public ways within the City. (MC-06-886)

Sec. 24-2. Application for permits.  
Applications for permits shall be made to the City Clerk and referred to the Director of Public Works for approval before issuance.

Sec. 24-3. Permitted street tree species.  
No tree species other than the small tree, medium tree and large tree species listed in the Subdivision Control and Development Ordinance Technical Specifications Manual and Standard Details T1 Street and Right-of-Way Improvements Section I Parkway Trees, may be planted as street trees/parkway trees, unless permission to do so has been previously given by the City.-(MC-06-886)

Sec. 24-4. Improvements prohibited in public rights-of-way.  
No rock gardens, boulders benches or fences shall be built or maintained in any public right-of-way.

Sec. 24-5. Spacing. (MC-06-886)  
Spacing of street trees shall be determined by the Subdivision Control and Development Ordinance Technical Specifications Manual and Standard Details T1-I Street and Right-of-Way Improvements Parkway Trees.

Sec. 24-6. Planting distance from curb and sidewalk.  
As required by Subdivision Control and Development Ordinance Technical Specifications Manual and Standard Details T1-I Street and Right-of-Way Improvements Parkway Trees. (MC-06-886)

Sec. 24-7. Distance from street corners and fire plugs.  
As required by Subdivision Control and Development Ordinance Technical Specifications Manual and Standard Details T1-I Street and Right-of-Way Improvements Parkway Trees. (MC-06-886)

Sec. 24-8. Distance from utilities.  
As required by Subdivision Control and Development Ordinance Technical Specifications Manual and Standard Details T1-I Street and Right-of-Way Improvements Parkway Trees. (MC-06-886)

It shall be unlawful for any person or firm to remove or cut down any tree or shrub in any public place or right-of-way without first having secured a permit therefore from the City.
Sec. 24-10. **Injuring.**
It shall be unlawful for any person or firm to injure any tree or shrub planted or growing in a public right-of-way or public place.

Sec. 24-11. **Attaching advertisements, notices.**
It shall be unlawful to attach any sign, advertisement or notice to any tree or shrub in any public right-of-way or place.

Sec. 24-12. **Vegetation likely to fall on public ways.**
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 is growing or stands.

Sec. 24-13. **Wires.**
(a) It shall be unlawful to attach any wire or rope to any tree or shrub in any public street, right-of-way or other public place without the permission of the Director of Public Works.

(b) Any person or firm which maintains poles and wires in 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 keep all such trees and shrubs near such wires and poles properly trimmed, subject to the supervision of the Director of Public Works so that no injury shall be done either to the poles or wires or to the shrubs and trees by their contact.

Sec. 24-14. **Gas leaks**
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.

Sec. 24-15. **Precautions during excavations.**
In making excavations in streets, public rights-of-way or other public places, proper care shall be taken to avoid injury to the roots of any tree or shrub wherever possible.

Sec. 24-16. **Care of street trees and other trees.**
The City shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the right-of-way lines of all streets, alleys, avenues, and lanes and within all public grounds.

The City may remove, or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines or other public improvements, or is infected with any injurious fungus, insect or other pests.

Sec. 24-17. **Tree topping.**
It shall be unlawful for any person or firm to top any Street Tree without the prior permission of the Director of Public Works. Topping is defined as the severe cutting back of limbs to stubs larger than 3 inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.
Sec. 24-18. Pruning and corner clearance on private property.
Every owner of any tree located on private property which overhangs any street or right-of-way within the City shall prune the branches thereof so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of at least 8 feet above the surface level of the street pavement and sidewalk. The owner of such tree shall remove all dead, diseased or dangerous trees or broken or decayed limbs which overhand any street right-of-way or other public property. When the owner fails to do so, the City shall have the right to prune any trees or shrubs on private property when such tree or shrub interferes with the proper spread of light along the street from a street light or interferes with visibility of any traffic control device or sign, and the owner shall immediately reimburse the City for the expense of such work.

Section 24-19. Tree care and removal on private property.
The City shall have the right to cause the removal of any dead or diseased tree on private property within the City when such trees constitute a hazard to life or property, or harbor insects or disease which constitutes a potential threat to other trees or plants within the City. Removal shall be done by said owners at their own expense. In the event of the failure of the owners to comply with such provisions, the City shall have the authority to remove such trees and the owner shall immediately reimburse the City for the expense of such removal.

Sec. 24-20. Removal of stumps.
All stumps of street trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

Sec. 24-21. Arborists license and bond.
It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating, or removing street trees or trees overhanging streets, rights-of-way or utility easements without first applying for and procuring a license from the City Clerk. The annual license fee, based on fiscal year, shall be $25.00. No license shall be required of any public service company franchised by the City or of any City employee. Before any license is issued, each applicant shall first file satisfactory evidence with the City Clerk of liability insurance coverage for General Liability, Automobile Liability, Excess Liability and Worker’s Compensation Liability in the minimum amounts of $1,000,000 for bodily injury and $1,000,000 for property damage which insurance policy shall name the City of McHenry as an additional insured party thereon and which shall indemnify the City from any and all claims, damages, and judgments on account of any injury to person or property resulting from the conduct and actions of such licensee.

Secs. 24-22 Penalty.
Any person, firm or corporation that violates any provision of this Article shall be subject to a fine of not less than $25.00 nor more than the maximum permitted by State Statute for each offense, plus the city’s cost of prosecution including reasonable attorney’s fees. Each day that a violation exists shall constitute a separate offense.

Secs. 24-23 - 24-25. Reserved.
ARTICLE II. WEEDS AND NOXIOUS GROWTHS

Sec. 24-26. Weeds.
All premises and exterior property, including the parkway area located between such premises and the adjoining road pavement or surface shall be maintained free from weeds and plant growth in excess of 8 inches. All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens.

Sec 24-27. Violation.
Upon failure of the owner or agent having charge of a property (“Owner”) to cut and destroy weeds after being given notice of the violation by first-class mail addressed to the last known address of the Owner, the Owner shall be subject to prosecution in accordance with Section 106.3 and applicable provisions of the City Municipal Code. Upon failure to comply with the notice of violation within four (4) days, any duly authorized employee of the City or contractor hired by the City shall be authorized to enter upon the property to cut and destroy the weeds growing thereon and the costs of such removal, plus an administrative fee of 15% of the total cost of such removal, shall be paid by the Owner.

Secs. 24-28 – 24-39 Reserved.
ARTICLE III. TREE PRESERVATION (MC-99-737; MC-09-976)

Sec. 24-40 Purpose
The Tree Preservation requirements specified herein are intended to foster aesthetically pleasing development that will protect and preserve the appearance, character, general health, safety, and welfare of the community; and, enhance property values. Specifically, these regulations are intended to increase the compatibility of adjacent uses by preserving natural areas that become buffers between uses and in doing so, minimize the harmful impact of noise, dust, and other debris; motor vehicle headlight glare or other artificial light intrusions, and other objectionable activities or impacts conducted, created by adjoining or nearby uses; reduce topsoil erosion and storm water runoff; reduce energy consumption through windbreak and shade; and preserve nesting for birds and wildlife.

Sec. 24-41 General Scope.
The provisions of this Article shall apply to the following private parcels of land:
  (a) Any subdivision of land in any zoning district resulting in the creation of three or more lots;
  (b) All single-family residentially zoned lots larger than two acres;
  (c) All property zoned other than single-family residential, larger than one acre;
  (d) All areas seeking annexation to the City;
  (e) Exceptions: nurseries or orchards.

Sec. 24-42 Tree Removal Permit Required.
No live tree measuring six inches in diameter at breast height (DBH) or greater, shall be removed from properties outlined in Section 24-41 without first obtaining a Tree Removal Permit from the Parks and Recreation Department. For purposes of this ordinance, DBH shall be considered to represent height of 54 inches above the base of the tree.
Exceptions:

(1) Emergency: A tree removal permit is not required when removal is necessary due to an emergency situation posing an immediate threat to a person, property, or the community, and where such an emergency renders compliance with the permit process unreasonable. The individual who removes the tree shall first attempt to call the Parks and Recreation Department to obtain field permission to remove the tree. If permission cannot be obtained due to unavailability of the Parks and Recreation Staff, the tree may be removed, provided the person removing the tree notifies the Parks and Recreation Department within 48 hours of the removal of the tree and the reason for its removal.

(2) Where no tree on the parcel of land measures six inches DBH as verified by City Staff.

(3) Properties for which a specific landscaping or tree preservation plan has been approved prior to the effective date of this Article pursuant to the terms of an annexation agreement or other specific agreement or ordinance applicable to such property.

Sec. 24-43. General Procedures for All Applications.

In connection with a Site Development Permit, the Director of Construction and Neighborhood Services and the Superintendent of Forestry and Park Planning shall review the tree survey and tree preservation plan and either approve or deny the application.

(a) In connection with a subdivision, the Planning and Zoning Commission and the Superintendent of Forestry and Park Planning shall review the tree survey and preservation plan and make a recommendation to the City Council for approval or denial.

(b) Where no subdivision of land or Site Development Permit is required, the Superintendent of Forestry and Park Planning shall review the tree survey and preservation plan and make a recommendation to the City Council through the Director of Parks and Recreation for approval or denial.

Sec. 24-44. Submittal Requirements for Permit.

(a) Any person requiring a Tree Removal Permit due to development, redevelopment, subdivision, new construction, expansion, structural alteration, or other improvement to private structures or property shall submit the following information to the .

(1) A tree survey which shall consist of a plat of survey indicating the location, size, and botanical and common name of all trees located on the parcel with a six-inch DBH or greater. The tree survey shall also include all proposed structures and impervious areas and identify those trees for removal.

(2) A written statement indicating the reasons for removal of tree(s).

(3) A tree preservation plan which is the tree survey including a designation in plan form of the trees that are to be preserved and protected. The plan should include methods and procedures to be used for tree protection.

(b) Any person requiring a Tree Removal Permit on a parcel not undergoing site development, subdivision, or any work involving a building permit, the following information must be provided:

(1) A plat of survey of the parcel. The location, size and species of tree(s) to be removed shall be noted on the survey as accurately as possible.

(2) A written statement indicating the reasons for removal of the tree(s).

(3) Reasons for tree removal related to disease or good forestry practices may require justification in writing by a certified arborist.
Sec. 24-45 Tree Removal

(a) When a person desires to remove a tree on a parcel of land covered under Section 24-41, General Scope, whether it is part of a site development or not, such removal shall be deemed justified where one or more of the following conditions are clearly demonstrated by the person seeking a tree removal or site development permit:

1. A tree creates a safety hazard to pedestrians, vehicle traffic, structures, utilities, or a threat to public safety.
2. The tree is incurably diseased or has been severely weakened by age, storm, fire, or other natural disaster.
3. Good forestry practice requires removal. Said forestry practice includes such considerations as to the number of healthy trees a given parcel of land will support.
4. These trees are subject to the following tree replace schedule: five percent of the total diameter at breast height (dbh) will be required as compensation for removal. (e.g. the total dbh of the trees listed below is 2400 inches x .05(5 percent) = 120 inches of replaceable diameter. 120 inches of diameter divided by the diameter of the replacement trees = the number of trees.)

<table>
<thead>
<tr>
<th>Common Name</th>
<th>Botanical Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Box Elder</td>
<td>Acer negundo</td>
</tr>
<tr>
<td>Chinese Elm</td>
<td>Ulmus parvifolia</td>
</tr>
<tr>
<td>Poplar</td>
<td>Populus (species)</td>
</tr>
<tr>
<td>Cottonwood</td>
<td>Populus deltoides</td>
</tr>
<tr>
<td>Catalpa</td>
<td>Caltalpa speciosa</td>
</tr>
<tr>
<td>Choke Cherry</td>
<td>Prunus virginiana</td>
</tr>
<tr>
<td>Willow</td>
<td>Salix (species)</td>
</tr>
<tr>
<td>Black Locust</td>
<td>Robinia psuedo-acacia</td>
</tr>
<tr>
<td>Silver Maple</td>
<td>Acer saccharinum</td>
</tr>
<tr>
<td>Mulberry</td>
<td>Morus rubra</td>
</tr>
<tr>
<td>Tree-of-Heaven</td>
<td>Ailanthus altissima</td>
</tr>
<tr>
<td>Lombardy Poplar</td>
<td>Populus nigra</td>
</tr>
<tr>
<td>Siberian Elm</td>
<td>Ulmus pumila</td>
</tr>
</tbody>
</table>

Sec. 24-46. Criteria for Approving a Tree Preservation Plan.

(a) General design.
(b) Planting specifications.
(c) Extent of existing tree coverage and consideration that reasonable efforts are being taken to retain existing trees.
(d) Techniques for the preservation and protection of existing trees during construction.
(e) Ratio of non-deciduous to deciduous trees.
(f) Provisions for replacing destroyed or damaged trees and the planting of additional trees where desirable.
(g) General environmental considerations.

Sec. 24-47. Tree Protection Rights.
The following tree protection techniques shall be employed during any work conducted on the site. The tree preservation plan shall specify the following:

(a) All grading and construction equipment shall not encroach within the drip line of a tree.
(b) Crushed limestone, hydrocarbons and other materials detrimental to trees shall not be placed within the drip line of any tree being preserved, nor at any higher location where drainage toward the tree could affect the health of the tree.
(c) Appropriate protective fencing shall be temporarily installed at the periphery of the tree’s drip line throughout the duration of site development and construction activities.

(d) The area within the drip line of the trees shall remain free of building materials, dirt, fill and construction debris.

(e) Methods used to preserve trees shall be clearly specified. Methods other than outlined in this Section may be considered if demonstrated to be in keeping with good forestry practice and maintaining the highest viability.

(f) Reserved (MC-09-976)

(g) The owner/developer must notify the Department of Construction and Neighborhood Services 48 hours prior to work being performed within areas under protection as indicated on the approved Tree Preservation Plan.

Section 24-48. Tree Replacement Schedule.

(a) Trees removed, whether or not due to construction, site development or subdivision of land, shall be replaced according to the following schedule:

<table>
<thead>
<tr>
<th>Caliper (in inches DBH)</th>
<th># of Replacement Trees</th>
</tr>
</thead>
<tbody>
<tr>
<td>30” or greater</td>
<td>3</td>
</tr>
<tr>
<td>18” – 29”</td>
<td>2</td>
</tr>
<tr>
<td>6”-17”</td>
<td>1</td>
</tr>
</tbody>
</table>

(b) All replacement trees shall have a minimum caliper of two inches measured at six inches above the base of the tree.

(c) Replacement trees shall be limited to the following species or as determined by the approving authority:

- **Norway Maple** – Acer platanoides
- **Ohio Buckeye** – Aesculus glabra
- **Common Horsechestnut** – Aesculus Hippocastenum
- **Riverbirc**h – Betula nigra
- **American Hornbeam** – Carpinus coroliniana
- **Bitternut Hickory** – Carya cordiformis
- **Shagbark Hickory** – Carya ovata
- **Black Walnut** – Juglans nigra
- **Eastern Red Cedar** – Juniperus virginian
- **American Larch** – Larix laricina
- **European Larch** – Larix decidua
- **Red Mulberry** – Morus rubra
- **Black Hills Spruce** – Picea glauce densata
- **White Oak** – Quercus alba
- **Swamp White Oak** – Quercus bicolor
- **Burr Oak** – Quercus macrocarpa
- **Red Oak** – Quercus rubra
- **Bald Cypress** – Taxodium distichum
- **White Cedar** – Thuja occidentalis
- **Basswood** – Tilia americana
- **Black Oak** – Quercus Velutina
- **Chesnut Oak** – Quercus prinus
- **Chinkapin Oak** – Quercus muehlergii
- **English Oak** – Quercus robur
- **Sawtooth Oak** – Quercus acutissima
- **Scarlet Oak** – Quercus coccinea
- **Shingle Oak** – Quercus imbricaria
- **Pear** – Callery – Pyrus calleryana
- **London Planetree** – Platanus cervina
- **Dawn Redwood** – Metasequoia glyptostroboides
- **Sweetgum** – Liquidambar styraciflua
- **Tulip tree** – Liriodendron tulipfera
- **Zelkova**, Japanese – Zelkova serrata
- **Catalpa** – Catalpa speciosa
- **European Black Alder** – Alnus glutinosa
- **Black Tulpe** – Nyssa sylvatica
- **Whitespire Birch** – Betula platyphylla ‘whitespire’
- **Pagoda Dogwood** – Cornus altern folia
- **Amur Maple** – Acer ginnala
- **Paperbink Maple** – Acer griseum
- **Flowering Crabs** – Malus sup.
- **Magnolia, Cucumber tree** – Magnolia acuminata
- **Magnolia, Saucer** – Magnolia x soulangiana
- **Magnolia, Star** – Magnolia stellata
- **Douglas fir** – Pseudosuga menziesii
- **Eastern White Pine** – Pinus strobus
- **Swiss Stone Pine** – Pinus cembra
- **Norway Spruce** – Picea abies
- **White Spruce** – Picea glanca
- **All Trees Listed as Permitted Street Trees**
(d) Reserved (MC-09-976)
(e) In keeping with good forestry practice, if sufficient space is not available to plant replacement trees, the owner/developer shall pay the City the current replacement cost using the regional cost per square inch of trunk area (cross section) to determine actual tree value. This information is found in the International Society of Arboriculture's Guide for Plant Appraisal Ninth Edition (or most recent edition) and by using the Illinois Arborist Association's Guide for species Ratings and Appraisal Factors for Illinois-Region A for each tree not planted in compliance with the replacement schedule. Said amount is to be utilized for tree planting or tree preservation programs operated by the City.

Sec. 24-49. Fees.
The fee for a Tree Removal Permit shall be $75.00 payable upon the submittal of a Tree Removal Permit application.

Sec. 24-50. Administration and Enforcement.
Any person, firm, or corporation that violates any provision of this Article shall be subject to a fine of not less than $75.00 nor more than the maximum permitted by State Statute for each offense (per tree), plus the City’s cost of prosecution including reasonable attorney’s fees. Each day that a violation exists and a tree removal permit is not obtained shall constitute a separate offense. Further, a separate offense shall be deemed committed for each tree injured, removed, destroyed or for any undertaking of any procedure, the result of which is to cause the death or substantial destruction of any tree within the City, having a DBH of six inches or greater.
ARTICLE II. TAXICABS

Sec. 25-16. Defined.
The term "taxicab" as used in this Article shall mean and include any vehicle used to carry passengers for hire but not operating on a fixed route and shall also include limousine service.

Sec. 25-17. License required; application.
It shall be unlawful to engage in the business of operating a taxicab in the City without first having secured a license therefore. Applications for such licenses shall be made in writing to the Clerk, and shall state thereon the name of the applicant, the intended place of business and the number of cabs to be operated.

Sec. 25-18. Number of licenses.
There shall be no more than five taxicab licenses in the City. No person or corporation shall be issued more than one license, nor shall a license be issued unless the licensee has taxicabs in service. (MC-96-658)

Sec. 25-19. Character of applicant.
No taxicab license shall be issued to or be held by any person who is not a person of good character or who has been convicted of a felony; nor shall such license be issued to or held by any corporation if any officer thereof would be ineligible for a license under the foregoing conditions.

Sec. 25-20. Fee established; payment.
The annual fee payable in advance for taxicab licenses shall be $100.00 for each cab company or owner plus $20.00 for each taxicab operated. All such fees shall be paid to the Clerk at the time application is made.

Sec. 25-21. Return of fee on license denial.
In the event the license applied for has been denied, the fee shall be returned to the applicant.

Sec. 25-22. Deposit of fee.
If the license is granted, then the fee shall be deposited in the general corporate fund or such other fund as shall have been designated by the Council by proper action.

Sec. 25-23. Fee in addition to other fees.
The fee required by this Article shall be in addition to the motor vehicle license fee and all other fees required by ordinance. (MC-89-477)
Sec. 25-24. Notice, fee when vehicles added.
Whenever the number of cabs operated shall be increased during the license year the licensee shall notify the Clerk of such change and shall pay the additional fee to the Clerk.

Sec. 25-25. Certificate of License required.
The Clerk shall issue certificates of license for the number of cabs covered by each license.

Sec. 25-26. Display of Certificates of License.
The certificates of license shall be displayed in a prominent place on each taxicab while it is in use.

Sec. 25-26.1. Term of license.
Licenses to engage in the business of operating a taxicab within the City shall be the same as the fiscal year of the City (May 1 to April 30).

Sec. 25-27. Replacement of vehicles.
If a taxicab is withdrawn from service and another taxicab replaces the one withdrawn, the licensee shall notify the Clerk who shall issue a certificate of license for such replacement taxicab without additional charge to the licensee.

Sec. 25-28. Notice of vehicle identification number, state registration number.
The licensee shall notify the Clerk of the vehicle identification number and state registration number of each cab operated and of the corresponding City vehicle sticker number.

Sec. 25-29. RESERVED. (MC-96-658)

Sec. 25-30. Requirements for vehicles.

(a) No taxicab shall be operated unless it bears a state license duly issued; and no such cab shall be operated unless it is equipped with proper brakes, lights, tires, horn, muffler, rear vision mirror, and windshield wiper in good condition.

(b) No taxicab shall be operated unless it has passed semi-annual inspection and examination by as certified inspection agency. Following said semi-annual inspection, certification of safety shall be provided to the City Clerk and shall be so noted on the certificate of license when issued. (MC-96-658)

(c) If the inspection/examination shows the taxicab is not in a safe mechanical condition, it shall not be operated on the streets of the City until it has been repaired, submitted to a retest at an approved testing station and a current Certificate of Safety is issued.

(d) At the time of application for a City license, a copy of the Certificate of Safety then in effect shall be filed with the City Clerk. No City license shall be issued without the filing of the copy of the Certificate of Safety. (MC-96-658)
Sec. 25-31. Marking of vehicles.
Each taxicab, except limousines, while operated, shall have on each side, in letters readable from a distance of twenty feet, the name of the licensee operating it. If more than one cab is operated by a licensee each cab shall be designated by a different number, and such number also shall so appear on each side of such cab.

Sec. 25-32. Drivers to be licensed.
No person shall drive a taxicab unless he shall have secured a license therefor, as provided by the Statutes of the State of Illinois. No person shall drive a taxicab until he has exhibited such license to the Chief of Police or his designee who will issue a certificate that the applicant has complied with the provisions of this Article.

Sec. 25-33. Conduct of drivers.
It shall be unlawful for any driver of a taxicab while on duty to drink any intoxicating liquor, or to use any profane or obscene language, to shout or call to prospective passengers, or to disturb the peace in any way.

Sec. 25-34. List of drivers required.
The licensee shall submit a list of drivers to the City Clerk semi-annually.

Sec. 25-35. Bond or insurance required.
No taxicab shall be operated unless it is covered by a bond or public liability policy as required by statute.

Sec. 25-36. Obedience to traffic rules.*
It shall be the duty of every driver of a taxicab to obey all traffic rules established by statute or ordinance.

Sec. 25-37. Use in perpetration of crime.
It shall be unlawful to knowingly permit any taxicab to be used in the perpetration of a crime or misdemeanor.

Sec. 25-38. Duty to accept passengers.
It shall be the duty of the driver of any taxicab to accept as a passenger any person who seeks to so use the taxicab, provided such person is not intoxicated and conducts himself in an orderly manner. No person shall be admitted to a taxicab occupied by a passenger without the consent of the passenger.

Sec. 25-39. Route to be direct.
The driver shall take his passenger to his destination by the most direct available route from the place where the passenger enters the cab.

* Cross Reference - Traffic regulations generally, Ch. 13.
MUNICIPAL CODE
CHAPTER 26
WATER AND SEwers* (MC-89-473; MC-08-953)

ARTICLE I. WATER
DIVISION 1. GENERALLY

Sec. 26-0 Combined Waterworks and Sewerage System; (MC-99-730) Definitions (MC-15-1115)
Pursuant to 65ILCS 5/139-1 et seq., the City’s waterworks and sanitary sewerage treatment facilities are a
combined waterworks and sewerage system. The following definitions shall apply to the various articles and
divisions of this Chapter 26.

CLASS 1 USES: These uses shall consist of residential, commercial, industrial, condominium and
apartment uses.

CLASS 2 USES: These uses shall consist of nursing home, congregate care and hospital uses.

CLASS 3 USE: The sole use within this class is the property located at 1401 North Avenue, McHenry,
Illinois.

COMMERCIAL USER: A user whose property, location or operation consists of transit lodging, retail
or wholesale establishments or places engaged in selling merchandise or rendering services.

DEBT SERVICE CHARGE: The amount to be paid each billing period for payment of outstanding
interest, principal and coverage of a loan, bond, etc.

INDUSTRIAL USER: A user whose property, location or operation involves manufacturing activities
involving the mechanical or chemical transformation of materials of substance into products.

RESIDENTIAL USER: All dwelling units such as houses, mobile homes, apartments and permanent
multi-family home dwellings which are connected and able to utilize water through a meter from the
City’s waterworks system.

UNIT: Each building or part thereof for which a certificate of occupancy has been issued by the City.

USER: Each residential dwelling unit (whether in a single-family, duplex or multi-family residential
building), or a commercial, industrial or other building unit, which utilizes water through a meter from
the City’s water system or contributes, causes or permits the contribution of wastewater into the City’s
public sewer. (Transient guest rooms in motels and hotels and patient rooms in hospitals, congregate
care facilities and nursing homes shall not be considered residential units.)

Sec. 26-1. Compliance with plumbing regulations.
No water shall be turned on for service in premises where plumbing has not been installed in full compliance
with the requirements in regard thereto as set forth in City ordinances; provided, however, that water for use in
construction work in unfinished buildings or buildings being remodeled may be supplied subject to the
provisions of this Article.
Sec. 26-2. Permits, notice required for connections; fees, supervision, inspection.**

(a) No connection with a water main shall be made without a permit being issued and 24 hours notice having been given to the City. All such connections shall be inspected by and made under the supervision of the City Plumbing Inspector. Application for permits to make such connections shall be made to the Building Officer.

(b) A charge, consisting of a permit fee and of the cost of the water meter supplied by the City, shall be payable to the City at the time application is made for a connection permit:

<table>
<thead>
<tr>
<th>SIZE OF WATER METER</th>
<th>PERMIT FEE</th>
<th>WATER METER</th>
</tr>
</thead>
<tbody>
<tr>
<td>5/8 by ¾ inch</td>
<td>250.00</td>
<td>225.00</td>
</tr>
<tr>
<td>1 inch</td>
<td>250.00</td>
<td>325.00</td>
</tr>
<tr>
<td>1 ½ inch</td>
<td>250.00</td>
<td>600.00</td>
</tr>
<tr>
<td>2 inch</td>
<td>250.00</td>
<td>2050.00</td>
</tr>
<tr>
<td>3 inch</td>
<td>250.00</td>
<td>2500.00</td>
</tr>
<tr>
<td>4 inch</td>
<td>250.00</td>
<td>3700.00</td>
</tr>
<tr>
<td>6 inch</td>
<td>250.00</td>
<td>5100.00</td>
</tr>
</tbody>
</table>

* Cross Reference - Plumbing regulations, Sec. 7-46 et seq.; development in special flood hazard areas, Ch. 8.

** Cross Reference - Permits generally, Ch. 12

(c) All water service lines having a diameter of less than 3 inches shall be made of type K copper, shall consist of a continuous uncut length of copper pipe between the two terminal ends and shall be connected with flared or compression couplings, except at the valve prior to water meter which must be flared. The use of sweated joints, lead pipe and lead solder is prohibited.

(d) All water service lines having a diameter of three or more inches shall be made of polyethylene encased ductile iron, or C900 PVC or approved equal, with a #10 insulated locating wire, and shall be connected with push-on or mechanical joints.

(e) All water meters shall be installed with shut-off valves on both the inlet and on the discharge sides of the meter.

(f) The installation of water meters inside of crawl spaces is prohibited.

(g) All water meters installed pursuant to this Ordinance shall be the property of the City.

Sec. 26-2.1. Fire sprinkler system permit fees; monitoring water usage. (MC-90-533)

(a) No connection of a fire sprinkler system to a water main shall be made without a permit being issued and 24 hours notice having been given to the City. All such connections shall be inspected by and made under the supervision of the City Plumbing Inspector. Application for permits to make such connection shall be made to the Construction and Neighborhood Services Department.
(b) All fire sprinkler systems shall have a ¾-inch water meter which reads in gallons per minute installed at a location designated by the Building Officer as a bypass for the purpose of monitoring water leaks and water usage of the sprinkler system.

(c) A charge, consisting of a $50 permit fee shall be payable to the City at the time application is made for a fire sprinkler connection permit.

Sec. 26-3. Who may turn on service.
No water from the municipal water supply system shall be turned on for service into any premises by any person other than the Director of Public Works, or his designee.

Sec. 26-4. Resale prohibited.
No water shall be resold or distributed by the recipient thereof from the municipal supply to any premises other than that for which application has been made and the meter installed, except in the case of an emergency.

Sec. 26-5. Tampering.
It shall be unlawful for any person not authorized by the City to tamper with, alter or injure any part of the City waterworks or supply system, including water meters.

Sec. 26-6. Municipal water service outside City.
Municipal water service may be made available to premises located outside the City corporate limits at the discretion of the Council when approved by three-fourths vote of all members of said Council. In the event such service is furnished, the user, connection and Capital Development fees, rates and charges therefore shall be one and one-half times the fees, rates and charges established in this Article for such service provided within the City corporate limits. Further, the extension of the water main facilities and service lines shall be at the sole cost and expense of the user and the specifications and installation thereof shall be in accordance with the ordinances of the City and shall be subject to the approval of the Director of Public Works.

Sec. 26-7. Outdoor limitation on the use of water.(MC-14-1088)
A. Purpose: Based on research from the Illinois State Water Survey, the Chicago Metropolitan Agency for Planning, local counties and other organizations, City of McHenry recognizes that potable water is a finite natural resource; that communities within the Northwest Water Planning Alliance rely on shared groundwater and river water sources; and, that water conservation is a necessary component of a sustainable water supply.
B. Definitions: The following words and phrases when used in this section shall, for the purposes of this section, have the following meanings:
   CITY : City of McHenry
   DRIP IRRIGATION SYSTEM: An IRRIGATION SYSTEM that saves water by allowing water to drip slowly to the roots of plants, either onto the soil surface or directly onto the root zone. Such systems include but are not limited to soaker hoses.
   HANDHELD WATERING DEVICE: A means of watering that requires the watering device to be held in order to operate, including watering cans, buckets, and hoses equipped with automatic shutoff valves. This also includes the handheld use of a hose, provided it is continuously attended.
HARVESTED RAINWATER: Water that is accumulated and stored during times of precipitation, such as through rain barrels and cistern systems, is prevented from entering the storm water treatment system, and is redirected for reuse onsite.

IRRIGATION SYSTEM: A system consisting of pipes, valves and sprayers connected to the potable water supply to manually or automatically irrigate lawns or landscaping.

LANDSCAPE: The area of the property planted with vegetation other than grass.

LAWN: The area of the property planted with grass.

LAWN SPRINKLER: A device attached to a hose designed to allow for the unattended watering of lawns or landscaping, but does not include a drip irrigation system.

LAWN WATERING: Any means or methods of applying water to a lawn.

NORTHWEST WATER PLANNING ALLIANCE (NWPA): An interjurisdictional alliance of five counties, five councils of government, and roughly 80 municipalities that collaborate and cooperate on regional water resource planning issues, particularly concerning shared groundwater aquifer resources.

PERSON: Any individual, firm, partnership, association, corporation, company, organization or entity of any kind.

RECLAIMED GREYWATER: Water that is produced by treating onsite wastewater generated by household activities, such as laundry, dishwashing, and bathing, is prevented from entering the municipal wastewater treatment system, and is redirected for reuse onsite.

RECYCLED EFFLUENT: Water that was formerly municipal wastewater and has been treated to remove solids and impurities for reuse for non-potable purposes.

C. Application Of Regulations:

1. The provisions of this section shall apply to any person using water within the City of McHenry and:
   a. the property is supplied by the City of McHenry’s water system, regardless of whether:
      i. the property is located within the municipal boundaries of the City of McHenry or
      ii. the person using the water has a contract for service with the City of McHenry

2. The provisions of subsection (D) of this section shall apply year-round, subject to any modifications thereof, including application of these or other regulations during this or any other time, by an emergency proclamation.

D. Permitted Hours And Days For Specified Uses:

1. All persons using water shall adhere to the following schedules for lawn sprinkling also known as Condition “Green”:
   a. All properties with even numbered street addresses (i.e., numbers ending in 0, 2, 4, 6 or 8) may use water for lawn sprinkling only on even numbered calendar dates.
   b. All properties with odd numbered street addresses (i.e., numbers ending in 1, 3, 5, 7 or 9) may use water for lawn sprinkling only on odd numbered calendar dates.
   c. All properties which cannot be readily identified as having even-or odd-numbered street addresses are hereby designated as even-numbered for water conservation purposes.
   d. No property will be allowed to use water for lawn sprinkling on July 31 and August 31 of the calendar year.
2. All persons using water shall adhere to the following schedules for outdoor water use also known as Condition “Yellow”:
   a. All properties with even numbered street addresses (i.e., numbers ending in 0, 2, 4, 6 or 8) may use outdoor water only on even numbered calendar dates between the hours of six o'clock (6:00) A.M. and nine o'clock (9:00) A.M., or six o'clock (6:00) P.M. and nine o'clock (9:00) P.M.
   b. All properties with odd numbered street addresses (i.e., numbers ending in 1, 3, 5, 7 or 9) may use outdoor water only on odd numbered calendar dates between the hours of six o'clock (6:00) A.M. and nine o'clock (9:00) A.M., or six o'clock (6:00) P.M. and nine o'clock (9:00) P.M.
   c. All properties which cannot be readily identified as having even-or odd-numbered street addresses are hereby designated as even-numbered for water conservation purposes.
   d. No property will be allowed to use water for outdoor water use on July 31 and August 31 of the calendar year.
3. All persons using water shall adhere to the following schedules for outdoor water use also known as Condition “Red”:
   a. All outdoor use from the City’s water supply is prohibited.
4. There shall be no restrictions as to hours or days when water may be used for any of the following:
   a. Lawn watering where such watering is done using reclaimed greywater, recycled effluent, or harvested rainwater.
5. There shall be no restrictions under the Condition “Green” as to hours or days when outdoor water use may be used for any of the following:
   a. The watering of landscape, such as trees, shrubs, flowers and gardens, with a handheld hose not larger than one-inch diameter or by means of an automatic root feed or drip irrigation system;
   b. Lawn watering where such watering is done with the proper, attended use of a handheld watering device;
   c. Vehicle or equipment washing, provided that all water hoses are equipped with positive shutoff nozzles; or
   d. Any other lawful use of water such as bathing, clothes washing, or other normal household uses not otherwise specifically restricted by the provisions of this section.

E. Waste of Water Prohibited: No person shall allow a continuous stream of water to run off into any gutter, ditch, drain, or street inlet, nor shall a person spray or sprinkle streets or sidewalks.
F. Exceptions: The provisions of this section shall not apply to any commercial or industrial entity for which the use of water is necessary to continue normal business operations, or to maintain stock or inventory. This exception shall not apply to any uses of water not essential to normal business operations or maintenance of inventory or stock, and specifically shall not apply to lawn watering.
G. Emergency Proclamation: Whenever the water supply is diminished from any cause, including, but not limited to, prolonged dry period or drought, increased water demand, equipment failure, or water quality concerns, to an amount which in the opinion of the Director of Public Works is or is likely to become dangerous to the health and safety of the public, the City Administrator is hereby authorized and empowered to issue an emergency proclamation specifying different or additional regulations on the use of water.

1. In the case of regional dry periods or drought, the City Administrator shall take into account the recommendations of the regional water supply planning group, the Northwest Water Planning Alliance (NWPA), on making the decision to issue an emergency proclamation.

H. Authority: The authority to prohibit and further regulate the sprinkling of lawns, shrubbery and gardens shall be expressly reserved and may be amended from time to time, as necessary, by the Mayor and City Council.

I. Violation And Penalty:

1. Any person, firm or corporation who violates, disobeys, neglects, and fails to comply with or resists enforcement of any section of Article 26-7 of the City Code shall be subject to a fine not less than $50.
2. Each day a violation occurs or continues shall be considered a separate violation for purposes of this section.
3. In addition to penalties provided herein, the city may recover reasonable attorney fees, court costs, court reporter fees and other expenses of litigation.

J. Signs: The City of McHenry shall cause signs to be posted in conspicuous public places at entrances to the city, as well as posting information on the city website, advising residents of the watering conditions then in effect.

Sec. 26-8 – 26-14. Reserved.

DIVISION 2. SERVICE PIPES

Sec. 26-15. Responsibility for installation; supervision.
All service lines from the mains to the water distribution system of any premises shall be installed by and at the sole cost and expense of the owner of the property to be served or the applicant for the service. Such installation shall be inspected by and made under the supervision of the City Plumbing Inspector. Said owner shall extend the public water in said street, alley, easement or right-of-way to the furthest portion of said premises as determined by the Director of Public Works. (MC-89-511; MC-94-610)

Sec. 26-16. Specifications for pipes.*
No service pipe shall be installed unless it is in conformity with specifications drawn up or approved by the Director of Public Works.

Sec. 26-17. Maintenance responsibilities.
The City has no obligation to repair service pipes or plumbing systems of any buildings provided however that only authorized personnel of the City may repair water meters serving any premises. The City may, in case of emergency, repair any service pipe and, if this is done, the cost of such repair work shall be paid by the owner of the premises served immediately upon receipt of a request to do so from the City.


* Cross Reference - Permits, notice required for connections; fees, supervision, inspection, Sec. 26-2.
DIVISION 3. METERS AND CHARGES

Sec. 26-20. Meters required.
(a) Occupancy prohibited unless premises have metered water. No Occupancy Permit shall be granted to any premises using the City water supply until a water meter has been installed thereon as required by this Article.

(b) Meters required. All premises using the City water supply must be equipped with a water meter furnished by the City.

(c) Unmetered water system acquired by City. Where an unmetered water distribution system is acquired by the City and added to its combined sewer and waterworks system, a water meter, furnished by the City, shall be installed by the owner of each unmetered premises. The owner of the premises furnished by such meter shall pay to the City its costs for such water meter in accordance with the CHARGE FOR COST OF WATER METER schedule in Section 26-2(b).

Sec. 26-21. Location of meters; easy opening; by-pass.
(a) Location of meters. Meters shall be placed in a location of easy access to the Public Works Department and shall be installed, subject to the approval of the Public Works Department, in such a manner that any part of such meter may be removed without having to remove it from the water line to which it is attached; the owner shall provide a proper opening in the piping provided with the necessary valves, couplings, unions and by-pass required to install the meter. (MC-89-489)

(b) Meter by-pass. Where any water meter two inches or larger is to be installed, there shall be an approved lockable by-pass valve, minimum one-inch in size. The valve on said by-pass shall be locked by City Public Works Water Division personnel and in no case shall said lock be removed without first notifying the Director of Public Works.

Sec. 26-22. Installation, repair and replacement charges and fees.
(a) Meter replacement and repairs. The cost of meter replacement and repairs shall be paid out of the system generated revenues, except as required in Section 26-22.

(b) Meter repairs. Property owners shall bear the entire expense of all repairs on water meters on their premises due to freezing or from any other cause owing to the negligence of the said property owner or his tenant. The repairs shall be made by the City and the cost thereof shall be billed to and paid by the property owner as herein required.

(c) Replacement and testing program. The Director of Public Works shall initiate and maintain a program to replace all water meters on a cycle as determined by the Director of Public Works. All water and/or sewer users using a water meter which is receiving water and/or discharging wastewater in excess of 750,000 gallons per year shall have their water/sewer meter tested for accuracy as determined by the Director of Public Works.
Sec. 26-23. Reading Meters.
(a) Duty of Finance Director. The Finance Director shall cause every water meter used in the City to be read at such time or times as are necessary so that water bills may be sent out at the proper time.

(b) Right of Access to Premises. The City, its servants, agents and employees shall have a continuing right of access to premises which are served with municipal water for the purpose of reading water meters and also for the purpose of inspecting, repairing, installing, modifying and replacing water meters. The water supply to any premises may be shut off whenever access has been hindered or denied by the user and/or owner. In addition to such water shut off, any person, firm, or corporation violating this subsection shall be fined not less than $25.00 nor more than $750.00 for each day during, or on which such access to the premises has been prevented.

Sec. 26-24. Waterworks User rates. (MC-90-548; MC-92-582; MC-94-625; MC-97-694; R-01-001; R-01-026; R-02-023; R-03-014; R04-014; R-05-026; R-06-016; R-07-019; R-08-013; R-09-001; R-09-023; R-10-023; R-12-001; R-13-001; R-14-00; MC-15-1115; MC-17-1149).

(a) The following user service rates are established for the use of and for the service supplied by the City waterworks system which shall be billed on a bi-monthly basis.

(b) Water user rates shall be as follows on or and after August 1, 2017:

Within the corporate limits of the City:
- Class 1 uses: $3.34 per 1,000 gallons; and
- Class 2 uses: $3.58 per 1,000 gallons.

Outside corporate limits of the City:
- Class 1 uses: $5.01 per 1,000 gallons; and
- Class 2 uses: $5.37 per 1,000 gallons.

In addition, each user within the City’s corporate limits shall pay a $2.00 base charge with each bi-monthly invoice which shall be applied to operations and maintenance and capital costs associated with the City’s waterworks system. Each user outside the City’s corporate limits shall pay a $3.00 base charge with each bi-monthly invoice which shall be applied to operations and maintenance and capital costs associated with the City’s waterworks system. In the event that a user’s water account with the City is inactive, such user shall nonetheless still be billed for such base charge even in the absence of any use of water.

In the event that City water is being utilized through a single water meter with more than one different category of user, the type of user category utilizing the largest percentage of water at such location shall be the category on which the applicable rate for such category shall be paid for all such water utilized at such location, despite other, different categories of users utilizing water through such meter.

(c) Metered usage shall be read by the City to the lowest even increment of 1,000 gallons.

(d) In the case of an apartment, commercial and industrial buildings having more than one rental unit, each or some of which contain water service facilities, the bi-monthly rate paid for city water shall be not less than 4,000 gallons per unit for each rental unit in such building, or the metered rate for the entire building, whichever is greater. In the case of motels and hotels which do not provide apartment rentals, nursing homes, hospitals and congregate care facilities, the bi-monthly rate shall be the metered rate for the entire building (MC-04-855).
All water charges shall be collected by the Finance Director. The owner of the premises, the occupant thereof and the user of the service shall be jointly and severally liable to pay for the service on such premises, and the service is furnished to the premises by the City upon the condition that the owner of the premises, occupant and user of the service are jointly and severally liable therefore to the City of McHenry.

**Water Sold in Bulk:** Effective September 1, 2002 and thereafter, the rates for water sold in bulk shall be as follows:

<table>
<thead>
<tr>
<th>Gallons</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>500</td>
<td>$25</td>
</tr>
<tr>
<td>1,000</td>
<td>$50</td>
</tr>
<tr>
<td>2,000</td>
<td>$75</td>
</tr>
</tbody>
</table>

Tickets for water to be sold in bulk may be purchased from the City’s Administration Offices during normal business hours (MC-02-804)

Bulk loading times and locations to be determined by the Director of Public Works.

**Sec. 26-25. Reserved.** *(Rates in Lakeland Park/Shores Repealed 5-2-92)*

**Sec. 26-26. Billing and collection.**

(a) Charges for water services shall be rendered bi-monthly by the Finance Director.

(b) All water rates shall be collected by the Finance Director except as hereinafter provided and all persons shall pay their bills for water consumed on or before the twentieth day after bi-monthly bills are mailed. Payment of bills for such bi-monthly periods after the twentieth day that bills are mailed shall subject the user to a penalty of 10% of the amount of the unpaid bill. Payment of bills for such bi-monthly periods after the forty-second day that bills are mailed shall subject the user to another penalty of 10% of the amount of the unpaid bill. (MC-95-634)

**Sec. 26-27. Terminating service for nonpayment; turn-on service charge.**

(a) The water supply may be shut off from any premises for which the water bill remains unpaid for 30 days after the bill is mailed. (MC-89-479)

(b) The procedures for terminating water service shall be the same as the procedures set forth in Section 26-148 for terminating sewer service provided that the Notices, etc., shall refer to water instead of sewer.

(c) Where City water service is shut off for nonpayment, tampering or for any other reason, there shall be no restoration of such water service until the user has first paid all unpaid City water charges, including the costs of making the disconnection and all costs for labor and materials.

(d) In addition, there shall be a water service turn-on charge of $70.00 if the service is turned-on during normal working hours of the Water Division personnel, to wit, 7:00 a.m. to 3:00 p.m. Monday through Friday.

(e) If water service turn-on is requested by the user outside of normal working hours of the Water Division personnel, the turn-on fee shall be $100.00. (MC-96-652; MC-04-855)

**Sec. 26-28. Lien declared; notice.**

(a) Charges for water shall be a lien upon the premises as provided by statute. Whenever a bill for water service remains unpaid 60 days after it has been rendered, the City Clerk may file with the Recorder of Deeds of McHenry County a statement of lien claim. This statement shall contain the legal description of the premises served, the amount of the unpaid bill, and a notice that the City claims a lien for this amount as well as for all charges for water served subsequent to the period covered by the bill.
(b) If the consumer of water whose bill is unpaid is not the owner of the premises, and the City Clerk has notice of this, then notice shall be mailed to the owner of the premises, if his address is known to the City Clerk, whenever such bills remain unpaid for a period of 60 days after they have been rendered.

c) The failure of the City Clerk to record such a lien claim or to mail such notice, or the failure of the owner to receive such notice, shall not affect the right to foreclose the lien for unpaid water bills as provided in the following Section.

Sec. 26-29. Foreclosure of lien.
(a) Property subject to a lien for unpaid water charges shall be sold for nonpayment of the same, and the proceeds of such sale shall be applied to pay the charges, after deducting costs, as is the case in the foreclosure of statutory liens. Such foreclosure shall be by bill in equity in the name of the City.

(b) The City Attorney is hereby authorized and directed to institute such proceedings, in the name of the City, in any court having jurisdiction over such matters, against any property for which the water bill has remained unpaid 60 days after it has been rendered.

(a) During the construction of any building and before any water has been turned on or before any water meter is installed as is herein provided, the contractor so constructing such building may be permitted to use the property’s water service by previously making application therefore to the Director of Public Works or his designee and by paying a deposit for a water meter, as listed below, to measure the construction water usage on the construction site. Water shall not be turned on until inspected and approved by City Plumbing Inspector.

(b) The contractor shall pay the City the sum of $4.10 for each 1,000 gallons, or fraction thereof, of water used in connection with the construction project as measured by said water meter.

c) The deposit shall be refunded when the water meter is disconnected by the City and is found to be in good working condition. If for any reason the meter is lost or has to be repaired, the cost of repair or replacement shall be deducted from the deposit. Any deficiency shall be paid by the contractor. (MC-96-655)

<table>
<thead>
<tr>
<th>METER SIZE</th>
<th>AMOUNT OF DEPOSIT</th>
</tr>
</thead>
<tbody>
<tr>
<td>5/8 by 3/4 inch</td>
<td>$225.00</td>
</tr>
<tr>
<td>1 inch</td>
<td>$325.00</td>
</tr>
<tr>
<td>1½ inch</td>
<td>$600.00</td>
</tr>
<tr>
<td>2 inch</td>
<td>$2050.00</td>
</tr>
<tr>
<td>3 inch</td>
<td>$2400.00</td>
</tr>
</tbody>
</table>

Secs. 26-31 - 26-34. Reserved.

DIVISION 4. PRIVATE WATER WELLS AND SUPPLIES.

Sec. 26-35. Private water wells prohibited if public supply available.
No person shall be permitted to utilize water from any source other than the municipal water distribution system where an existing municipal water main is located on the subject premises, or within an easement adjacent thereto, or within a road right-of-way adjacent thereto.

Sec. 26-36. Connection upon extension of City water mains required.
Within one year after any municipal water main is installed upon any premises, or adjacent thereto as described in Section 26-35 hereof, the owner shall, at his own expense, install and commence the use of a service line connecting the municipal water main to the water distribution system of the subject premises. All such installations of service line facilities shall be subject to the prior approval of and inspection by the Director of Public Works.
Sec. 26-37. County well permit.
The installation of all private wells shall be made pursuant to a well permit issued by the County of McHenry and in accordance with the ordinances, rules and regulations thereof which are hereby adopted and incorporated herein by reference.

Sec. 26-38. Occupancy permits.
No occupancy permit shall be issued for any premises until the owner has furnished a written statement from the McHenry County Health Department to the City stating that the private water well has been installed thereon in compliance with the County ordinance, rules and regulations.

Secs. 26-39 - 26-44. Reserved.

DIVISION 5. RESERVED

Secs. 26-45 - 26-59. Reserved.
DIVISION 6. CROSS-CONNECTION CONTROL

Sec. 26-60. Installation according to Plumbing Code.
All plumbing installed within the City of McHenry shall be installed in accordance with the Illinois State Plumbing Code, 77 IL. Adm. Code 890. That, if in accordance with the Illinois State Plumbing Code or in the judgment of the Director of Public Works or his authorized representative, an approved backflow prevention device is necessary for the safety of the public water supply system, the Director of Public Works will give notice to the water customer to install such an approved device immediately. The water customer shall, at his own expense install such an approved device at a location and in a manner in accordance with the Illinois State Plumbing Code and all applicable local regulations, and shall have inspections and tests made of such approved devices upon installation and as required by the Illinois State Plumbing Code and local regulations.

Sec. 26-61. Approval of connection.
No person, firm or corporation shall establish or permit to be established or maintain or permit to be maintained any connection whereby a private, auxiliary or emergency water supply other than the regular public water supply of the City of McHenry enters the supply or distribution system of the City, unless such private, auxiliary or emergency water supply and the method of connection and use of such supply shall have been approved by the Director of Public Works and the Illinois Environmental Protection Agency.

Sec. 26-62. Surveys and investigations.
It shall be the duty of the Director of Public Works to cause surveys and investigations to be made of industrial and other properties served by the public water supply to determine whether actual or potential hazards to the public water supply may exist. Such surveys and investigations shall be made a matter of public record and shall be repeated at least every two years, or as often as the Director of Public Works shall deem necessary. Records of such surveys shall be maintained and available for review for a period of at least five years.

Sec. 26-63. Right to enter premises.
The Director of Public Works or his authorized, qualified agent shall have the right to enter at any reasonable time any property served by a connection to the public water supply or distribution system of the City of McHenry for the purpose of verifying the presence or absence of cross-connections, and that the Director of Public Works or his authorized agent shall have the right to enter at any reasonable time any property served by a connection to the public water supply or distribution system of the City of McHenry for the purpose of verifying information submitted by the customer regarding the required cross-connection control inspection. On demand, the owner, lessees or occupants of any property so served shall furnish to the Director of Public Works any information which he may request regarding the piping system or systems or water use on such property. The refusal of such information, when demanded, shall, within the discretion of the Director of Public Works be deemed evidence of the presence of improper connections as provided in this ordinance.
Sec. 26-64. Termination of water service upon violation or contamination.
The Director of Public Works is hereby authorized and directed to discontinue, after reasonable notice to the
occupant thereof, the water service to any property wherein any connection in violation of the provisions of this
ordinance is known to exist, and to take such other precautionary measures as he may deem necessary to
eliminate any danger of contamination of the public water supply distribution mains. Water service to such
property shall not be restored until such conditions have been eliminated or corrected in compliance with the
provisions of this ordinance, and until a reconnection fee of $500.00 is paid to the City of McHenry. Immediate
disconnection with verbal notice can be effected when the Director of Public Works is assured that imminent
danger of harmful contamination of the public water supply system exists. Such action shall be followed by
written notification of the cause of disconnection. Immediate disconnection without notice to any party can be
effected to prevent actual or anticipated contamination or pollution of the public water supply, provided that, in
the reasonable opinion of the Director of Public Works or the Illinois Environmental Protection Agency, such
action is required to prevent actual or potential contamination or pollution of the public water supply. Neither
the Public Water Supply, the Director of Public Works, 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 ordinance, whether or not said termination was with or without notice.

Sec. 26-65. Responsibility for clean-up of water supply system.
The consumer responsible for back-siphoned material or contamination through backflow, if contamination of
the potable water supply system occurs through an illegal cross-connection or an improperly installed,
maintained or repaired device, or a device which has been bypassed, must bear the cost of clean-up of the
potable water supply system.


ARTICLE II. SEWERS.
DIVISION 1. GENERALLY

Sec. 26-70. Definitions.
Administrator - The Administrator of the U.S. Environmental Protection Agency and the Director of the
Illinois Environmental Protection Agency.

Basic User Charge - The amount to be paid each billing period by all public sewer users for payment of
operation and maintenance costs plus replacement of the sewerage works of the City.

BOD$_5$ - Biochemical oxygen demand which is defined as the quantity of oxygen required to stabilize
biodegradable organic matter under aerobic conditions within a five-day period in accordance with the latest
edition of “Standard Methods for the Examination of Water and Wastewater”.

Building Drain - That part of the lowest piping of a drainage system which receives the discharge from soil,
waste, and other drainage pipes inside the walls of a building and conveys it to the building sewer or other
approved point of discharge, beginning five feet (1.5 meters) outside the inner face of the building wall.
Building Sewer - The extension from the building drain to the public sewer or other place of disposal.

Capital Improvement Charge - The amount to be paid each billing period by all unincorporated sewer users for recovery of capital costs which are not otherwise recoverable from such users.

City - The City of McHenry, McHenry County, Illinois.

Combined Sewer - A sewer which is designed and intended to receive wastewater, storm, surface, and groundwater drainage.

Commercial User - shall include transit lodging, retail and wholesale establishments or places engaged in selling merchandise, or rendering services. (MC-89-497)

Control Manhole - A structure specifically designed and constructed for sampling and metering industrial wastes discharged to a public sewer.

Debt Service Charge - The amount to be paid each billing period for payment of interest, principal and coverage of (loan, bond, etc.,) outstanding.

Director - The Director of Public Works of the City or his duly authorized deputy or representative.

Easement - A legal right for the specific use of land owned by others.

Effluent Criteria - See applicable "NPDES Permit" for definition.

Federal Act - The Federal Water Pollution Control Act (33 U.S.C. 1251 et seq) as amended by the Federal Water Pollution Control Act of Amendments of 1972 (Public Law 92-500) and (Public Law 93-243).

Floatable Oil - Oil, fat or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. A wastewater shall be considered free of floatable fat if it is properly pretreated and the wastewater does not interfere with the collection system.

Garbage - Solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage and sale of produce.

Industrial Users - shall include establishments engaged in manufacturing activities involving the mechanical or chemical transformation of materials of substance into products. (MC-89-497)

Industrial Waste - The wastewater discharged, permitted to flow, or escaping from any industrial, manufacturing, commercial or business establishment or process, or from the development, recovery or processing of any natural resource as distinct from employees’ wastes or wastewater from sanitary convenience.
**Institutional/Governmental User** - shall include schools, hospitals, churches, penal institutions, and users associated with Federal, State and local governments. (MC-89-497)

**Maintenance** - shall mean all manner of activity required, including, but not limited to, labor, supply, contract repair work and administrative requirements to maintain the works, assets and property of the City for the purpose of insuring its continued and uninterrupted operation.

**Major Contributing Industry** - shall mean an industrial user of the publicly owned treatment works that:
- (a) has a flow of 50,000 gallons or more per average work day; or
- (b) has a flow greater than 10% of the flow carried by the municipal system receiving the waste; or
- (c) has in its waste, a toxic pollutant in toxic amounts as defined in standards issued under Section 307(a) of the Federal Act; or
- (d) is found by the permit issuing authority, in connection with the issuance of the NPDES permit to the publicly owned treatment works receiving the waste, to have significant impact, either singly or in combination with other contributing industries, or that treatment works or upon the quality of effluent from that treatment works. (MC-89-497)

**mg/l** - Means milligrams per liter, a unit of the concentration of water or wastewater constituent used in reporting the results of water and wastewater analysis. One milligram per liter is 0.001 gram of the constituent in 1,000 milliliters of water.

**Natural Outlet** - Any outlet into a water course, pond, ditch, lake, or other body of surface water.

**NPDES Permit** - Any permit or equivalent document or requirements issued by the Administrator, or, where appropriated by the Director, after enactment of the Federal Clean Water Act to regulate the discharge of pollutants pursuant to Section 402 of the Federal Act.

**Operation** - Shall mean all manner of activity required, including but not limited to, labor, electrical power, fuel, chemicals, supplies, depreciation and administrative requirements, to conduct properly the functions of collection, conveyance, treatment and disposal of wastewaters generated within the City.

**Ordinance** - Means this ordinance.

**Person** - Any and all persons, natural or artificial including any individual, firm, company, public or private corporation, association, society, institution, enterprise, governmental agency or other entity.

**pH** - The logarithm (base 10) of the reciprocal of the hydrogen-ion concentration expressed in gram molecular weight (moles) per liter.

**Population Equivalent** - A term used to evaluate the impact of industrial or other waste on a treatment works or stream. One population equivalent is expressed as (MC-89-497):
- 100 gallons of water per person per day; or
- 0.17 pounds of BOD₅ per person per day; or
- 0.21 pounds of total suspended solids per person per day.
ppm - Parts per million by weight.

Pretreatment - The treatment of wastewaters from sources before discharge into the public sewer.

Properly Shredded Garbage - Garbage that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewer, with no particle greater than ½ inch (1.27 centimeters) in any dimension.

Public Sewer - A sewer in which all owners of abutting properties have equal rights of connection and use, and is operated, maintained and controlled by the City.

Replacement - Shall mean the provision for and the installation of replacement equipment, accessories or appurtenances which are necessary during the useful life of the treatment works to maintain the capacity and performance for which such works were designed and constructed.

Residential User - shall mean all dwelling units such as houses, mobile homes, apartments, and permanent multi-family dwellings. (MC-89-497)

Sanitary Sewer - A sewer that conveys sewage and polluted industrial wastes, and to which stormwater, surface drainage, groundwater or unpolluted wastewater are not intentionally admitted.

Sewage - A combination of the wastewater from residential, commercial, industrial and institutional buildings together with such groundwater infiltration and surface water inflow that may be in the sewers.

Sewage Treatment Plant - An arrangement of devices, structures and process for treating sewage.

Sewer - A pipe or conduit for conveying sewage or any other wastewater, including storm water, surface water and groundwater drainage.

Sewerage Revenue Fund - The principal accounting designation for all revenues received in the operation of the sewerage works.

Sewerage Works - All facilities for collecting, pumping, treating and disposing of sewage and industrial wastes.

Sewer User Service Charge - the total amount to be paid each billing period by public sewer users including the basic user charge, the debt service charge, and the surcharge, if applicable.

Shall - Means mandatory; May - Means permissive.

Sludge - Any discharge of sewage, industrial waste or other wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer 15 minutes more than five times the average 24-hour concentration or flows during normal operation.
State Act - The Illinois Environmental Protection Act effective July 1, 1970 as amended.

Storm Sewer or Storm Drain - A sewer that conveys stormwater runoff and surface water drainage, but excludes sewage and polluted industrial wastes.

Stormwater Runoff - That portion of precipitation which is not absorbed into the ground and which is drained from the ground surface to a natural outlet or watercourse.

Surcharge - The amount to be paid each billing period by certain public sewer users in addition to the basic user charge and the debt service charge.

Suspended Solids - Solids that either float on the surface, or are in suspension in water, sewage, industrial wastes, or other wastewaters; the quantity of which is determined by standard laboratory filtering test procedures and referred to as non-filterable residue expressed in mg/l.

Unpolluted Wastewater - Wastewater that would not cause any violation of water quality standards of the Water Pollution Regulations of Illinois when discharged to a natural outlet or watercourse.

User - Any person who is the occupant of a residential dwelling unit (whether in a single family, duplex or multi-family residential building), or a commercial, industrial or other building unit, who contributes, causes or permits the contribution of wastewater into the City's public sewer. (Transient guest rooms in motels and hotels and patient rooms in hospitals, congregate care facilities and nursing homes shall not be considered residential units).

Useful Life - The estimated period during which components of the sewerage works will operate.

Wastewater - The wastewater from any domestic, commercial, industrial and institutional uses.

Watercourse - Any stream, creek, brook, branch, natural or artificial depression, slough, gulch, ditch, reservoir, lake, pond, or other natural or man-made drainageway in or into which stormwater runoff and surface water drainage flow either continuously or intermittently.

(a) The Director, the Illinois Environmental Protection Agency and the U.S. Environmental Protection Agency shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this Article. The Director is authorized to inspect and inquire into the metallurgical, chemical, oil, refining, ceramic, paper, manufacturing or other processes for the purpose of determining the kind and source of discharge into the sewers or waterways or facilities for waste treatment.
(b) While performing work on private properties referred to in Subsection (a), the Director, the Illinois Environmental Protection Agency and the U.S. Environmental Protection Agency shall observe all safety rules applicable to the premises established by the sewer user and the sewer user shall be held harmless for injury or death to the City employees and the City shall indemnify the sewer user against loss or damage to its property by City employees and against liability claims and demands for personal injury or property damage asserted against the sewer user and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the sewer user to maintain safe conditions as required in Section 26-128.

(c) The Director shall be permitted to enter all private properties through which the City has an easement for inspection, observation, measurement, sampling, repair or maintenance of any portion of the sewage works lying within said easement.

Sec. 26-72. Correction of violations.
Any person found to be violating any provision of this Article except Section 26-76 shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations. The City may revoke any permit for sewage disposal as a result of any violation of any provision of this Article.

Sec. 26-73. Connection required if sewer available.
The owner of any house, building, or property situated within the City and abutting on any street, alley, easement or right-of-way in which there is located a public sanitary sewer of the City is required at his sole expense to connect the sanitary sewer facilities thereof directly to the public sewer in accordance with the provisions of this ordinance, within one year after date of official notice to do so, provided that said public sewer is sited as per McHenry County Department of Public Health requirements. Said owner shall extend the public sewer in said street, alley, easement or right-of-way to the farthest portion of his premises, as determined by the Director of Public Works.

Sec. 26-74. Unsanitary deposits generally.
It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City, or in any area under the jurisdiction of the City, any human or animal excrement, garbage, or other objectionable waste.

Sec. 26-75. Treatment required.
It shall be unlawful to discharge to any natural outlet within the City, or in any area under the jurisdiction of the City, any improperly treated sewage or other polluted waters, except when otherwise authorized by an NPDES Permit.

Sec. 26-76. Damaging, tampering with facilities.
No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, machinery or equipment which is a part of the sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.
Sec. 26-77. Excavations.
The provisions of this Code relating to excavations in streets shall be complied with in making excavations in streets or other public places in connection with making sewer connections.

Sec. 26-78. Municipal sewer service outside City.
Municipal sanitary sewer service may be made available to premises located outside of the City corporate limits at the discretion of the City Council when approved by ¾ vote of all members of said Council. The connection and Capital Development Fees, and charges for such service shall be 1½ times the fees and charges established in this Article for service within the corporate limits. Further, the extension of the sewer main and service line shall be at the sole cost and expense of the user and the specifications and installation thereof shall be in accordance with City ordinances and shall be subject to the approval of the Director.

Sec. 26-79. Responsibility for installation; supervision.
All service lines from the sewer main to any premises shall be installed by and at the sole cost and expense of the owner of the property to be served or the applicant for the service. Such installation shall be inspected by and made under the supervision of the Director of Public Works. (MC-89-511; MC-94-610)

Sec. 26-80 Maintenance responsibilities.
The City has no obligation to repair service pipes, building drains, building sewers or plumbing systems of any buildings. The City may, in case of emergency, repair any service pipe, building drain or building sewer and, if this is done, the cost of such repair work shall be paid by the owner of the premises served immediately upon receipt of a request to do so from the City.

Sec. 26-81. Laboratory measurements, tests and analyses of Industrial Waters and Wastes.
The owner of any property serviced by a building sewer carrying industrial wastes shall provide laboratory measurements, tests and analyses of waters and wastes to illustrate compliance with this ordinance and any special conditions for discharge established by the City of McHenry or regulatory agencies having jurisdiction over the discharge. The number, type, and frequency of laboratory analyses to be performed by the owner shall be as stipulated by the City of McHenry, but not less than once a year the industry must supply a complete analysis of the constituents of the waste water discharge to assure that compliance with the Federal, State and City of McHenry standards are being met. The owner shall report the results of measurements and laboratory analyses to the City of McHenry at such times and in such a manner as prescribed by the City. The owner shall bear the expense of all measurements, analyses and reporting required by the City of McHenry. At such times as deemed necessary, the City of McHenry, reserves the right to take measurements and samples for analysis by an outside laboratory service. (MC-89-497)

Secs. 26-82 - 26-84. Reserved.
DIVISION 2. PRIVATE SEWAGE DISPOSAL

Sec. 26-85. Prohibited unless otherwise provided.
Except as herein provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

Sec. 26-86. Required if sewer not available.
Where a public sanitary or combined sewer is not available under the provisions of Section 26-73, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this Article.

Sec. 26-87. McHenry County permit required.
Before commencement of construction of a private sewage disposal system the owner shall first obtain a written permit from the appropriate McHenry County Department of Public Health authorities and file a copy thereof with the City’s Construction and Neighborhood Services Department.

Sec. 26-88. When permit effective; inspection.
A permit for a private sewage disposal system shall not become effective until the installation is completed in accordance with the ordinances and rules and regulations of the County of McHenry. The Building Officer shall be allowed to inspect the work at any stage of construction and, in any event, the owner shall notify the Building Officer when the work is ready for final inspection, and before any underground portions are covered.

Sec. 26-89. Occupancy permit.
No occupancy permit will be issued for any premises until and unless the owner thereof has filed with the Construction and Neighborhood Services Department a written statement from the appropriate McHenry County authorities that the private disposal system servicing said premises complies fully with all McHenry County ordinances, rules and regulations.

Sec. 26-90. Minimum permissible lot area for private sewage disposal system.
The type, capacity, location and layout of a private sewage disposal system shall comply with the rules, regulations and standards as established from time to time by the ordinances, rules and regulations of McHenry County.

No private sewage disposal system employing subsurface soil absorption facilities shall be permitted where the area of the premises is less than 21,000 square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

Sec. 26-91. Maintenance.
The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times.

Sec. 26-92. Abandonment when sewer becomes available.
At such time as a public sewer becomes available to a property served by a private sewage disposal system, the owner shall connect said system to the public sewer at the owner's sole cost and expense in compliance with this Division, and any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned, cleared of sludge and filled with sand, as required by the McHenry County Department of Public Health.

Secs. 26-93 - 26-100. Reserved.
DIVISION 3. BUILDING SEWERS AND CONNECTIONS

Sec. 26-101. Permits required.
No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Construction and Neighborhood Services Department.

Sec. 26-102. Reserved. (MC-91-556)

Sec. 26-103. Permit application.
(a) The owner or his agent shall make application for a permit on a form furnished by the City. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the Building Official, an industry, as a condition of permit authorization, shall provide complete information describing its wastewater constituents, characteristics, and type of activity.

(b) A building sewer permit will be issued and a sewer connection shall be allowed only if it can be demonstrated that the downstream sewerage works, including sewers, pump stations and wastewater treatment facilities, have sufficient reserve capacity to adequately and efficiently handle the additional anticipated waste load.

Sec. 26-104. Permit, inspection fee.
A permit and inspection fee in the amount of $250.00 shall be charged for each sanitary sewer connection and shall be paid at the time application for permit is filed. (MC-91-556; MC-94-616)

Sec. 26-105. Liability for costs; indemnification of City.
(a) All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner.

(b) The owner shall indemnify the City from any and all loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(c) Before a building sewer permit is issued, the plumber or sewer contractor shall file with the City Clerk a certificate of insurance covering Public Liability Insurance in the amount of $1,000,000 combined single limit for bodily injury and property damage, naming the City of McHenry as additionally insured.

Sec. 26-106. Standards and specifications for building sewers.
(a) The building sewer shall be schedule 40 PVC or SDR26, or other suitable materials approved by the Director.

(b) The building sewer shall not be less than 6-inch diameter size pipe installed at a minimum invert slope of 0.125 (1/8) inch per foot, or not less than 4-inch diameter size pipe in length of not less than 10 feet installed at a minimum invert slope of 0.25 (1/4) inch per foot. Building sewers shall be constructed in accordance with the requirements of the Director as to trench excavation and backfilling, installation of pipe and fittings and testing.
(c) The connection of the building sewer into the public sewer shall be made in accordance with the City’s Subdivision Control and Development Ordinance. The invert of the building sewer at the point of connection shall be higher than the mid-point of the sewer main. A smooth, neat joint shall be made, and the connection made secure. Special fittings may be used for the connection when approved by the Director.

(d) The building sewer pipe shall be bedded on a layer of gravel or crushed stone conforming to ASTM No. 67 specifications, and shall have a minimum thickness of 4 inches under the pipe barrel and 2 inches under bells. It shall be carefully placed and compacted around the pipe to provide uniform support to the bottom quadrant. Washed gravel or washed stone shall be placed to a depth of twelve vertical inches over the pipe.

(e) No building sewer shall be laid parallel to or within three feet of any bearing wall which might thereby be weakened. The depth shall be sufficient to afford protection from frost. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sewage carried by such drains shall be lifted by approved pumping devices and discharged to the building sewer. (MC-99-744)

(f) Where overhead sewers are required, an 8-inch hole shall be cored through the foundation for a 4-inch soil pipe. Soil pipe shall have a clean-out tee at the wall before going out. Hydraulic cement shall be used on the outside of the wall for the hole patch. Ejector pumps and basins shall comply with the requirements of the Illinois State Plumbing Code for sanitary waste below sewer. (MC-99-744)

Sec. 26-107. Separate building sewer; exception.
A separate and independent building sewer shall be provided for every building; except 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.

Sec. 26-108. Use of old building sewers.
Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Director, to meet all requirements of this Article.

No person shall make connection of roof downspouts, exterior foundation drains, areaway drains or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected to a public sanitary sewer.

Sec. 26-110. Manner of making connection.
The connection of the building sewer into the public sewer shall conform to the requirements of the Illinois State Plumbing Code and applicable rules and regulations of the City. All such connections shall be made gastight and watertight.
Sec. 26-111. Notice when sewer ready for connection; supervision of connection.
The applicant for the building sewer permit shall notify the Director when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Director.

Sec. 26-112. Excavations.
All excavations for building sewer installation shall be done in accordance with the provisions of Chapter 21 of this Code and 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 Director.

Secs. 26-113 - 26-119. Reserved.

DIVISION 4. USE OF PUBLIC SEWERS

Sec. 26-120. Prohibited Discharges.
(a) No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof runoff, subsurface drainage, into any sanitary sewer.

(b) It shall be unlawful to discharge wastewater to any public sanitary sewer except those wastewaters in compliance with standards promulgated pursuant to the Federal Act, or the State Act, or any rules, regulations, ordinances or standards of the City.

Sec. 26-121. Permissible discharge of unpolluted wastes.
Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated storm sewers, or to a natural outlet approved by the Director. Industrial cooling water or unpolluted process waters may be discharged, on approval of the Director to a storm sewer or natural outlet.

Sec. 26-122. Harmful, dangerous wastes prohibited.
No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

(a) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.

(b) Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance or create any hazard in the receiving waters of the sewage treatment plant.
(c) Any waters or wastes having a pH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, pipes, machinery, equipment and personnel of the sewage works.

(d) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, garbage, whole blood, paunch manure, hair and flesh, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

Sec. 26-123. Wastes conditionally prohibited.
No person shall discharge or cause to be discharged into a public sanitary sewer the following described substances, materials, water or wastes if it appears likely in the opinion of the Director or City Engineer that such wastes can harm either the sewers, sewage treatment process, pipes, machinery or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming an opinion as to the acceptability of these wastes, the Director or City Engineer will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant maximum limits established by regulatory agencies, and other pertinent factors. The substances prohibited are:

(a) Any liquid or vapor having a temperature higher than 150 degrees Fahrenheit (65 degrees centigrade).

(b) Any waters or wastes containing toxic or poisonous materials, or oils, whether emulsified or not, in excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between 32 and 150 degrees Fahrenheit (0 and 65 degrees centigrade).

(c) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of ¾ horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the Director of Public Works.

(d) Any waters or wastes containing strong acid, iron pickling wastes or concentrated plating solutions whether neutralized or not.

(e) Any waters or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received at the sewage treatment works exceeds the limits established by the City for such materials.

(f) Any waters or wastes containing phenols or other taste or odor-producing substances, in such concentrations exceeding limits which may be established by the City as necessary, after treatment of the composite sewage, to meet the requirements of the State, Federal, or other public agencies of jurisdiction for such discharge to the receiving waters.
(g) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the City in compliance with applicable State or Federal regulations.

(h) Any mercury or any of its compounds in excess of 0.0005 mg/l as Hg at any time except as permitted by the City in compliance with applicable State or Federal regulations.

(i) Any cyanide in excess of 0.025 mg/l at any time except as permitted by the City in compliance with applicable state and federal regulations.

(j) Any waters or wastes having a pH in excess of 9.5.

(k) Materials which exert or cause:

(1) Unusual concentrations of inert suspended solids (such as, but not limited to, Fuller's earth, lime slurries and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).

(2) Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).

(3) Unusual BODs, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.

(4) Unusual volume of flow or concentration of wastes constituting sludge as defined herein.

(l) Water or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of agencies having jurisdiction over discharge to the receiving waters.

Sec. 26-124. Discharging to storm sewer.
(a) It shall be unlawful for any person to discharge sanitary sewage or industrial waste water into any storm sewers.

(b) Any person violating this Section shall be fined not less than $50.00 nor more than $750.00 for each offense, and a separate offense shall be deemed committed for each and every day during which a violation continues or exists.
Sec. 26-125. Authority to reject or regulate wastes.
If any waters or wastes are discharged, or are proposed to be discharged to the public sanitary sewers, which waters or wastes contain the substances or possess the characteristics enumerated in Section 26-123, and/or which are in violation of the standards for pretreatment provided in Chapter 1, EPA Rules and Regulations, Subchapter D, Water Programs, Part 128 - Pretreatment Standards, Federal Register Volume 38, No. 215, Thursday, November 8, 1973 and any amendments thereto, and which in the judgment of the Director may have a deleterious effect upon the sewage works, processes, pipes, machinery, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Director may reject the wastes; require pretreatment to an acceptable condition for discharge to the public sanitary sewers; require control over the quantities and rates of discharge; and/or require payment to cover the added costs of handling and treating the wastes not covered by existing taxes or sewer charges, under the provisions of Section 26-130. If the Director permits the pretreatment or equalization of wastewater flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Director and subject to the requirements of all applicable codes, ordinances, and laws.

Sec. 26-126. Grease, oil and sand interceptors.
Grease, oil and sand interceptors shall be provided by the user when, in the opinion of the Director, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Director, and shall be located as to be readily and easily accessible for cleaning and inspection.

Sec. 26-127. Maintenance of precautionary facilities.
Where pretreatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

Sec. 26-128. Control manholes.
The owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole or manholes, together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manholes, sampling equipment and measuring equipment shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Director. The manholes shall be installed by the owner at his expense, and shall be maintained by the owner so as to be safe and accessible at all times.
Sec. 26-130. Measurements, tests, analyses.
All measurements, tests, and analyses of the characteristics of water and wastes to which reference is made in this ordinance shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewerage works and to determine the existence of hazards to life, limb and property. The particular analyses involved will determine whether a 24-hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, the samples for solids analyses are obtained from 24-hour composites of all outfalls whereas pH's are determined from periodic grab samples. The cost of measurements, tests and analysis for the purpose of determining treatment service surcharges shall be paid for by the user at his expense.

Sec. 26-131. Special arrangements authorized.
No statement contained in this Article shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment to the City by the industrial concern, of such charges as may be required by the City.

Secs. 26-132 - 26-139. Reserved.

Sec. 26-140. Sewer user service charges, costs for metered users. (MC-15-1115; MC-17-1149)
(a) The following user service rates are established for the metered use of and for the service supplied by the City sewerage works which shall be billed on a bi-monthly basis.

(1) The Basic User Charge shall be based on water usage as recorded by water meters and/or other City approved metering devices for the purpose of paying all expenses associated with operation, maintenance and replacement of the sewerage system. The basic user charge shall be determined by dividing the total of annual operation, maintenance and replacement expenses by the total number of gallons billed for sewer service in the 12-month period immediately preceding the calculation. This calculation shall produce a unit rate per thousand gallons for sewer service supplied which shall be billed to all users as the basic user charge.

The basic user charge will be applicable for average and below average strength sewage. Average strength sewage is determined to have the following characteristics:

a. A five day, twenty degree centigrade (20°C) biochemical oxygen demand (BOD₅) of 240 mg/l.

b. A suspended solids (SS) content of 275 mg/l.
(2) **Reserved.**

(3) A Treatment Service Surcharge will be charged to all users whose discharges exceed the average concentrations for BOD₅ (240 mg/l) and SS (275 mg/l). The surcharge will be based on water usage as recorded by water meters and/or other City approved metering devices for all wastes which exceed the parameters outlined above. The unit rate of BOD₅ and SS surcharge calculations shall be computed as follows:

a. Proportion the estimated annual revenue required to operate and maintain the wastewater facilities, including equipment replacement to the major plant categories.

b. Proportion the costs of the major plant categories to BOD₅ and SS.

c. Estimate the pounds of BOD₅ and SS treated.

d. Compute the unit costs per pound of BOD₅ and SS.

(b) The adequacy of the wastewater service charge shall be reviewed annually and shall be revised periodically to reflect a change in debt service or a change in operation, maintenance and equipment replacement costs.

(c) The users of wastewater treatment services will be notified annually, in conjunction with a regular bill, of the rates and that portion of the user charges which are attributable to the wastewater treatment operation, maintenance and replacement.

(d) Annual water use shall be determined from readings taken from approved water meters and/or other City approved metering devices for wastewater and flat rate user estimates.

(e) A treatment service surcharge shall be levied to all sewer users whose wastewater exceeds normal concentrations of 240 mg/l of BOD₅ 275 mg/l of suspended solids as determined by waste sampling which shall be performed as often as deemed necessary by the Director and shall be binding as the basis for computing the surcharge.

(f) Basic user rates shall be reflected in the may billing year for metered service. (MC-92-581, MC-94-624, MC-97-693, R-01-001; R-01-026; R-02-023; R-03-014; R-04-014; R-05-026; R-06-016;R-07-019;R-08-013; R-09-001;R-09-023;R-10-023; R-12-001; R-13-001; R-14-001; MC-15-1115’ MC-17-1149):
Effective on and after August 1, 2017, the sewer rates shall be as follows for metered uses:

**Within the Corporate Limits of the City:**
- Class 1 uses: $4.00 per 1,000 gallons; and
- Class 2 and 3 uses: $3.87 per 1,000 gallons.

**Outside Corporate Limits of the City:**
- Class 1 uses: $6.00 per 1,000 gallons; and
- Class 2 and 3 uses: $5.81 per 1,000 gallons.

In addition, on and after February 1, 2016, each user of City sewer services within the City’s corporate limits shall pay a base fee of $4.00 bi-monthly to be applied toward capital projects such as replacement and upgrade of existing facilities associated with the City’s sewer treatment and distribution system as well as operating and maintenance expenses associated with such system. On and after February 1, 2016, each user of City sewer services outside the City’s corporate limits shall pay a base fee of $6.00 bi-monthly to be applied toward capital projects such as replacement and upgrade of existing facilities associated with the City’s sewer treatment and distribution system as well as operating and maintenance expenses associated with such system. In the event that a user’s account with the City is inactive, such user shall still be billed for such base fee even in the absence of any use of sewer services. (MC-15-1115)

(2) The treatment service surcharge rate for sewer users whose wastewater exceeds 240 mg/l of BOD$_5$ shall be $0.21 per pound in excess of 0.20 pounds per 1,000 gallons. (MC-94-624)

(3) The treatment service surcharge rate for sewer users whose wastewater exceeds 275 mg/l of suspended solids shall be $0.13 per pound of suspended solids in excess of 0.23 pounds per 1,000 gallons. (MC-94-624)

(4) For all users within the corporate limits of the City, there is hereby established a “2010C Fixed Debt Service Charge” of $6.00 bi-monthly to be applied to the $5,665,000 general obligation bonds, Series 2010C, issued by the City. In the event that a user’s account with the City is inactive, such user shall still be billed for such 2010C Fixed Debt Service Charge even in the absence of any use of sewer services. (MC-15-1115)

(5) For all users outside the corporate limits of the City, there is hereby established a “2010C Fixed Debt Service Charge” of $9.00 bi-monthly to be applied to the $5,665,000 general obligation bonds, Series 2010C, issued by the City, except as otherwise provided by an intergovernmental agreement approved by the City. In the event that a user’s account with the City is inactive, such user shall still be billed for such 2010C Fixed Debt Service Charge even in the absence of any use of sewer services. (MC-15-1115)

(5) In addition, for each user (metered and non-metered) of the City’s sewerage works, there is hereby established an “2015 IEPA Fixed Debt Service Charge” in the following amount, to be paid bi-monthly to the City, and the revenues received from this IEPA Fixed Debt Service Charge shall be solely dedicated to the repayment of the loan received by the City from the
Illinois Environmental Protection Agency, pursuant to its Water Pollution Control Loan Program, in accordance with City Ordinance No. 15-1731, dated February 1, 2015, adopted by the City Council on February 1, 2015: (MC-15-1115)

Within Corporate Limits of the City for Class 1 uses:
From February 1, 2016 through January 31, 2017: $10.22;  
From February 1, 2017 through January 31, 2018: $20.44; and  
From February 1, 2018 and thereafter: $30.66.

Outside Corporate Limits of the City for Class 1 uses:
From February 1, 2016 through January 31, 2017: $15.33;  
From February 1, 2017 through January 31, 2018: $30.66; and  
From February 1, 2018 and thereafter: $45.99.

Within Corporate Limits of the City for Class 2 uses:
From February 1, 2016 through January 31, 2017: $835.23;  
From February 1, 2017 through January 31, 2018: $1,670.46; and  
From February 1, 2018 and thereafter: $2,505.69.

Outside Corporate Limits of the City for Class 2 uses:
From February 1, 2016 through January 31, 2017: $1,252.85;  
From February 1, 2017 through January 31, 2018: $2,505.69; and  
From February 1, 2018 and thereafter: $3,758.54.

Within Corporate Limits of the City for Class 3 uses:
From February 1, 2016 through January 31, 2017: $1,169.32;  
From February 1, 2017 through January 31, 2018: $2,338.64; and  
From February 1, 2018 and thereafter: $3,507.96.

(7) In the event that a user’s account with the City is inactive, such user shall still be billed for such IEPA Fixed Debt Service Charge even in the absence of any use of sewer services. (MC-15-1115)

(g) The total sewer user service charge shall be computed according to the following formula:

\[ C = W(B) + BC + DU - X + P \]

Where:  
C = Total Sewer User Service Charge  
B = Basic User Rate  
W = Water Use Per 1,000 gallons  
X = Surcharges for Excess Strength  
P = Penalties  
DC = Fixed Debt Service Charge  
DU = SRF Debt Service Charge  
BC = Base Charge
Sec. 26-141. Sewer user service charges for unmetered users. (MC-97-693; R-01-001; R-01-026; R02-023; R03-014; R-04-014; R-005-026; R-06-016; R-07-019; R-08-013; R-09-001; R-09-023; R-10-023; R-12-001; R-13-001; R-14-001; MC-15-1115; MC-17-1149).

(a) All non-metered users of wastewater facilities within the corporate limits of the City shall pay the following flat bi-monthly rate on and after August 1, 2017: (MC-15-1115; MC-17-1149)

<table>
<thead>
<tr>
<th>Charge</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010C Fixed debt service charge</td>
<td>$ 6.00</td>
</tr>
<tr>
<td>Basic user charge</td>
<td>$40.04</td>
</tr>
<tr>
<td>Total per billing cycle</td>
<td>$46.04</td>
</tr>
</tbody>
</table>

(b) All non-metered users of wastewater facilities outside the corporate limits of the City shall pay a flat bi-monthly rate. Charges for non-metered users may be billed in monthly increments if service was received for a portion of a bi-monthly period on a pro-rata basis in increments of one-half of a bi-monthly period. The charges for non-metered users located outside the corporate limits of the City utilizing City sewer service areas are as follows on and after August 1, 2017: (MC-15-1115; MC-17-1149)

<table>
<thead>
<tr>
<th>Charge</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010C Fixed debt service charge</td>
<td>$ 9.00</td>
</tr>
<tr>
<td>Basic user charge</td>
<td>$60.06</td>
</tr>
<tr>
<td>Total per billing cycle</td>
<td>$69.06</td>
</tr>
</tbody>
</table>

(c) All non-metered users shall pay the 2015 IEPA Fixed Debt Service Charge referenced in Section 26-140(f)(6) unless prohibited by an intergovernmental agreement approved by the City. (MC-15-1115)

(d) In the event that a user’s account with the City is inactive, said user shall still be billed this rate in the absence of any use of sewer services. (MC-15-1115)

Sec. 26-142. Deleted in its entirety. (MC-15-1115)

Sec. 26-143. Metering devices.
Sewer users who obtain any portion of their water service from other than the City’s water supply source shall install and maintain, at no expense to the City, water meters of a type approved by the Director for the purpose of metering the water usage obtained from such other sources.

Sec. 26-144. Meter reading.
Metered usage shall be read by the City or its agents to the lowest even increment of 1,000 gallons. (MC-90-548)

Sec. 26-145. Billing, due dates; delinquency penalty. (MC-90-548)

(a) Charges for sewerage services shall be rendered bi-monthly by the Finance Director.

(b) All bi-monthly bills for such sewerage services shall be paid on or before the twentieth day after bills are mailed. Payment of bills for such bi-monthly periods after the twentieth day that bills are mailed shall subject the user to a penalty of 10% of the amount of the unpaid bill. Payment of bills for such bi-monthly periods after the forty-second day that bills are mailed shall subject the user to another penalty of 10% of the amount of the unpaid bill. (MC-95-634; MC-04-855)

(c) All sewerage charges shall be collected by the Finance Director. The owner of the premises, the occupant thereof and the user of the service shall be jointly and severally liable to pay for the service on such premises, and the service is furnished to the premises by the City upon the condition that the owner of the premises, occupant and user of the service are jointly and severally liable therefore to the City of McHenry.
Sec. 26-146. Lien declared.
In the event charges for sewerage services are not paid within sixty days after the rendition of the bill for such service, such charges shall be deemed and are hereby declared to be delinquent and thereafter such delinquent charges shall constitute liens upon the real estate, upon or from which sewerage services are supplied. The City is hereby directed to file sworn statements showing such delinquencies in the Office of the Recorder of Deeds of McHenry County, Illinois, which shall be deemed notice of the lien for payment of such sewerage service; provided, however, that the City Clerk may refrain from filing such a statement of delinquencies if the City proposes to sue or shall have sued the occupant or user of the real estate in a civil action to recover such delinquent charges.

Sec. 26-147. Termination of service upon nonpayment.
It is hereby declared to be a policy of the City that in the event that any person or other legal entity whose residence or other building is connected to a sewer which is tributary to the works of the system fails to pay the user service charges as assessed under this Ordinance, said sewer shall be disconnected from the public sewer.

Sec. 26-148. Termination procedure.
(a) In the event that the user service charges, after having been billed in accordance with this ordinance, remain unpaid for 22 days thereafter, the following Notice shall be forwarded by first class mail, or personal service to the owner, user or occupants, at the address of the building being served by the City: (MC-89-479; MC-90-548)

3/14

NOTICE OF DELINQUENCY

You are hereby notified that the sewer user service charges billed to you under date of (insert date) under the Sewer User Service Charge Ordinance of the City of McHenry for the building located at (insert address) have not been paid and remain delinquent. If you dispute these delinquent sewer user service charges that have been billed to you and desire a review thereof, you must, within 10 days hereafter, present your complaint or dispute in writing to the City Council. In the event that you fail to file a written complaint or dispute with regard to your bill as aforesaid and also fail to pay said user service charges within 20 days hereafter, your service will be disconnected and your building will be red-tagged as unfit for human occupancy on the 28th day after date of this notice.

Date: _________________CITY OF McHENRY, ILLINOIS

By: _______________________

Finance Director

(b) The City Council hereby declares that it is against public policy for a building to be occupied by human inhabitants which has been red-tagged by the City after appropriate Notice has been given that the building is "unfit" for human occupancy."

(c) In the event that such user service charges remain unpaid on the 21st day after the mailing or personal service of the aforesaid Notice, the following notice shall be forwarded by first class mail, or personal service to the owner, user or occupants of the building and also affixed to the front door of the building or housing unit within a building: (MC-89-479; MC-90-548)
NOTICE OF TERMINATION

You are hereby notified that there has been no response to the Notice of Delinquency in the payment of the sewer user service charges and the 20-day period therein stated has lapsed. You are hereby notified that on (insert date 28 days after service of Notice of Delinquency) the City will physically disconnect the building sewer of your building to which it is connected and will red-tag the building located at (insert address) as "unfit for human occupancy."

Date: ______________________
CITY OF McHENRY, ILLINOIS

By: ___________________________
Finance Director

(d) The manner of severance and procedure for disconnection shall be determined by the City. Upon completion of said disconnection, the City shall forward to the occupant of the building by registered mail, return receipt requested, certified mail or personal service, a bill for the costs of making the disconnection, including all costs for labor and materials.

Sec. 26-149. Reinstatement of service.
Upon payment to the City of the full delinquency, plus penalties, plus the cost of disconnection and a $100.00 administrative fee, the City will issue a permit for reconnection of the building service line to the works of the system. Such reconnection costs, plus inspection fees in accordance with City ordinances, shall be at the sole expense of the user. Upon reconnection and payment of all costs described above, the City, through its agents, shall remove the red-tag from the building.

Sec. 26-150. Disposition of revenues by Finance Director.
All of the revenues and monies derived from the operation of the sewerage system shall be held by the Finance Director separate and apart from all other funds of the City, and all of the same, without any deductions, shall be delivered to the Finance Director not more than 10 days after the receipt of the same or at such more frequent intervals as may from time to time be directed by the Council of the City.

Sec. 26-151. Deposit; record of funds.
The Finance Director shall receive all revenues from the sewerage system and all other funds and monies incident to the operation of said system as the same may be delivered to him, and shall deposit the same in a separate fund designated as the "Sewerage Fund" of the City and shall divide and administer the said sewerage fund in every respect as provided by City Council. He shall establish a proper system of accounts and shall keep proper books, records and accounts (separate from all other records and accounts) in which complete and correct entries shall be made of all transactions relating to the sewerage system.

3/14

Sec. 26-152. Annual audit of accounts.
At regular annual intervals, the Finance Director shall cause to be made an audit by an independent auditing concern of the books to show the receipts and disbursements of the sewerage system.

In addition to the customary operating statements, the annual audit report shall also reflect the revenues and operating expenses of the wastewater facilities, including a replacement cost, to indicate that sewer service charges under the user charge system do in fact meet these regulations. In this regard, the financial information to be shown in the audit report shall include the following:
1. Flow data showing total gallons received at the wastewater plant for the current fiscal year.
2. Billing data to show total number of gallons billed.
3. Number of users connected to the system.
4. Number of non-metered users.
5. A list of users discharging non-domestic wastes (industrial users) and volume of waste discharged.
6. Total pounds BOD₅ and total pounds suspended solids received at the wastewater plant for the current fiscal year.

Sec. 26-153. Access to records.
The Illinois Environmental Protection Agency or its authorized representative shall have access to any books, documents, papers and records of the City which are applicable to the City system of user service charges for this purpose of making audit, examination, excerpts and transcriptions thereof to insure compliance with the terms of the Special and General Conditions to the State.

Sec. 26-154. Effective date of rates.
The rates and charges established for sewer user service in Sections 26-140 and 26-141 shall be effective as of January 1, 1991, and on bills to be rendered for each succeeding bi-monthly billing cycle thereafter. (MC-90-548)

DIVISION 6. FATS, GREASE AND OIL CONTROL

Sec. 26-155. Scope, purpose and requirement.
Any food service establishment connected to the sanitary sewer collection and treatment system involved in the preparation of foods will be subject to the conditions of this ordinance. The scope and purpose of this section is to aid in the prevention of sanitary sewer blockages and obstructions from contributions and accumulations of fats, oils and greases into the sanitary sewer system from food service establishments.

Sec. 26-156. Definitions.
1. Fats, Oils, and Greases. Organic polar compounds derived from animal and/or plant sources that contain multiple carbon chain triglyceride molecules. These substances are detectable and measurable using analytical test procedures established in the United States Code of Federal Regulations 40 CFR 136 amended from time to time. All are sometimes referred to herein as “grease” or “greases”.

853
2. **Grease Trap.** A device for separating and retaining waterborne greases and grease complexes prior to the wastewater exiting the trap and entering the sanitary sewer collection and treatment system. Such traps are typically compact under-the-sink units that are near food preparation areas.

3. **Grease Interceptor.** A structure or device designed for the purpose of removing and preventing fats, oils, and grease from entering the sanitary sewer collection system. These devices are often below-ground units in outside areas and are built as two or three chamber baffled tanks.

4. **Food Service Establishments.** Those establishments primarily engaged in activities of preparing, serving, or otherwise making available for public consumption food, including but not limited to: restaurants, commercial kitchens, caterers, hotels, schools, hospitals, prisons, correctional facilities and care institutions. These establishments use one or more of the following preparation activities: cooking by frying (all methods), baking (all methods), grilling, sautéing, rotisserie cooking, broiling (all methods), boiling, blanching, roasting, toasting or poaching. Also, included are infrared heating, searing, barbecuing, and any other food preparation activity that produces a hot, non-drinkable food product in or on a receptacle that requires washing.

5. **Minimum Design Capability.** The design features of a grease interceptor and its ability or volume required to effectively intercept and retain greases from grease-laden wastewaters discharged into the public sanitary sewer system.

6. **User.** Any person, including those located outside the jurisdictional limits of the City of McHenry, who contributes causes or permits the contribution or discharge of wastewater into sewers within the City of McHenry’s boundaries.

### Sec. 26-157. Food service establishment; permit requirement.

All permitted food service establishments discharging wastewater into the City of McHenry sanitary sewer collection system are subject to the following requirements:

1. **Grease Interceptor Requirements:** All permitted food service establishments are required to install, operate, and maintain an approved type and adequately sized grease interceptor/trap necessary to maintain compliance with the objectives of this ordinance. All grease interceptors must meet the requirements of the current Illinois State Plumbing Code.

2. **Implementation:** All new food service establishment facilities are subject to grease interceptor/trap requirements. All such facilities must obtain prior approval from the Public Works Director or designee for grease interceptor/trap sizing prior to submitting plans for a building permit. All grease interceptors/traps shall be readily and easily accessible for cleaning and inspection. Existing facilities with planned modifications to plumbing improvements will be required to include plans to comply with the grease interceptor requirements. These facilities must obtain approval from the Public Works Director or designee for grease interceptor sizing prior to submitting plans for a building permit.

All existing food service establishments, determined by the Public Works Director or designee, having the potential to adversely impact the City’s sewer system will be notified of their obligation to install a grease interceptor within the specified period set forth in the notification letter.
3. Variance from Grease Interceptor Requirements:

A. Grease interceptors required under this ordinance shall be installed unless the Public Works Director or designee authorizes the installation of an indoor grease trap or other alternative pretreatment technology and determines the installation of a grease interceptor would not be feasible. The food service establishment bears the burden of demonstrating the installation of a grease interceptor/trap is not feasible. The Public Works Director or designee may authorize the installation of an indoor grease trap where the installation of a grease interceptor is not feasible due to space constraints or other considerations. Financial hardship does not qualify as a consideration. If an establishment believes the installation of a grease interceptor is not feasible because of documented space constraints, the request for an alternate grease removal device shall contain the following information:

i. Location of sewer main and easement to proposed location outside building.
ii. Existing plumbing at or in a site that uses common plumbing for all services at that site.

B. Alternative pretreatment technology includes but is not limited to: devices that are used to trap separate and hold grease from wastewater and prevent it from being discharged into the sanitary sewer collection system. All alternative pretreatment technology must be appropriately sized and approved by the Public Works Director or designee.

Sec. 26-158. Grease interceptor requirements.


2. Grease interceptors shall be constructed in accordance with design approved by the Public Works Director or designee and shall have a minimum of two compartments with fittings designed for grease retention.

3. Grease interceptors shall be installed at a location where it shall be easily accessible for inspection, cleaning, and removal of grease. The grease interceptor may not be installed in any part of the building where food is handled. Location of the grease interceptor must meet the approval of the Public Works Director or designee.

4. All such grease interceptors shall be serviced and emptied of accumulated waste content as required in order to maintain minimum design capability or effective volume to intercept and retain greases. These devices should be inspected at least monthly. Users who are required to maintain a grease interceptor shall:

a. provide a minimum hydraulic retention time in accordance with the manufacturer and the current edition of the Illinois State Plumbing code.

b. remove any accumulated grease cap and sludge pocket as required. Grease interceptors shall be kept free of inorganic solid materials such as grit, rocks, gravel, sand, eating utensils, cigarettes, shells, towels, rags, etc., which could settle into this pocket and thereby reduce the effective volume of the device.
5. The user shall maintain a written record of inspection and maintenance for a minimum of three (3) years. All such records shall be submitted to the Director of Public Works or designee on an annual basis.

6. Sanitary wastewater is not allowed to be connected to sewer lines intended for grease interceptor service.

7. Access manholes, with a minimum diameter of 24 inches, shall be provided over each grease interceptor chamber and sanitary tee. Access to manholes shall extend at least to finished grade and be designed and maintained to prevent water inflow and infiltration. All manholes shall have readily removable covers to facilitate inspection, grease removal and wastewater sampling activities.

Sec. 26-159. Grease trap requirements.

1. Upon approval by the Public Works Director or designee, a grease trap complying with the provisions of this section must be installed in the waste line leading from sinks, drains, and other fixtures or equipment in food service establishments where grease may be introduced into the drainage or sewage system in quantities that can effect line blockage or hinder sewage treatment or private sewage disposal.

2. Grease trap sizing and installation shall conform to the current Illinois State Plumbing Code.

3. Grease traps shall be maintained in efficient operating conditions by regular removal of the accumulated grease. No such collected material shall be introduced into any drainage piping or public or private sewer.

4. No food waste disposal unit or dishwasher shall be connected to or discharged into any grease trap.

5. Wastewater in excess of one hundred-forty (140) °F/ (60°C) shall not be discharged into a grease trap.

Sec. 26-160. Enforcement.

Except as provided herein, for a period of one year following adoption of this ordinance, grease interceptors/traps will be required however, no enforcement actions will be taken under this ordinance for failure to achieve limits on grease discharges from the facility. If, during this one year period an obstruction of a sewer main(s) occurs that causes a sewer overflow to the extent which adversely impacts the environment and said overflow or failure of the sanitary sewer collection system to convey sewage can be attributed in part or in whole to an accumulation of grease in the sewer main(s), the City of McHenry will pursue enforcement action.

Sec. 26-161. Violation.

If a food service establishment is found to be responsible for excessive grease accumulation in the sanitary sewer main resulting in reduced flow, backup, complete blockage and/or flow above ground the property owner where said generator is located shall be subject to any or all of the fines listed in Settlement of Offenses as outlined in Section 1-12 of the City of McHenry Municipal Code; and any/all costs incurred by the City for removing the accumulation or blockage; any and all cleanup costs and; and may include possible termination of service.
Article III Water and Sewer
Illicit Discharge and Connection to Stormwater Sewer System (MC-08-969)

Section 26-162. Purpose/Intent.
The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of the City of McHenry through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this ordinance are:

1. To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by stormwater discharges by any user
2. To prohibit Illicit Connections and Discharges to the municipal separate storm sewer system
3. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this ordinance

Section 26-163. Definitions.
For the purposes of this ordinance, the following shall mean:

Best Management Practices (BMPs): schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

City of McHenry. Its authorized employees, consultants and contractors.

Clean Water Act. The federal Water Pollution Control Act (33 U.S.C., 1251 et seq.), and any subsequent amendments thereto.

Construction Activity. Activities subject to NPDES Construction Permits. These include construction projects resulting in land disturbance of 5 acres or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

Hazardous Materials. Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Illegal Discharge. Any direct or indirect non-storm water discharge to the MS4, except as exempted in Section X of this ordinance.
Illicit Connections. An illicit connection is defined as either of the following:
Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the MS4 including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the MS4 and any connections to the MS4 from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency. Any drain or conveyance connected from a commercial or industrial land use to the MS4 which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

Industrial Activity. Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).

National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit. means a permit issued by EPA (or by a State under authority delegated pursuant to 33 USC , 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

Non-Storm Water Discharge. Any discharge to the MS4 that is not composed entirely of storm water.

Person: means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

Pollutant. Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatable; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

Premises. Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

Storm Drainage System. Publicly-owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

Storm Water. Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

Stormwater Pollution Prevention Plan: A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to Stormwater, Stormwater Conveyance Systems, and/or Receiving Waters to the Maximum Extent Practicable.

Wastewater: Any water or other liquid, other than uncontaminated storm water, discharged from a facility.
Section 26-164. Applicability.
This ordinance shall apply to all water entering the MS4 unless explicitly exempted herein.

Section 26-165. Responsibility For Administration.
The City of McHenry shall administer, implement, and enforce the provisions of this ordinance.

Section 26-166. Severability.
The provisions of this ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Ordinance.

Section 26-167. Ultimate Responsibility.
The standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore this ordinance does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

Section 26-168. Discharge Prohibitions.
Prohibition of Illegal Discharges.
No person shall discharge or cause to be discharged into the MS4 or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than Storm Water.
The commencement, conduct or continuance of any illegal discharge to the MS4 is prohibited except as described as follows:
(1) The following discharges are exempt from discharge prohibitions established by this ordinance: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wet-land flows, swimming pools (if dechlorinated - typically less than one PPM chlorine), fire fighting activities, and any other water source not containing Pollutants.
(2) Discharges specified in writing by the City of McHenry as being necessary to protect public health and safety.
(3) Dye testing is an allowable discharge, but requires a verbal notification to the City of McHenry prior to the time of the test.
(4) The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the MS4.

Prohibition of Illicit Connections.
(1) The construction, use, maintenance or continued existence of illicit connections to the MS4 is prohibited.
(2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
(3) A person is considered to be in violation of this ordinance if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.
Section 26-169. Suspension of MS4 Access.
Suspension due to Illicit Discharges in Emergency Situations
The City of McHenry may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge, which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or Waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the City of McHenry may take such steps as deemed necessary to prevent or minimize damage to the MS4 or Waters of the United States, or to minimize danger to persons.

Suspension due to the Detection of Illicit Discharge
Any person discharging to the MS4 in violation of this ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The City of McHenry will notify a violator of the proposed termination of its MS4 access. The violator may petition the City of McHenry for a reconsideration and hearing.

A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the City of McHenry.

Section 26-170. Industrial Or Construction Activity Discharges.
Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the City of McHenry prior to the allowing of discharges to the MS4.

Section 26-171. Monitoring Of Discharges
(1) Applicability.
This section applies to all facilities that have storm water discharges associated with industrial activity, including construction activity.

(2) Access to Facilities.
   a) The City of McHenry shall be permitted to enter and inspect facilities subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance. If a discharger has security measures in force, which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the City of McHenry.
   b) Facility operators shall allow the City of McHenry ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge storm water, and the performance of any additional duties as defined by state and federal law.
   c) The City of McHenry shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the City of McHenry to conduct monitoring and/or sampling of the facility's storm water discharge.
d) The City of McHenry has the right to require the discharger 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 discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

e) 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 operator at the written or oral request of the City of McHenry and shall not be replaced. The costs of clearing such access shall be borne by the operator.

f) Unreasonable delays in allowing the City of McHenry access to a permitted facility is a violation of a storm water discharge permit and of this ordinance. A person who is the operator of a facility with a NPDES permit to discharge storm water associated with industrial activity commits an offense if the person denies the City of McHenry reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this ordinance.

g) If the City of McHenry has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the City of McHenry may seek issuance of a search warrant from any court of competent jurisdiction.

Section 26-172. Requirement to Prevent, Control, and Reduce Storm Water Pollutants by the Use of Best Management Practices.

The City of McHenry will adopt requirements identifying Best Management Practices for any activity, operation, or facility, which may cause or contribute to pollution or contamination of storm water, the MS4, or waters of the U.S. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the MS4 or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the MS4. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWPP) as necessary for compliance with requirements of the NPDES permit.

Section 26-173. Watercourse Protection.

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.
Section 26-174. Notification of Spills.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the MS4, or water of the U.S. said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the City of McHenry in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the City of McHenry within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

Section 26-175. Enforcement.

(1) Notice of Violation.

Whenever the City of McHenry finds that a person has violated a prohibition or failed to meet a requirement of this Ordinance, the City of McHenry may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

a) The performance of monitoring, analyses, and reporting;

b) The elimination of illicit connections or discharges;

c) That violating discharges, practices, or operations shall cease and desist;

d) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property;

e) Payment of a fine and administrative, legal, engineering and remediation costs; and

f) The implementation of source control or treatment BMPs.

If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by the City of McHenry, its designated governmental agency or a contractor and the expense thereof shall be charged to the violator.
Section 26-176. Appeal of Notice of Violation

Any person receiving a Notice of Violation may appeal the determination of the City of McHenry to the City of McHenry Administration. The notice of appeal must be received within 5 days from the date of the Notice of Violation. Hearing on the appeal before the City Administration of the City of McHenry shall take place within 15 days from the date of receipt of the notice of appeal. The decision of the City Administration of the City of McHenry shall be final.

Section 26-177. Enforcement Measures After Appeal

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within 14 days of the decision of the City Administration of the City of McHenry upholding the decision of the City of McHenry, then representatives of the City of McHenry shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the City of McHenry or its designated contractor to enter upon the premises for the purposes set forth above.

Section 26-178. Cost of Abatement of the Violation

Within 14 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative, legal and engineering costs. The property owner may file a written protest objecting to the amount of the assessment within 5 days. If the amount due is not paid within a timely manner as determined by the decision of the City of McHenry or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

Any person violating any of the provisions of this article shall become liable to the city by reason of such violation. Interest at the rate of 8 percent per annum shall be assessed on the balance beginning on the 14th day following discovery of the violation.

Section 26-179. Injunctive Relief

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Ordinance. If a person has violated or continues to violate the provisions of this ordinance, the City of McHenry may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.
Section 26-180. Compensatory Action
In lieu of enforcement proceedings, penalties, and remedies authorized by this Ordinance, the City of McHenry may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

Section 26-181. Violations Deemed a Public Nuisance
In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this Ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

Section 26-182. Cost Recovery
The City of McHenry shall be entitled to recover from any person or corporation found to be in violation of this Ordinance all attorneys' fees, engineering, consultant, contractor and court costs and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

Section 26-183. Remedies Not Exclusive
The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the City of McHenry to seek cumulative remedies.

Sections 26-184-200. Reserved.
ARTICLE IV. WATER AND SEWER CAPITAL DEVELOPMENT FEE

Sec. 26-201. Established.
Pursuant to the authority granted in 65 ILCS 5/11-150-1, and upon authority contained in other provisions of the State statutes, there is hereby established within the City a charge, which shall be known as the "Water and Sewer Capital Development Fee."

This charge shall be in addition to all other water and sewer connection or tap-on fees now in existence in the City.

Sec. 26-202 Amount.
Effective January 1, 1998, the Water and Sewer Capital Development Fee for residential and non-residential buildings shall be as indicated in the following tables. Further, Capital Development Fees shall be increased May 1, 1999 and each May 1st thereafter by the percentage increase in the Engineering News Record Construction Cost Index, and shall be subject to annual Council review. Current amounts are:

(a) **Residential Building Uses**: (MC-89-484; MC-91-556; MC-97-695; MC-99-745)

<table>
<thead>
<tr>
<th>Effective 5/1/16</th>
<th>Residential Building Uses:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Connection to Water Only</td>
</tr>
<tr>
<td>Detached Single Family:</td>
<td></td>
</tr>
<tr>
<td>Two bedroom or less</td>
<td>$2199.00</td>
</tr>
<tr>
<td>Three bedroom</td>
<td>$3811.00</td>
</tr>
<tr>
<td>Four bedroom or more</td>
<td>$4098.00</td>
</tr>
<tr>
<td>Five bedroom or more</td>
<td>$4098.00</td>
</tr>
<tr>
<td>Attached Single Family:</td>
<td></td>
</tr>
<tr>
<td>One bedroom</td>
<td>$1300.00</td>
</tr>
<tr>
<td>Two bedroom</td>
<td>$2164.00</td>
</tr>
<tr>
<td>Three bedroom</td>
<td>$2602.00</td>
</tr>
<tr>
<td>Four bedroom or more</td>
<td>$3426.00</td>
</tr>
<tr>
<td>Apartments:</td>
<td></td>
</tr>
<tr>
<td>Efficiency</td>
<td>$1408.00</td>
</tr>
<tr>
<td>One bedroom</td>
<td>$1912.00</td>
</tr>
<tr>
<td>Two bedroom</td>
<td>$2084.00</td>
</tr>
<tr>
<td>Three bedroom</td>
<td>$3325.00</td>
</tr>
</tbody>
</table>
(b) Non-Residential Building Uses. (MC-93-600; MC-97-695; MC-99-745)

Effective 5/1/2016

<table>
<thead>
<tr>
<th>Water Meter Size</th>
<th>Non-Residential Building Uses</th>
<th>Connection to Both City Water and Sewer</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>City Water Connection Only</td>
<td>City Sewer Connection Only</td>
</tr>
<tr>
<td>¾”</td>
<td>$ 3,811.00</td>
<td>$ 3,739.00</td>
</tr>
<tr>
<td>1</td>
<td>$ 10,655.00</td>
<td>$ 6,252.00</td>
</tr>
<tr>
<td>1 1/2 “</td>
<td>$ 18,288.00</td>
<td>$ 12,462.00</td>
</tr>
<tr>
<td>2”</td>
<td>$ 30,478.00</td>
<td>$ 19,942.00</td>
</tr>
<tr>
<td>3”</td>
<td>$ 68,578.00</td>
<td>$ 39,924.00</td>
</tr>
<tr>
<td>4”</td>
<td>$190,492.00</td>
<td>$ 62,377.00</td>
</tr>
<tr>
<td>6”</td>
<td>$190,492.00</td>
<td>$124,712.00</td>
</tr>
</tbody>
</table>

(c) A separate charge shall also be assessed to each user for connection to either the water or sewerage system, or to both, whenever such user increases the size of its water meter (whether to City water or otherwise); such separate charge shall be calculated by deducting the amount of the charge specified in paragraph (b) of this Section for the then existing water meter size from the amount of the charge specified in paragraph (b) of this Section for the diameter to which the water meter is to be increased. (MC-93-600)

(d) Nothing in this Section shall be interpreted to assess a Capital Development Fee for fire suppression systems. (MC-93-600)

Sec. 26-203. Against whom assessed; when payable.
The Water and Sewer Capital Development Fee shall be assessed against new or additional users where the new or additional use is the result of future building construction which requires a building permit and which also involves or contemplates connection to the sewage collection and treatment system or the water system of the City, provided however, that said fee shall be assessed to all connecting users whose property is annexed to the City after the effective date of amendatory ordinance #O-77-115, unless such fees are expressly waived or otherwise modified by pre-annexation agreement. The charges shall be payable at the time a building or connection permit is issued.

Sec. 26-204. Disposition of revenue.
The revenue received by the City from the Water and Sewer Capital Development Fee charges shall be deposited into a fund which shall be known as the "Waterworks and Sewer Capital Development Fund," and shall be used in the manner provided by law. The monies to the credit of such fund may be invested from time to time by the Finance Director of the City as provided by law. All accrued interest on any investments shall be credited to such fund.
Sec. 26-205. Copy of Article to be filed with the Recorder of Deeds; duty of Clerk with respect to collection.
A copy of this Article, as amended, properly certified by the City Clerk, shall be filed in the office of the Recorder of Deeds of McHenry County, and shall be deemed notice to all owners of real estate of their liability for service supplied to any user of the service of the combined waterworks and sewerage system of the City on their properties. It shall be the duty of the City Clerk and such other officers of this City to take all action necessary or required by the laws of the State to file all claims and liens for money due to the City and to prosecute and enforce such claims in the manner, form and time as permitted by the laws of the State.
MUNICIPAL CODE
CHAPTER 27
WRECKED, JUNKED AND ABANDONED VEHICLES
ARTICLE I. IN GENERAL
(MC-07-945)

Sec. 27-1. Definition. (MC-94-618; MC-02-812)
For purposes of this Chapter, “inoperable motor vehicle” means all motor vehicles which, in their present state or condition, cannot be driven on a public street or highway in full compliance with all provisions of the Illinois Vehicle Code (625 ILCS 5/1-101, et seq.), and ordinances of the City of McHenry, and which have remained in such a state or condition for a period of seven consecutive days. This definition shall not include:

(a) A motor vehicle which has been rendered temporarily incapable of being driven under its own power in order to perform ordinary service or repair operations;

(b) Any motor vehicle that is kept within a building when not in use;

© A motor vehicle on the premises of a place of business engaged in the wrecking or junking of motor vehicles.

Sec. 27-2. Nuisance declared.
All inoperable motor vehicles, whether on public or private property and in view of the general public within the City, are hereby declared nuisances.

Sec. 27-3. Permission.
A person shall not deposit upon any public or private roadway, alley, driveway, parking area or other place within the City limits any inoperable motor vehicle or part thereof without first obtaining permission of the owner, occupant or agent of private property or the Police Department of the City.

Sec. 27-4. Disposition of inoperable motor vehicle upon receipt of notice.
A person is required to dispose of any inoperable motor vehicle(s) under his or her control within seven days after written notice is received from the corporate authorities of the City or from the Chief of Police or his designee, commanding disposition of the inoperable motor vehicle(s).

Sec. 27-5. Service and content of notice.
(a) The written notice herein shall be served upon the occupant of the land where the nuisance exists, or if there is no occupant, then upon the owner of the property, or his agent, giving notice of the existence of the nuisance and requesting its removal within seven days from the date notice is received. The notice shall further state that, upon the owner’s or occupant’s failure to comply with the notice to remove, the City or its agent shall undertake such removal with the costs thereof to be levied against the owner or occupant of the property.

(b) It shall constitute sufficient notice under this Section when a copy of the notice is posted in a conspicuous place upon the private property on which the vehicle is located and when duplicate copies are sent by certified mail to the owner or occupant of the private property at his last-known address.
Sec. 27-6. Impounding vehicles.
The Chief of Police, or his designee, is hereby authorized to remove or have removed any vehicle left at any place within the city which reasonably appears to be in violation of the provisions of this Chapter, or which reasonably appears to be lost, stolen or unclaimed, or which is an inoperable vehicle as defined in this Chapter.

Sec. 27-7. Disposition of unclaimed vehicles - Procedure.
The procedure to be followed by the Police Department in regard to abandoned, lost, stolen or unclaimed vehicles shall be in accordance with State law.

Sec. 27-8. Same - Liability and lien for expenses.
In the event of removal of a vehicle under this Chapter by the City, the owner or occupant of the private property from which it was removed shall be liable for the expenses incurred. Upon the failure of such owner or occupant to pay the unrecovered expenses incurred by the City in such removal, a lien may be placed upon the property for the amount of such expenses.

Sec. 27-9. Redemption of vehicle removed by City.
The owner of any vehicle removed by the City under the provisions of this Chapter may redeem such vehicle at any time after its removal, but prior to the sale or destruction thereof, upon proof of ownership and payment to the Chief of Police all such sums as he may determine and fix for the actual and reasonable expense of removal, including any preliminary sale advertising expense, plus $20.00 per day for storage of such vehicle.

Sec. 27-10. Interpretation of provisions.
Nothing in this Chapter shall be construed to limit the power of the City to abate a nuisance where the circumstances creating the nuisance include the maintenance of a motor vehicle on public or private property.

Sec. 27-11. Penalty.
Any person, firm or corporation violating any provision of this Chapter shall be fined as provided in Section 1-8 of this Municipal Code for each day such violation shall continue.
ABANDONED REFRIGERATORS AND SIMILAR CONTAINERS
Discarding 14-22

ABANDONED PROPERTY
Custody 18-12

ABANDONED VEHICLES
Wrecked, junked, etc., vehicles 27-1 et seq
Wrecked, junked and abandoned vehicles. See that title

ABATEMENT OF TAXES See: Taxation

ADMINISTRATION
Generally - Specific regulations. See specific subjects 2-1 et seq

ADMINISTRATIVE ADJUDICATION
2.25-1 et seq

ADULT USES
2.50-1 et seq

ADVERTISING
Attaching to trees, etc. 24-8
Deceptive practices 14-26
Handbill distribution 3-16 et seq
Handbill distribution. See that title
Loudspeakers, amplifiers, etc.
Using for advertising 3-2
Park regulations 16-1 et seq
Parks and recreation. See that title
Posting bills 3-1
Unnecessary noises 14-8
Noises. See that title

AFFIRMATION. See: Oath, Swear or Sworn

AGENCIES OF CITY. See: Departments and Other Agencies of City

AGREEMENTS. See: Contracts and Agreements

AIR RAIDS
Emergency services and disaster agency 2-143 et seq
Emergency services and disaster agency. See that title

ALARM SYSTEMS. See: Police Department

ALCOHOLIC BEVERAGES
Amusement place restrictions 5-5
B-girls 4-30
Bartenders and persons serving, minimum age of 4-21
Churches, schools, etc.
Sales near 4-15
Closing hours 4-22
Use of premises following legal closing hours 4-23
Definitions 4-1
Females soliciting drinks 4-30
Hours of business 4-22
ALCOHOLIC BEVERAGES (continued)

Licenses
Application
Bond
Change in ownership, effect
Change of location
Classification and fees
Consumption on premises re
Disposition of fees
Distance restrictions re churches, schools, etc
Expiration date
List required - List to be current
Number limitation
Personal nature
Persons ineligible
Renewal
Required
Revocation
Hearings
Relicensing after
Sales near churches, schools, etc.
Transfer fee
Liquor Control Commissioner; assistants
Location of premises
Change of location
Mayor designated Liquor Control Commissioner
Minors
Age, misrepresenting
Parental responsibility
Penalty for violation
Purchasing, accepting, possessing, consumption by
Sale or delivery to
Warning to minors
Park regulations
Parks and recreation. See that title
Peddling
Premises, interior view
Retail sale of packaged alcoholic liquors
Minimum age of persons conducting
Sanitation of premises
Schools, churches, etc
Distance restrictions
View from street

ALLEYS
Street defined re
Streets in general. See: Streets and Sidewalks

ALMS, SOLICITING
Park regulations
Parks and recreation. See that title
Vagrancy provisions

AMENDMENTS TO CODE
Generally
Code of ordinances. See that title
Records

AMPLIFIERS
Unnecessary noises
Noises. See that title
Use of loudspeakers, etc., for advertising
AMUSEMENTS AND AMUSEMENT PLACES
Alcoholic beverage restrictions 5-5
Application of provisions 5-1
Devices, Coin-operated regulation 9-1 et seq
   Devices, Coin-operated machines and devices. See that title
General safety 5-7
Inspections 5-6
Licenses
   Applications 5-3
   Fees 5-4
   Required 5-2
Maintenance of order 5-6
Minors prohibited if alcohol sold 5-5
   Alcoholic beverages. See that title
Parades, processions and public gatherings 15-1 et seq
   Parades, processions and public gatherings. See that title
Park Regulations 16-1 et seq
   Parks and recreation. See that title

ANIMALS AND FOWL
Cleanliness of premises 6-8
Cruelty to animals 6-1
Dangerous animals
   Killing 6-4
   Prohibited 6-7
Diseased animals 6-7
Dogs
   Cruelty, other regulations applicable to dogs as well as other animals. See elsewhere herein specific subjects
   Dangerous animals 6-3
   Definitions 6-21
   Impounding dogs at large 6-25
      Disposition of unclaimed or infected dogs 6-27
      Notice to owner, redemption 6-26
   License and registration by County 6-22
   Muzzling 6-28
   Noisy animals 6-5
   Rabies suspects 6-29
   Running at large 6-24
   Vaccination 6-30
Hydrophobia 6-29
   Dogs suspected of having rabies
      Dogs. See within this title that subject
   Rabies vaccination of dogs 6-30
Keeping animals other than household pets 6-2
Livestock, etc.
   Keeping 6-2
   Running at large 6-6
   Tying in streets 6-6
Milk regulations 11-49 et seq
   Milk and milk products. See that title
Noisy animals 6-5
Park regulations 16-1 et seq
   Parks and recreation. See that title
Rabies
   Dogs. See within this title that subject
Running at large
   Dogs. See within this title that subject
Livestock 6-6
Vaccination
   Dogs. See within this title that subject
ANNEXATION (Reimbursement of City for expenses incurred in annexations proceedings)

Acre
Defined 2-169

Property Owner
Deposit 2-168

Continuances
Proceedings to be stayed until deposit made 2-170
Return of unused deposits 2-176
Special account 2-173
Subsequent demands for additional deposits 2-172
Reimbursement of City, etc 2-166

Retained personnel
Statements, bills, submitted by to identify charges, etc., copies 2-171
Waiver of provisions 2-175

ANNEXATIONS (Generally)
Newly annexed territory
Planning and Zoning. See that title and also under separate cover

APPROPRIATION ORDINANCES - under separate cover

ARRESTS
Weapons, offenses involving 14-64
Firearms and weapons. See that title

ASHES
Containers 11-83

ASSAULT
Committing 14-12

ASSEMBLIES
Amusement place safety requirements 5-7
Parades, processions and public gatherings 15-1 et seq
Parades, processions and public gatherings. See that title

ASSESSMENTS
Taxation in general 23-16 et seq
Taxation. See that title

ASSOCIATIONS
Person construed re 1-2

ATHLETIC EXHIBITIONS
Amusement place regulations 5-1 et seq
Amusements and amusement places. See that title

ATTORNEY, CITY. See: City Attorney

AUCTIONS
Special sales regulated 20-1 et seq
Special sales. See that title

AVENUES
Street defined 1-2
Streets in general. See: Streets and Sidewalks
-1003-

(The next page is 1063)
10/12

BAD CHECKS
Issuing  Section  14-26

BAIL BOND FEE, ADMINISTRATIVE  18-59 ET seq

BANKRUPT SALES
Special sales regulated  20-1 et seq
Special sales. See that title

BANNER SIGN:
See Signs  7.50

BARBED WIRE
Fence regulations  7-Art. XI
Fences, walls, hedges and enclosures. See that title

BARBERRY PLANTS
Prohibited  24-28
Weeds and brush. See that title

BARNs
Keeping of animals  6-2
Animals and fowl. See that title

BARRICADES
Excavations and tunneling requirements  21-32 et seq
Street regulations  21-8 et seq
Streets and sidewalks. See that title.

BATTERY
Committing  14-45

BEACHES
Park regulations  16-1 et seq
Parks and recreation. See that title

BEER AND WINE
Alcoholic beverage licenses and regulations  4-1 et seq

BEGGING
Vagrancy provisions  14-9

BENCHES
Improvements prohibited in parkways  24-4

BENEFIT OF ADMINISTRATORS, CREDITORS, ETC., SALES
Special sales regulated  20-1 et seq

BETTING
Gambling  14-29 et seq
Gambling. See that title

BEVERAGES
Food establishment regulations  11-16 et seq
Food and food services. See that title

BILLS
Posting  3-1

BLOWERS AND FANS
Unnecessary noises  14-8
Noises. See that title
BOARD OF LOCAL IMPROVEMENTS

Established

Section 2-6

BOARDS AND COMMITTEES

Agencies of City in general. See: Departments and Other Agencies of City
Council committees
City Council. See that title

Section 2-43 et seq

BOATING

Park regulations

Parks and recreation. See that title

Section 16-1 et seq

BOILERS AND FURNACES

Heating

Heating. See that title

Section 7-1 et seq

BOMB THREATS

Acts, etc., deemed disorderly conduct

Section 14-4

BONDS

City Treasurer, responsibilities and duties

City Treasurer. See that title
Officers and employees. See that title

Section 2-99 et seq

BOOKS AND RECORDS. See: Public Records

BOULDERs, BENCHES

Improvements prohibited in parkways

Section 24-4

BOULEVARDS

Street defined re

Streets in general. See: Streets and Sidewalks

Section 1-2

BOUNDARIES

Surveys, maps and plats. See that title

BOWLING ALLEYS

Amusement place regulations

Amusements and amusement places. See that title

Section 5-1 et seq

BOWS AND ARROWS

Firearms and weapons. See that title

BRUSH. See: Weeds and Brush

BRUSH FIRES

Open fires regulated

Open fires. See that title

Section 10-16 et seq

BUILDING LINES

Planning and zoning in general

Planning and Zoning. See that title and also under separate cover

Section 17-1 et seq

-1064-
BUILDING MOVING

BUILDINGS

Regulations in General
Illinois Plumbing Code
International Building Code
International Energy Conservation Code
International Fire Code
International Fuel Gas Code
International Mechanical Code
International Property Maintenance Code
International Residential Code
National Electric Code
Fences
Moving
Parabolic-Dish Type Antennas
Residential Teardown Sites and Infill Properties
Solar Energy
Storm Sewers
Substandard and Dangerous Buildings
Wind Energy Conversion Systems (WECS)

BURGLARS

Shoplifting
Theft

BURNING

Rubbish fires
Open fires. See that title

BUSINESS ESTABLISHMENTS

Licenses and permits in general
Licenses and permits. See that title
Nuisance businesses

-1065-

(The next page is 1076)
<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Subtitle</th>
</tr>
</thead>
<tbody>
<tr>
<td>7.75-1</td>
<td>CABLE TELEVISION, Franchise Agreements</td>
<td></td>
</tr>
<tr>
<td>11-16 et seq</td>
<td>CAFE, CAFETERIAS, ETC.</td>
<td>Food establishment regulations</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Food and food services. See that title</td>
</tr>
<tr>
<td>12-1 et seq</td>
<td>CALLINGS</td>
<td>Licenses and permits in general</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Licenses and permits. See that title</td>
</tr>
<tr>
<td>16-1 et seq</td>
<td>CAMPING</td>
<td>Park regulations</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Parks and recreation. See that title</td>
</tr>
<tr>
<td>2-3 et seq</td>
<td>CANDIDATES FOR OFFICE</td>
<td>Election procedure, etc.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Elections. See that title</td>
</tr>
<tr>
<td>14-76 et seq</td>
<td>CANNABIS, POSSESSION OF</td>
<td></td>
</tr>
<tr>
<td>12-1 et seq</td>
<td>CARNIVALS</td>
<td>Amusement place regulations</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Amusements and amusement places. See that title</td>
</tr>
<tr>
<td>12-1 et seq</td>
<td>CERTIFICATES</td>
<td>Licenses and permits in general</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Licenses and permits. See that title</td>
</tr>
<tr>
<td>26-85 et seq</td>
<td>CESSPOOLS</td>
<td>Private disposal systems</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Water and sewers. See that title</td>
</tr>
<tr>
<td>7-Art XI</td>
<td>CHAIN LINK FENCES</td>
<td>Fence regulations</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Fences, walls, hedges and enclosures. See that title</td>
</tr>
<tr>
<td>7.50</td>
<td>CHANGING SIGN:</td>
<td>See Signs</td>
</tr>
<tr>
<td>12-8</td>
<td>CHARITY</td>
<td>Special permits to nonprofit enterprises</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Licenses and permits. See that title</td>
</tr>
<tr>
<td>14-26</td>
<td>CHECKS</td>
<td>Bad checks, issuance</td>
</tr>
<tr>
<td>7-Art XI</td>
<td>CHICKEN WIRE</td>
<td>Fence regulations</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Fences, walls, hedges and enclosures. See that title</td>
</tr>
<tr>
<td>6-1 et seq</td>
<td>CHICKENS</td>
<td>Livestock and animals in general</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7-Art XI</td>
<td>CHLORINATION</td>
<td>Private water supplies</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Water and sewers. See that title</td>
</tr>
<tr>
<td>Section</td>
<td></td>
<td></td>
</tr>
<tr>
<td>-------------</td>
<td>-------------------</td>
<td></td>
</tr>
<tr>
<td>4-15</td>
<td>Alcoholic beverage sales near</td>
<td></td>
</tr>
<tr>
<td>19-1 et seq</td>
<td>Charitable solicitations</td>
<td></td>
</tr>
<tr>
<td>14-7</td>
<td>Disturbing religious worship</td>
<td></td>
</tr>
<tr>
<td>12-8</td>
<td>Special permits to nonprofit enterprises</td>
<td></td>
</tr>
<tr>
<td>14-8</td>
<td>Licenses and permits. See that title</td>
<td></td>
</tr>
<tr>
<td>14-8</td>
<td>Unnecessary noises</td>
<td></td>
</tr>
<tr>
<td>14-8</td>
<td>Noises. See that title</td>
<td></td>
</tr>
<tr>
<td>14-37 et seq</td>
<td>Cigarette machines</td>
<td></td>
</tr>
<tr>
<td>3-16 et seq</td>
<td>Cigarette machines</td>
<td></td>
</tr>
<tr>
<td>5-1 et seq</td>
<td>Amusement place regulations</td>
<td></td>
</tr>
<tr>
<td>26-35 et seq</td>
<td>Cisterns</td>
<td></td>
</tr>
<tr>
<td>2-166 et seq</td>
<td>City</td>
<td></td>
</tr>
<tr>
<td>2-133</td>
<td>City Administrator</td>
<td></td>
</tr>
<tr>
<td>2-134</td>
<td>City Attorney</td>
<td></td>
</tr>
<tr>
<td>2-112</td>
<td>City Clerk</td>
<td></td>
</tr>
<tr>
<td>2-88</td>
<td>City Council</td>
<td></td>
</tr>
</tbody>
</table>

**Notes:**
- Sections are numbered for ease of reference.
- Titles are listed for each section, followed by the appropriate page numbers.
CITY COUNCIL (continued)

Meetings

Addressing 2-51
Adjourned meetings 2-39
City Clerk, duties 2-88
Disturbing 2-54
No smoking 11-131
Open to public 2-41
Order of business 2-48
Presiding officer 2-42
Quorum 2-47
Records of proceedings 2-46
Rescinding action of 2-49
Resolutions required to be written, when 2-50
Robert's rules adopted 2-52
Suspension of rules 2-53
Special meetings 2-40
Superintendent of public works to attend 2-132
Suspension of rules 2-53
Time, place for regular meetings 2-38
Presiding officer 2-42
Special committees 2-44
Standing committees 2-43
Term of office 2-37
Vote 2-48.1

CITY EMPLOYEES. See: Officers and Employees.
See Also Employees Personnel Manual.

CITY SEAL

Described 2-1

CITY TREASURER

Annual report 2-104
Bond 2-100
Deposit of funds 2-102
Duties in general 2-101
Election 2-99
Finances of City in general. See: Finances 2-103
Intermingling funds 2-102
Personnel to turn over monies to. See Employees Personnel Manual 2-104
Records, reports
Annual reports 2-105
Register of payments 2-100.1
Salary 2-99
Warrants, bonds, orders, etc 2-105
Register of payments

CIVIL DEFENSE

Emergency services and disaster agency (ESDA) 2-143 et seq
Emergency services and disaster agency. See that title

CIVIL DISORDER 18-69

CLERK. See: City Clerk

CLOSING-OUT SALES

Special sales regulated 20-1 et seq
Special sales. See that title
| Section |
|------------------------|------------------|
| **CLUBS**              |                  |
| Alcoholic beverage licenses and regulations | 4-1 et seq       |
| Person construed re    | 1-2              |
| Special permits to nonprofit enterprises | 12-8             |
| Licenses and permits. See that title |                  |
| **CODE OF ORDINANCES** |                  |
| Altering or tampering with | 1-5            |
| Amendments to code     | 1-4              |
| Records                | 1-9              |
| Catchlines or headings of sections |                  |
| Effect 1-3             |                  |
| Numbering system explained. See the preface to this volume | 1-11             |
| Charges for copies of code | 1-11            |
| City Clerk, duties     | 2-88             |
| Definitions and rules of construction | 1-2             |
| Designation and cited, how | 1-1             |
| Distribution of code   | 1-10             |
| Ordinances saved from repeal, other provisions not included herein. See the preliminary pages and the adopting ordinance of this code |                  |
| Repeal of ordinances   |                  |
| Effect 1-6             | 1-7              |
| Severability of parts of code |                  |
| Violations             |                  |
| Continuing             | 1-8              |
| General penalty        | 1-8              |
| **COIN-OPERATED MACHINES AND DEVICES** |                  |
| Amusement devices; limitation on number of licensed devices | 9-8              |
| Approval of electrical devices | 9-4              |
| Definitions            | 9-1              |
| Gambling devices prohibited | 9-7             |
| Licenses               |                  |
| Application requirements | 9-3             |
| Expiration             | 9-6              |
| Fees                   | 9-5              |
| Limitation on number issued | 9-8             |
| Required               | 9-2              |
| Stickers               | 9-6              |
| Unlimited number permitted, when | 9-9             |
| Milk vending machine licenses | 11-51           |
| Milk and milk products. See that title |                  |
| Unlimited number of licenses permitted, when | 9-9             |
| **COLLECTOR**          |                  |
| City collections       | 2-121 et seq     |
| **COMBUSTIBLES**       |                  |
| Combustible refuse     | 11-87            |
| Noninflammable building materials required, where | 7-13             |
| Buildings. See that title |                  |
| Open fires regulated   | 10-16 et seq     |
| Open fires. See that title |                  |
| **COMMITTEES AND BOARDS** |                |
| Agencies of City in general. See: Departments and Other Agencies of City |                  |
| Council committees     | 2-43             |
| City council. See that title |                  |
| **COMMUNICATIONS**     |                  |
| Answering, interfering with police calls | 18-13            |
COMPENSATION
Officers and employees. See that title

CONDEMNATION
Substandard and dangerous buildings 7-Art XVII
Buildings. See that title

CONFLAGRATIONS
Emergency services and disaster agency 2-143 et seq
Emergency services and disaster agency. See that title

CONGREGATIONS. See also: Assemblies
Parades, processions and public gatherings 15-1 et seq
Parades, processions and public gatherings. See that title

CONSERVATORS OF THE PEACE 18-1 et seq

CONSTRUCTION
Building construction 7-1 et seq
Buildings. See that title

CONSTRUCTION NOISES
Unnecessary noises 14-8
Noises. See that title

CONTRACTORS
Electrical contractors 7-Art X
Electricity. See that title

CONTRACTS AND AGREEMENTS
City attorney, duties 2-115
Ordinances saved from repeal, other provisions not included herein. See the preliminary pages and the adopting ordinance this code.

CONTRIBUTIONS, SOLICITING
Park regulations 16-1 et seq
Parks and recreation. See that title

CORPORATE OR CITY LIMITS
Defined 1-2

CORRALS
Fence regulations 7-Art XI
Fences, walls, hedges and enclosures. See that title
Keeping of animals 6-2
Animals and fowl. See that title.

COUNCIL. See: City Council

COUNSEL FOR CITY
City attorney 2-112 et seq
City attorney. See that title.

COUNTY
Defined 1-2

COURTS
Police Officers appearing as witnesses 18-10
Police department. See that title
Unnecessary noises 14-8
Noises. See that title
COWS, CATTLE, ETC
  Milk and milk products 11-49 et seq
  Milk and milk products. See that title

CRIMES
  Compounding a crime 14-1
  Offenses in general. See that title

CROWDS
  Parades, processions and public gatherings 15-1 et seq
  Parades, processions and public gatherings. See that title

CURBS
  Curb ramps for handicapped persons 21-22
  Unlawful curb cuts 21-23

CURFEW
  Minors 14-11
  Minors. See that title

CYCLONES
  Emergency services and disaster agency 2-143 et seq
  Emergency services and disaster agency. See that title

(The next page is 1090)
<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>14-64 et seq</td>
<td>Weapons, offenses involving</td>
</tr>
<tr>
<td></td>
<td>Firearms and weapons. See that title</td>
</tr>
<tr>
<td>11-49-et seq</td>
<td>Milk regulations</td>
</tr>
<tr>
<td></td>
<td>Milk and milk products. See that title</td>
</tr>
<tr>
<td>16-1 et seq</td>
<td>Park regulations</td>
</tr>
<tr>
<td></td>
<td>Parks and recreation. See that title</td>
</tr>
<tr>
<td>14-32</td>
<td>Public</td>
</tr>
<tr>
<td>14-32</td>
<td>Private</td>
</tr>
<tr>
<td>5-1 et seq</td>
<td>Amusement place regulations</td>
</tr>
<tr>
<td></td>
<td>Amusements and amusement places. See title</td>
</tr>
<tr>
<td>7-Art XVII</td>
<td>Regulated</td>
</tr>
<tr>
<td></td>
<td>Buildings. See title</td>
</tr>
<tr>
<td>14-26</td>
<td>Deceptive practices</td>
</tr>
<tr>
<td>1-2</td>
<td>General definitions for interpreting code</td>
</tr>
<tr>
<td>1-2</td>
<td>Construed</td>
</tr>
<tr>
<td>7-Art XVII</td>
<td>Dangerous buildings</td>
</tr>
<tr>
<td></td>
<td>Buildings. See title</td>
</tr>
<tr>
<td>11-1 et seq</td>
<td>Board of health</td>
</tr>
<tr>
<td></td>
<td>Health and sanitation. See that title</td>
</tr>
<tr>
<td>18-25 et seq</td>
<td>Board of police commissioners</td>
</tr>
<tr>
<td></td>
<td>Police department. See that title</td>
</tr>
<tr>
<td>2-37 et seq</td>
<td>City council</td>
</tr>
<tr>
<td></td>
<td>City council. See title</td>
</tr>
<tr>
<td>2-43 et seq</td>
<td>Council committees</td>
</tr>
<tr>
<td></td>
<td>City council. See title</td>
</tr>
<tr>
<td>7-31 et seq</td>
<td>Electrical commission</td>
</tr>
<tr>
<td></td>
<td>Electrical. See title</td>
</tr>
<tr>
<td>7-Art X</td>
<td>Electrical inspection department</td>
</tr>
<tr>
<td></td>
<td>Electricity. See title</td>
</tr>
<tr>
<td>2-143 et seq</td>
<td>Emergency services and disaster agency</td>
</tr>
<tr>
<td></td>
<td>Emergency services and disaster agency. See title</td>
</tr>
<tr>
<td>2-18 et seq</td>
<td>Mayor</td>
</tr>
<tr>
<td></td>
<td>Mayor. See title</td>
</tr>
<tr>
<td>18-1 et seq</td>
<td>Police department</td>
</tr>
<tr>
<td></td>
<td>Police department. See that title</td>
</tr>
<tr>
<td>18-41 et seq</td>
<td>Police pension board</td>
</tr>
<tr>
<td></td>
<td>Police department. See that title</td>
</tr>
<tr>
<td>2-83</td>
<td>Deputy Clerk</td>
</tr>
</tbody>
</table>

1090
## DEVELOPMENT IN SPECIAL FLOOD HAZARD AREAS

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>8-14</td>
<td>Abrogation and greater restrictions</td>
</tr>
<tr>
<td>8-5 et seq</td>
<td>Base flood elevation</td>
</tr>
<tr>
<td>8-2 et seq</td>
<td>Definitions</td>
</tr>
<tr>
<td>8-12</td>
<td>Disclaimer of Liability</td>
</tr>
<tr>
<td>8-4 et seq</td>
<td>Duties of enforcement officer</td>
</tr>
<tr>
<td>8-3 et seq</td>
<td>How to use this ordinance</td>
</tr>
<tr>
<td>8-6 et seq</td>
<td>Occupation and use of flood fringe areas</td>
</tr>
<tr>
<td>8-7 et seq</td>
<td>Occupation and use of identified floodways</td>
</tr>
<tr>
<td>8-8 et seq</td>
<td>Occupation and use of SFHA areas where floodways are not identified</td>
</tr>
<tr>
<td>8-10 et seq</td>
<td>Other development requirements</td>
</tr>
<tr>
<td>8-9 et seq</td>
<td>Permitting requirements applicable to all flood plain areas</td>
</tr>
<tr>
<td>8-1 et seq</td>
<td>Purpose</td>
</tr>
<tr>
<td>8-15</td>
<td>Separability</td>
</tr>
<tr>
<td>8-11 et seq</td>
<td>Variances</td>
</tr>
<tr>
<td>8-13 et seq</td>
<td>Violation; penalty</td>
</tr>
</tbody>
</table>

### DEVELOPMENTS

- Planning and zoning in general
  - Planning and zoning. See that title
  - 17-1 et seq

### DIRECTIONAL SIGN:

- See Signs
  - 7.50

### DISASTERS

- Emergency services and disaster agency
  - Emergency services and disaster agency. See that title
  - 2-143 et seq

### DISEASE CONTROL

- Animal regulations
  - 6-1 et seq
  - Animals and fowl. See that title
- Food establishment regulations
  - 11-16 et seq
  - Food and food services. See that title
- Restaurant regulations
  - 11-41

### DISORDERLY CONDUCT

- Acts deemed, prohibited conduct, etc
  - 14-4
- Engaging in
  - 14-4
- Reckless conduct
  - 14-14

### DISPLAY BOARD

- See Signs
  - 7.50

### DISTURBING RELIGIOUS WORSHIP

- Persons engaged in
  - 14-7

### DISTURBING THE PEACE

- Disturbing council meetings
  - 2-54

### DOCKS

- Park regulations
  - 16-1 et seq
  - Parks and regulations. See that title

### DOCUMENTS AND RECORDS

- See: Public Records

### DOOR-TO-DOOR SALESMEN

- Solicitors and Transient Merchants regulated
  - 19-1 et seq
  - Peddlers, canvassers and solicitors. See that title

### DRAINAGE

- Obstructing
  - 21-11
DRESSING AND UNDRESSING
Park regulations
Parks and recreation. See that title

10/12
Section

16-1 et seq

DRUG PARAPHERNALIA
Definitions
Selling, displaying, furnishing, giving away, prohibited;
exceptions

14-75

DRUMS
Unnecessary noises
Noises. See that title

14-8

DUCKS AND GEESE
Livestock and animals in general

6-1 et seq
EARTH, STONE, ETC.
Taking materials from public property 14-20

EARTHQUAKES
Emergency services and disaster agency 2-143 et seq
Emergency services and disaster agency. See that title

EATING ESTABLISHMENTS
Food establishment regulations 11-16 et seq
Food and food services. See that title

ELECTIONS
City Clerk 2-86
Duties of Clerk 2-88
City Treasurer 2-99
City Treasurer. See that title
Mayor 2-18
Mayor. See that title
Procedure, time for 2-3
Special elections, calling 2-4
Term of office of elected officials 2-7
Wards 2-5

ELECTRIC FENCES
Fence regulations 7- Art XI
Fences, walls, hedges and enclosures. See that title

ELECTRICITY
Electric service, wiring, grounding 7-Art X
Swimming pool electrical requirements 22-15

ELEEMOSYNARY INSTITUTIONS
Charitable solicitations 19-18 et seq
Peddlers, canvassers and solicitors. See that title
Special permits to nonprofit enterprises 12-8
Licenses and permits. See that title

ELEVATOR, MAN LIFT AND DUMB WAITER. See that title under BUILDINGS

EMBESSION
See Signs 7.50

EMERGENCY SERVICES AND DISASTER AGENCY
Agreements with other political subdivisions 2-150
Appropriations 2-155
Auxiliary police, duties 18-69
Compensation during training time 2-152
Composition 2-144
Cooperation with state in exercise of powers 2-151
Coordinator and acting coordinator 2-145
Appointment, term, responsibility
Created 2-144
Definitions 2-143
ESDA, defined 2-143
General functions and duties 2-146
Mobile support team 2-149
Oath of members 2-147
Office space 2-148
Purchases and expenditures 2-153
Purpose 2-144
Reimbursements by state 2-154
Tax levy for ESDA purposes 2-155
EMPLOYEES. See: Officers and Employees. Also Personnel Manual

ENCLOSURES. See: Fences, Walls, Hedges and Enclosures

ENCROACHMENTS
Public right-of-way, etc
   Streets and sidewalks. See that title

ENEMY ATTACK, SABOTAGE, ETC.
Emergency services and disaster agency
   Emergency services and disaster agency. See that title

ENTERTAINMENTS
Amusement place regulations
   Amusements and amusement places. See that title
Parades, processions and public gatherings
   Parades, processions and public gatherings. See that title

EPIDEMICS
Emergency services and disaster agency
   Emergency services and disaster agency. See that title

EXCAVATIONS AND TUNNELING
Barricades
   Streets and sidewalks. See that title
Building sewers
   Water and sewers. See that title
Permit for street openings
   Streets and sidewalks. See that title
Sewer excavations
   Water and sewers. See that title
Tree protection
   Water and sewers. See that title
Water service pipes
   Water and sewers. See that title

EXHAUST DISCHARGES
Unnecessary noises
   Noises. See that title

EXHIBITIONS
Amusement place regulations
   Amusements and amusement places. See that title

EXPLOSIVES. See: Fireworks and Explosives
FACING
See Signs 7.50

FALSE ALARM OF FIRE
Acts, etc., deemed disorderly conduct 14-4

FALSE INFORMATION
Acts, etc., deemed disorderly conduct 14-4

FANS AND BLOWERS
Unnecessary noises 14-8
Noises. See that title

FARM TYPE FENCES
Fence regulations 7- Art XI
Fences, walls, hedges and enclosures. See that title

FATS, GREASE AND OIL CONTROL 26- Art II Div 6

FENCES, WALLS, HEDGES AND ENCLOSURES 7-Art XI

FESTIVALS
Parades, processions and public gatherings 15-1 et seq
Parades, processions and public gatherings. See that title

FIGHTING
Prohibited 14-6

FINANCES
Annexation
Reimbursement of City for expenses incurred 2-166 et seq
Annexation. See that title
City Clerk, general duties 2-88 et seq
City Treasurer, responsibilities and duties 2-99 et seq
City Treasurer. See that title
Finance Director 2-121 et seq
Fiscal year 2-2
Public records open for inspection 7-73
Water and sewer capital development fee 26-165 et seq
Water and sewers. See that title

FINES, FORFEITURES AND PENALTIES
General penalty for violations of code 1-8
Code of ordinances. See that title
Ordinances saved from repeal, other provisions not included herein. See the preliminary pages and the adopting ordinance of this code
Weapons, offenses involving 14-64
Firearms and weapons. See that title

FINGERPRINTING
Police department. See that title

FIRE ALARM WIRES
Building, moving operations, interfering with 7-Art XII

FIRE AND OTHER ALTERED GOODS SALES
Special sales regulated 20-1 et seq
Special sales. See that title

FIRE DEPARTMENT
Acts, etc., deemed disorderly conduct 14-4
FIRE PREVENTION
Amusement place general safety requirements 5-7
Building regulations 7-1 et seq
Noninflammable materials required for buildings 7-13
Open fires 10-16 et seq
Smoke detectors 7-20

FIRE SPRINKLER SYSTEM  See: Water and Sewer - Water Supply & Distribution

FIREARMS AND WEAPONS
Carrying weapons concealed 14-64
Discharge of firearms 14-64
Displaying, & sale of specified weapons 14-64
Park regulations 16-1 et seq

FIRES
Emergency services and disaster agency 2-143 et seq
False alarm of fire 14-4
Open fires 10-16 et seq
Park regulations 16-1 et seq

FIREWORKS AND EXPLOSIVES
Definition of fireworks 10-32
Use prohibited without license 10-33
Public displays 10-34
Sale, storage and possession prohibited 10-35
Exemption for signalling devices 10-36

FIRMS
Persons construed re 1-2

FISCAL YEAR
Designated 2-2

FLAMMABLES
Noninflammable building materials required, where 7-13
Open fires regulated 10-16 et seq

FLASHING SIGN
See Signs 7.50
## FLOODS

Development in special flood hazard area  
Development in special flood hazard areas. See that title  
8-1 et seq

Emergency services and disaster agency  
Emergency services and disaster agency. See that title  
2-143 et seq

## FOOD AND FOOD SERVICES

Adulteration  
11-25

Employees' health and cleanliness  
11-28

Enforcement  
11-18

Flies and vermin  
11-27

Food dealer  
Defined  
11-16

Food deliveries  
Exemption from fees  
11-63

Inspections  
11-65

License compliance required  
11-61

Licenses  
Application  
11-62

Issuance, fees  
11-62

Exemptions  
11-63

Revocation  
11-64

Sanitation requirements  
11-66

"Food" includes beverages  
11-17

Health department, health officer, etc. See: Health and Sanitation  
Inspections, samples  
Required  
11-21

Licenses  
Applications  
Inspection report  
11-22

Double licensing  
11-23

Fees  
11-19

Penalty  
11-19

Procedure  
11-19

Report on license application  
Required  
11-22

Revocation  
11-19

Required, posting, suspension, revocation  
11-20

Restaurants  
Construction, reconstruction, alteration of building  
11-42

Definitions  
11-36

Disease control  
11-41

Enforcement interpretation  
11-37

Nonprofit organizations, as to  
11-40

Permits  
Applicability to nonprofit organizations  
11-40

Fees  
11-39

Exemptions  
11-40

Penalty  
11-39

Sanitation of premises  
11-26

Smoking. See that title  
Unwholesome food  
11-24

## FORCED-OUT-OF-BUSINESS SALES

Special sales regulated  
Special sales. See that title  
20-1 et seq

## FORFEITURES

See: Fines, Forfeitures and Penalties
10/12

FOWL. See: Animals and Fowl

FRANCHISE OR RIGHT
Ordinances saved from repeal, other provisions not included herein. See the preliminary pages and the adopting ordinance of this code

FRATERNAL ORDERS
Charitable solicitations 19-1 et seq
Peddlers, canvassers and solicitors. See that title
Special permits to nonprofit enterprises 12-8
Licenses and permits. See that title

FRAUD
Deceptive practices 14-26
Peddlers, transient merchants, canvassers and solicitors; license provisions Fraud and misrepresentation on application 19-9
Shoplifting 14-25
Theft 14-27

FREE STANDING SIGN
See Signs 7.50

FURNACES AND BOILERS
Heating 7-1 et seq
GAMBLING

Coin-operated machines and devices
Devises, Coin-operated machines and devices. See that title
Engaging in
Materials, possession
Park regulations
Parks and recreation. See that title
Premises, permitting use of

GAMES

Playing in street

GANG ACTIVITY

Prohibited

GARAGE SALES

Definition
Information to be filed
License
Display
Fee
Required
Merchandise, types of
Number of sales
Penalty
Persons and sales excepted
Purpose
Signs
Time limitations

GARBAGE AND TRASH

Accumulations of garbage
Combustible, explosive refuse
Containers
Ash containers
Capacity
Duty to provide, maintain
Garbage containers, construction
Rubbish containers
Sanitation
Storage
Deposits of harmful materials on streets
Disposal
Disposal of refuse
Duty to provide for
Frequency of collection
Incinerators, use
Park regulations
Parks and recreation. See that title
Penalty
Refuse containers. See hereinabove: Containers
Scavengers
Scavengers. See that title
Streets and public places
Unlawful deposits in
Sweeping into streets
Weed abatement
Weeds and brush. See that title
GAS LEAKS  
Affecting trees  
24-13

GAS PUMPS  
Erecting in streets prohibited  
21-13

GATHERINGS  
Parades, processions and public gatherings  
15-1 et seq
Parades, processions and public gatherings. See that title

GESE AND DUCKS  
Livestock and animals in general  
6-1 et seq

GENDER  
Word usage for interpreting code  
1-2

GENERAL PENALTY  
Section  
1-8
Violations of code  
Code of ordinances. See that title

GIFT BAN ORDINANCE  
Section  
2-55 et seq

GOATS  
Livestock and animal regulations  
6-1 et seq
Animals and fowl. See that title

GOING-OUT-OF-BUSINESS SALES  
Special sales regulated  
20-1 et seq
Specials sales. See that title

GOVERNING BODY. See: City Council

GRAFFITI  
Defined  
14-32

GRASS FIRES  
Open fires regulated  
10-16 et seq
Open fires. See that title

GREASE, FATS AND OIL CONTROL  
26-Art II, Div 6

GUNS  
Weapons, offenses involving  
14-64
Firearms and weapons. See that title
HAMBURGER STANDS, HOTDOG STANDS, ETC.
Food establishment regulations
Food and food services. See that title

SECTION 11-16 et seq

HANDBILL DISTRIBUTION
Advertising, other
Advertising. See that title
Inhabited private premises
Name and address of printer, etc., and distributor
Placing in vehicles
Posted property
Throwing in public places
Uninhabited or vacant premises

SECTION 3-1 et seq

HAWKING
Solicitors regulated
Peddlers, canvassers and solicitors. See that title

SECTION 19-1 et seq

HEALTH AND SANITATION
Alcoholic beverage premises
Animal regulations
Animals and fowl. See that title
Board of health
Established
General duties
Membership
Chlorination of private water supplies
Water and sewers. See that title
Food and food services
Food and food services. See that title
Food deliveries
Food and food services. See that title
Health officer
Appointment, powers
Duties
Office established
Housing maintenance and occupancy code. See that title
Leaf pick-up service. See that title
Milk and milk products
Milk and milk products. See that title
Private water supplies
Water and sewers. See that title
Swimming pool regulations
Swimming pools. See that title
Water and sewers
Water and sewers. See that title
Wells

SECTION 4-20

SECTION 6-1 et seq

SECTION 11-1

SECTION 11-2

SECTION 11-1

SECTION 26-70

SECTION 11-16 et seq

SECTION 11-61 et seq

SECTION 11-3

SECTION 11-3

SECTION 11-49 et seq

SECTION 26-35 et seq

SECTION 22-1 et seq

SECTION 26-1 et seq

SECTION 26-1 et seq

SECTION 26-35 et seq

HEDGES. See: Fences, Walls, Hedges and Enclosures

HEIGHT, SIGN
See Signs

HEREDITAMENTS
Real property construed re

HISTORIC PRESERVATION ORDINANCE

HOG FENCES
Fence regulations
Fences, walls, hedges and enclosures. See that title

SECTION 7.50

SECTION 1-2

SECTION 2-186 et seq

SECTION 7-Art XI
HOGS
Livestock and animal regulations 6-1 et seq
Animals and fowl. See that title

HORNS
Unnecessary noises 14-8
Noises. See that title

HORSEBACK RIDING
Park regulations 16-1 et seq
Parks and recreation. See that title

HORSES
Livestock and animal regulations 6-1 et seq
Animals and fowl. See that title

HOSPITALS
Unnecessary noises 14-8
Noises. See that title

HOSTILITIES
Emergency services and disaster agency 2-143 et seq
Emergency services and disaster agency. See that title

HOTELS
Alcoholic beverage licenses and regulations 4-1 et seq

HOUSE MOVING. See: Building Moving

HOUSE NUMBERING
Required 7-1 et seq

HOUSEHOLD PETS
Keeping of animals 6-2
Animals and fowl. See that title

HOUSE-TO-HOUSE SALESMEN
Solicitors regulated 19-1 et seq
Peddlers, canvassers and solicitors. See that title

HOUSING MAINTENANCE AND OCCUPANCY CODE
Definitions 11-139 et seq
Emergencies 11-217
Enforcement 11-216
General requirements relating to the safe and sanitary maintenance of parts of dwellings and dwelling units 11-201 et seq
Legislative findings 11-135
Minimum standards for basic equipment and facilities 11-191 et seq
Penalty 11-215
Purposes 11-136
Responsibilities of owners and occupants 11-176 et seq
Scope 11-137
Title 11-138

HURRICANES
Emergency services and disaster agency 2-143 et seq
Emergency services and disaster agency. See that title

HYDROGEN BOMB ATTACK
Emergency services and disaster agency 2-143 et seq
Emergency services and disaster agency. See that title

1106 (the next page is 1110)
ICE AND SNOW
Park regulations
Parks and recreation. See that title
Removal from sidewalks

IDENTIFICATION SIGN
See Signs

ILLICIT DISCHARGE AND CONNECTION TO STORMWATER SEWER SYSTEM

ILLINOIS, STATE OF. See: State

ILLUMINATED SIGN
See Signs

IMMORALITY. See: Indecency and Obscenity

IMPOUNDMENT, VEHICLE

IMPROVEMENTS. See: Public Works and Improvements

INCIDENTAL SIGN
See Signs

INCINERATORS
Garbage disposal restrictions
Open fires regulated

INDECENCY AND OBSCENITY
Acts, etc., deemed disorderly conduct
Massage and bath parlors
Sexual offenses in
Obscene literature, pictures, performances, etc.
Public indecency
Religious worship, disturbing

INFANTS. See: Minors

INFLAMMABLES
Noninflammable building materials required, where
Open fires regulated

INOCULATION
Vaccination of dogs
Animals and fowl. See that title

INSOLVENT BUSINESS
Special sales regulated

INTOXICATING BEVERAGES
Alcoholic beverage licenses and regulations

ITINERANT MERCHANTS
Solicitors regulated
Peddlers, canvassers and solicitors. See that title
JAZZ FESTIVALS
Parades, processions and public gatherings  15-1 et seq
Parades, processions and public gatherings. See that title

JOINT AUTHORITY
Construed  1-2

JOINT OWNER
Owner construed re  1-2

JUKE BOXES
Coin-operated machines and devices  9-1 et seq
Coin-operated machines and devices. See that title
Unnecessary noises  14-8
Noise. See that title

JUNKED VEHICLES
Wrecked, junked, etc., vehicles  27-1 et seq
Wrecked, junked and abandoned vehicles. See that title

JUVENILES. See: Minors
KNIVES
Weapons, offenses involving
Firearms and weapons. See that title

Section 14-64

LANDS
Criminal trespass 14-19
Owner, construed 1-2
Real property construed re 1-2

LANES
Street defined re 1-2
Streets in general. See: Streets and Sidewalks

LEADS ONLINE ELECTRONIC REPORTING 12 Art I

LEAF PICK-UP SERVICE
Curb-line or road-line collection 11-222
Fall leaf pick-up service 11-220
Rejection of pick-up 11-224
Unlawful bag contents; intent presumed 11-223

LEGAL ADVISOR
City Attorney (Also see that title) 2-112 et seq

LEWDNESS. See also: Indecency and Obscenity
Acts, etc., deemed disorderly conduct 14-4

LICENSES AND PERMITS
Note: In conjunction with the subjects listed herein which are of a
general nature. See also specific occupations, trades,
professions, etc.)
Alcoholic beverages 4-1 et seq
Building moving 7-Art XII
Building moving. See that title
Building permits
Buildings. See that title

Building sewers and connections
Water and sewers. See that title

Change of location, effect

Charitable solicitation
Peddlers, canvassers and solicitors. See that title

Clerk designated license officer
Duties

Devices, Coin-operated
Coin-operated machines and devices. See that title

Electrical permits
Electricity. See that title

Excavation permits
Streets and sidewalks. See that title

Fees
Prorating
When fee payable

Fence regulations
Pens, walls, hedges and enclosures. See that title

Fireworks and explosives
Fireworks and explosives. See that title

Food establishment regulations
Food and food services. See that title

Inspections, samples

Milk vending machines

Milk and milk products. See that title

Motor vehicle. See Traffic Code under separate cover

Nuisance businesses

Overhanging signs. See Zoning Ordinance under separate cover
Parades, processions and public gatherings
Parades, processions and public gatherings. See that title

Park regulations

Parks and recreation. See that title

Peddlers, transient merchants, canvassers and solicitors
Peddlers, canvassers and solicitors. See that title

Poles and wires, permission

Retailer's occupation tax
Taxation. See that title

Scavenger's licenses
Scavengers. See that title. See also: Garbage and Trash

Service occupation tax
Taxation. See that title

Sewer permits
Water and sewers. See that title

Solicitors regulated
Peddlers, canvassers and solicitors. See that title

Street construction permits

Swimming pools

Swimming pools. See that title

Termination of licenses
Transfer of license
Violations; penalty
Zoning considerations

LIFESAVING DEVICES
Swimming pool requirements

LIMOUSINE SERVICE. See Taxicabs
LIQUIDATION
Special sales regulated
Special sales. See that title

LIQUOR
Alcoholic beverage licenses and regulations

LITTERING
Generally
Handbill distribution
Handbill distribution. See that title

LIVESTOCK
Animal regulations
Animals and fowl. See that title

LOADS ON VEHICLES
Unnecessary noises
Noises. See that title

LOCAL IMPROVEMENTS. See: Public Works and Improvements

LOITERING
Generally
Park regulations
Parks and recreation. See that title
Vagrancy provisions

LOST PROPERTY
Custody

LOTTERIES
Gambling
Gambling. See that title

LOUDSPEAKERS
Unnecessary noises
Noises. See that title
Use of advertising purposes

LUNCHROOMS
Food establishment regulations
Food and food services. See that title

McHENRY, CITY OF. See city
McHENRY, COUNTY. See: County

MALT BEVERAGES
Alcoholic beverage license and regulations

MAPS. See: Surveys, Maps and Plats

MARBLE MACHINES
Devices, Coin-operated machines and devices
<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>10/12</td>
<td></td>
</tr>
<tr>
<td>MARQUEE SIGN</td>
<td>See Signs 7.50</td>
</tr>
<tr>
<td>MASSAGE AND BATH PARLORS</td>
<td>Sexual offenses in 14-53</td>
</tr>
<tr>
<td>MAY, SHALL</td>
<td>Defined 1-2</td>
</tr>
<tr>
<td>MAYOR</td>
<td>Acting Mayor 2-25</td>
</tr>
<tr>
<td></td>
<td>Appointment of personnel 2-21</td>
</tr>
<tr>
<td></td>
<td>City personnel, generally. See: Officers and Employees and, Personnel Manual under separate cover</td>
</tr>
<tr>
<td></td>
<td>Bond 2-19</td>
</tr>
<tr>
<td></td>
<td>Ceremonial duties 2-23</td>
</tr>
<tr>
<td></td>
<td>Defined 1-2</td>
</tr>
<tr>
<td></td>
<td>Designation of duties of personnel 2-22</td>
</tr>
<tr>
<td></td>
<td>Election, term 2-18</td>
</tr>
<tr>
<td></td>
<td>General administrative duties 2-20</td>
</tr>
<tr>
<td></td>
<td>Mayor pro tem 2-24</td>
</tr>
<tr>
<td></td>
<td>Presiding officer of council 2-42</td>
</tr>
<tr>
<td></td>
<td>Council meetings and procedures. See: City Council</td>
</tr>
<tr>
<td></td>
<td>Salary 2-19.1</td>
</tr>
<tr>
<td>MECHANICAL AMUSEMENT DEVICES</td>
<td>Devices, coin-operated machines and devices 9-1 et seq</td>
</tr>
<tr>
<td>MEETINGS</td>
<td>City council, time, place 2-38</td>
</tr>
<tr>
<td></td>
<td>City council. See that title</td>
</tr>
<tr>
<td></td>
<td>Parades, processions and public gatherings 15-1 et seq</td>
</tr>
<tr>
<td></td>
<td>Parades, processions and public gatherings. See that title</td>
</tr>
<tr>
<td>MILK AND MILK PRODUCTS</td>
<td>Applicability 11-49</td>
</tr>
<tr>
<td></td>
<td>Enforcement 11-50</td>
</tr>
<tr>
<td></td>
<td>License for milk vending machines, milk dealers, milk delivery vehicles 11-51</td>
</tr>
<tr>
<td></td>
<td>Standards 11-52</td>
</tr>
<tr>
<td>MINORS (Juveniles, Children, Infants, Etc.)</td>
<td>Amusement place restrictions 5-5</td>
</tr>
<tr>
<td></td>
<td>Curfew 14-11</td>
</tr>
<tr>
<td></td>
<td>Immorality, lewdness, etc., in general 14-45</td>
</tr>
<tr>
<td></td>
<td>Indecency and obscenity. See that title</td>
</tr>
<tr>
<td></td>
<td>Offenses relative to alcoholic beverages 4-26 et seq</td>
</tr>
<tr>
<td></td>
<td>Alcoholic beverages. See that title</td>
</tr>
<tr>
<td></td>
<td>Parent or legal guardian. Responsibility 14-34</td>
</tr>
<tr>
<td>MISSILE OR BOMB ATTACK</td>
<td>Emergency services and disaster agency 2-143 et seq</td>
</tr>
<tr>
<td></td>
<td>Emergency services and disaster agency. See that title</td>
</tr>
<tr>
<td>MOBILE SUPPORT TEAM</td>
<td>Emergency services and disaster agency 2-143 et seq</td>
</tr>
<tr>
<td></td>
<td>Emergency services and disaster agency. See that title</td>
</tr>
<tr>
<td>MONEY OF CITY</td>
<td>See: Finances</td>
</tr>
<tr>
<td>MONTH</td>
<td>Defined 1-2</td>
</tr>
</tbody>
</table>
MORALS OFFENSES
Gambling  14-29
Gambling. See that title
Indecency and obscenity. See that title

MOTION PICTURES
Amusement place regulations 5-1 et seq
Amusements and amusement places. See that title
Immorality, lewdness, etc., in general 14-45
Indecency and obscenity. See that title

MOTOR VEHICLES AND OTHER VEHICLES
Criminal trespass 14-18
Ordinances continued in effect 13-1
Parades, processions and public gatherings 15-1 et seq
Parades, processions and public gatherings. See that title
Park regulations 16-1 et seq
Snowmobiles. See Traffic Control Ordinance under separate cover 13-1 et seq
Traffic control. See Traffic Control Ordinance under separate cover
Unnecessary noises 14-8
Noises. See that title
Wrecked, junked, etc., vehicles 27-1 et seq
Wrecked, junked and abandoned vehicles. See that title

MOVING SIGN
See Signs 7.50

MUFFLERS ON ENGINES
Unnecessary noises 14-8
Noises. See that title

MULES
Livestock and animal regulations 6-1 et seq
Animals and fowl. See that title

MUNICIPAL SEAL
Described 2-1

MUNICIPALITY. See: City

MUSIC MACHINES
Unnecessary noises 14-8
Noises. See that title

MUSICAL INSTRUMENTS
Devices, coin-operated machines and devices 9-1 et seq

NAME PLATE
See Signs 7.50

NATIONAL ELECTRICAL CODE
Adoption Section 7-Art X
Electricity. See that title
NATURAL DISASTERS
Emergency services and disaster agency
Emergency services and disaster agency. See that title

NATURAL RESOURCES
Park regulations
Parks and recreation. See that title

NOISE
Disorderly conduct 14-4
Disturbing the peace 14-4
Loud and unnecessary noises
Prohibited, regulated, enumeration, etc. 14-8
Loudspeakers, amplifiers, etc., used for advertising 3-2
Noisy animals 6-5
Nuisance businesses 14-3

NOMINATIONS
Election procedure, etc.
Elections. See that title 2-3 et seq

NONPROFIT ENTERPRISES
Special permits 12-8

NONTECHNICAL AND TECHNICAL WORDS
Construed 1-2

NOTICES
Posting on trees 24-8

NOXIOUS GROWTHS. See: Weeds and Brush

NUCLEAR BOMB ATTACK
Emergency services and disaster agency
Emergency services and disaster agency. See that title

NUISANCES
Nuisance businesses 14-3
Substandard and dangerous buildings 7-91 et seq
Buildings. See that title
Weeds and brush 24-26 et seq
Weeds and brush. See that title
Wrecked, junked, etc., vehicles 27-1 et seq
Wrecked, junked and abandoned vehicles. See that title

NUMBER
Word usage for interpreting code 1-2

(The next page is 1125)
**OATH, AFFIRMATION, SWEAR OR SWORN**

Defined

- Official oath
  - Officers and employees. See that title

**OBSCENITY.** See: Indecency and Obscenity

**OCCUPANT OR TENANT**

Construed

**OCCUPATIONS**

- Licenses and permits in general
  - Licenses and permits. See that title
- Retailer’s and service occupation taxes
  - Taxation. See that title

**OFFENSES**

- Accountability for conduct of another
- Aiding, abetting, soliciting, attempting to aid, etc.
- Compounding a crime
- Miscellaneous offenses and provisions
  - Specific penalties, remedies, regulations. See specific offenses
- Ordinances saved from repeal, other provisions not included herein. See the preliminary pages and the adopting ordinance of this code.

**OFFICERS AND EMPLOYEES** (Also see Personnel Policy Manual under separate cover)

**Applicability to future personnel**

- Appointments
  - Mayor, functions and authorities
  - Mayor. See that title
- Availability of records for inspection
- Bonds
  - General requirements
  - Mayor, bond of
- Building officer
  - Buildings. See that title
- City Attorney
  - City Attorney. See that title
- City Clerk
  - City Clerk. See that title
- City Collector
  - City Collector. See that title
- City Council
  - City Council. See that title
- City Treasurer
  - City Treasurer. See that title
- Code references to officers by title, etc. construed
- Compensation, salaries, etc.
  - See under title for Mayor, City Council, City Clerk, City Treasurer, City Attorney. Also see Personnel Policy Manual under separate cover
- Work tours and overtime provisions for law enforcement personnel
- Departments and other agencies of City. See that title
- Duties, designation, determining
  - Specific duties. See specific officers
- Elected officials
  - Term of office
- Election procedures
  - Elections. See that title
- Electrical inspection, inspector, etc
  - Electricity. See that title
Emergency services and disaster agency. See that title
False information
Acts, etc., deemed disorderly conduct 14-4
Future personnel
Applicability of provisions 2-65
General penalty for code violations 1-8
Code of ordinances. See that title
Health Officer
Health and sanitation. See that title
Joint authority, construed 1-2
Mayor
Mayor. See that title
Monies received by personnel
Duty to turn over to city Treasurer 2-72
Oath of office 2-69
Ordinances saved from repeal, other provisions not included herein. See the preliminary pages and the adopting ordinance of this code
Police Officers
Police department. See that title
Public records. See also that title
Availability of records for inspection 2-73
Refusing to aid an officer 14-16
Removal from office 2-67
Terms of office
Appointed officials 2-66
Elected officials 2-7
Vacancies, generally 2-68
Work tours and overtime provisions for law enforcement personnel 2-71

OFFICIAL PLAN
Continuance 17-3
Planning and zoning. See that title

OILS, FATS AND GREASE CONTROL in sewers 26, Art II, Div 6

OPEN FIRES
Exclusion for contained fires 10-16
Leaves, papers, etc.
Burning 10-19
Burning at night 10-20
Conditions for paper fires 10-21
Park regulations 16-33
Proximity to structures, flammables 10-17
Rubbish, burning 10-18
Weed abatement provisions 24-26 et seq
Weeds and brush. See that title

ORDINANCES. See: Code of Ordinances

OUTDOOR ADVERTISING. See Zoning Ordinance under separate cover

Streets and sidewalks. See that title

OUTDOOR BURNING
Open fires 10-16 et seq

Open fires. See that title

OVERGROWTH. See: Weeds and Brush

OVERTIME. See also Personnel Policy Manual under separate cover

Providing for (law enforcement personnel) 2-71

OWNER
Construed 1-2
PAPER, BURNING
Open fires regulated
Open fires. See that title

PAPERS, BOOKS AND RECORDS. See: Public Records

PARADES, PROCESSIONS AND PUBLIC GATHERINGS
Definitions 15-1
Driving through 15-17
Interference with 15-16
Laws and ordinances, compliance 15-14
Parking on parade route 15-18
Permits
     Alternative permits 15-12
     Appeals from denials 15-11
     Applications 15-4
     Appeal from denial 15-11
     Contents 15-6
     Filing 15-5
     Late applications 15-7
     Notice of denial 15-9
     Time for action on 15-9
     Compliance 15-14
     Contents 15-13
     Duty to carry 15-15
     Exceptions 15-3
     Issuance
         Standards 15-10
     Permits from other jurisdictions 15-8
     Required 15-2
     Standards for issuance 15-10

PARABOLIC DISH-TYPE TELEVISION ANTENNAS 7-Art XIII

PARENTAL RESPONSIBILITY
Unemancipated minor 14-34

PARKING
Handicapped. See Traffic Control Ordinance under separate cover
Parades, processions and public gatherings 15-1 et seq
Parades, processions and public gatherings. See that title
Prohibited in certain areas
     See Traffic Control Ordinance under separate cover
     Time limitations
         See Traffic Control Ordinance under separate cover

PARKS AND RECREATION
Advertising and signs 16-41
Alms, contributions
     Soliciting 16-32
Animals, birds, etc.
     Feeding 16-12
     Molesting 16-11
     Pets and domestic animals 16-30
Beaches
     Structures on 16-17
Boating areas 16-19
Boats
     Hazardous operation 16-21
Building permit
         Cash contribution condition of approval, etc. 7-4
         Buildings. See that title 1127
## PARKS AND RECREATION (continued)

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Camping</td>
<td>16-25</td>
</tr>
<tr>
<td>Charges for facilities</td>
<td>16-48</td>
</tr>
<tr>
<td>Closed areas</td>
<td></td>
</tr>
<tr>
<td>Entering or remaining in closed parks</td>
<td>16-43.2</td>
</tr>
<tr>
<td>Use</td>
<td>16-34</td>
</tr>
<tr>
<td>Closing of areas</td>
<td></td>
</tr>
<tr>
<td>Director, authority</td>
<td>16-43</td>
</tr>
<tr>
<td>Entering or remaining in closed parks</td>
<td>16-43.2</td>
</tr>
<tr>
<td>Police officers, authority</td>
<td>16-43.1</td>
</tr>
<tr>
<td>Damage to property</td>
<td>16-5</td>
</tr>
<tr>
<td>Definitions</td>
<td>16-1</td>
</tr>
<tr>
<td>Director and park attendants</td>
<td></td>
</tr>
<tr>
<td>Definitions</td>
<td>16-1</td>
</tr>
<tr>
<td>Duty to enforce provisions</td>
<td>16-2</td>
</tr>
<tr>
<td>Firearms and weapons</td>
<td>16-23</td>
</tr>
<tr>
<td>Fires. See also: Open fires</td>
<td></td>
</tr>
<tr>
<td>Building, setting, etc</td>
<td>16-33</td>
</tr>
<tr>
<td>Fireworks and explosives, offenses re</td>
<td>16-29</td>
</tr>
<tr>
<td>Fixtures, climbing, sitting on</td>
<td>16-10</td>
</tr>
<tr>
<td>Gambling, games of chance</td>
<td>16-35</td>
</tr>
<tr>
<td>Games, recreational activities limited</td>
<td>16-26</td>
</tr>
<tr>
<td>Horseback riding</td>
<td>16-27</td>
</tr>
<tr>
<td>Ice, going onto</td>
<td>16-36</td>
</tr>
<tr>
<td>Intoxicating beverages, offenses re</td>
<td>16-28</td>
</tr>
<tr>
<td>Loitering and boisterousness</td>
<td>16-37</td>
</tr>
<tr>
<td>Lost and found articles</td>
<td>16-44</td>
</tr>
<tr>
<td>Monuments, fountains, raling, fences, etc</td>
<td></td>
</tr>
<tr>
<td>Climbing, sitting on</td>
<td>16-10</td>
</tr>
<tr>
<td>Natural resources, removal</td>
<td>16-7</td>
</tr>
<tr>
<td>Parades, processions and public gatherings</td>
<td>15-1 et seq</td>
</tr>
<tr>
<td>Parades, processions and public gatherings. See that title</td>
<td></td>
</tr>
<tr>
<td>Park hours</td>
<td>16-42</td>
</tr>
<tr>
<td>Peddling and vending</td>
<td>16-40</td>
</tr>
<tr>
<td>Permits</td>
<td></td>
</tr>
<tr>
<td>Duty to exhibit</td>
<td>16-38</td>
</tr>
<tr>
<td>Permits for group activities</td>
<td>16-45</td>
</tr>
<tr>
<td>Permits required for structures, utilities</td>
<td>16-8</td>
</tr>
<tr>
<td>Permittees</td>
<td></td>
</tr>
<tr>
<td>Interference with</td>
<td>16-39</td>
</tr>
<tr>
<td>Pets and domestic animals</td>
<td>16-30</td>
</tr>
<tr>
<td>Picnicking</td>
<td>16-24</td>
</tr>
<tr>
<td>Planning and zoning in general</td>
<td></td>
</tr>
<tr>
<td>Planning and zoning. See that title</td>
<td>17-1 et seq</td>
</tr>
<tr>
<td>Place for dressing, undressing</td>
<td>16-18</td>
</tr>
<tr>
<td>Indecent exposure, etc. See: Indecency and Obscenity</td>
<td></td>
</tr>
<tr>
<td>Plants, trees, etc., damaging</td>
<td>16-9</td>
</tr>
<tr>
<td>Pollution of waters</td>
<td>16-13</td>
</tr>
<tr>
<td>Property</td>
<td></td>
</tr>
<tr>
<td>Damaging</td>
<td>16-5</td>
</tr>
<tr>
<td>Seizure</td>
<td>16-4</td>
</tr>
<tr>
<td>Public docks, use</td>
<td>16-20</td>
</tr>
<tr>
<td>Refuse and trash disposal</td>
<td>16-14</td>
</tr>
<tr>
<td>Garbage and trash. See that title</td>
<td></td>
</tr>
<tr>
<td>Restrooms and washrooms</td>
<td></td>
</tr>
<tr>
<td>Maintenance, use of</td>
<td>16-6</td>
</tr>
<tr>
<td>Signs and advertising</td>
<td>16-41</td>
</tr>
<tr>
<td>Snowmobiles, operating in parks, etc. See: Traffic Control Ordinance under separate cover</td>
<td>13-18.1 et seq</td>
</tr>
<tr>
<td>Soliciting alms, etc.</td>
<td>16-32</td>
</tr>
<tr>
<td>Swimming areas</td>
<td>16-15</td>
</tr>
<tr>
<td>Swimming hours</td>
<td>16-16</td>
</tr>
<tr>
<td>Taking materials from public property</td>
<td>14-20</td>
</tr>
</tbody>
</table>
PARKS AND RECREATION (continued)
Trash disposal
Garbage and trash. See that title
Trees and shrubbery
Climbing, sitting on
Damaging
Unlawful boat docking
Vehicles
Defined
Vending and peddling
Violators
Ejectment
Wildlife, molesting
Feeding

PARKWAYS
Improvements prohibited in parkways
Trees and shrubbery. See that title

PART OWNER
Construed re

PARTNERSHIPS
Person construed re

PASSAGEWAYS
Obstructing

PAVEMENT
Injury to new pavement
Streets and sidewalks. See that title

PAWBROKERS AND SECONDHAND DEALERS

PEDDLERS, TRANSIENT MERCHANTS, CANVASSERS AND SOLICITORS
Alcoholic liquor, peddling
Altering information in application
Appeal
Definitions
Fraud and misrepresentation
Hours of solicitation in residential areas
License application required; contents
License duration
License fee
License non-transferable; return on expiration
License required
Licensing standards
Park Regulations
Parks and recreation. See that title
Solicitor not to enter or remain on premises of another after notice
Vagrancy provisions

PEEPING TOMS
Acts, etc., deemed disorderly conduct

PENALTIES. See: Fines, Forfeitures and Penalties

PERMITS
Licenses and permits in general
Licenses and permits. See that title

PERSON
Construed
PERSONAL PROPERTY

Construed

Property in general. See: Property

PERSONNEL OF CITY. See: Officers and Employees. Also see Personnel Policy Manual

PEST CONTROL

Food establishment regulations
Food and food services. See that title

PESTS AND DOMESTIC ANIMALS

Keeping of animals
Animals and fowl. See that title
Park regulations
Parks and recreation. See that title

PHONOGRAPHS

Unnecessary noises
Noises. See that title

PHOTOGRAPHY

Immorality, lewdness, etc., in general
Indecency and obscenity. See that title

PICNICS

Parades, processions and public gatherings
Parades, processions and public gatherings. See that title

PIGS

Livestock and animal regulations
Animals and fowl. See that title

PILE DRIVERS, HAMMERS, ETC.

Unnecessary noises
Noises. See that title

PINBALL MACHINES

Devices, Coin-operated machines and devices

PISTOLS

Weapons, offenses involving
Firearms and weapons. See that title

PLANNING AND ZONING COMMISSION

Appointments
Authority
Compensation
Creation
Meetings
Terms

PLANNING AND ZONING, GENERALLY

Comprehensive plan
Official map and standards
Retained personnel deposit (zoning)
Subdivision ordinance continued in effect
Zoning for newly annexed territory
Zoning filing and hearing fees
Zoning ordinance continued in effect
PLATS. See: Surveys, Maps and Plats

PLUMBING
  Inspection /Review Fees
  State code adopted
  Swimming pool regulations
  Violations, penalty
  Water and sewers

     Water and sewers. See that title

POLES AND WIRES
  Attaching wires to trees, etc
  Trees and shrubbery. See that title
  Building moving regulations
  Building moving. See that title
  Electrical service, wiring and grounding
  Electricity. See that title
  Permission to erect in public ways
  Posting bills

POLICE DEPARTMENT
  Alarm systems
     Charges
     Definitions
     Disconnection of subscriber's premises from system
     False alarms prohibited
     Subscriber's request to reconsider service charge
  Board of Police Commissioners
     Appointments
     Bonds
     Compensation
     Composition
     Created
     Oath
     Pensions. See within this title that subject
     Powers and duties
     Qualifications
     Removal
     Terms of office
  Chief of Police
     Administrative duties
     Head of department, duty
     Regulations governing department
     Composition
     Conduct of Police Officers
     Creation
     Divisions
     Duties in general
     Chief of police. See hereinabove that subject
  Lost, abandoned, stolen property
     Custody
     Parks, authority to close
  Pensions

     Board of Trustees
     Compensation
     Created
     Meetings
     Membership
     Officers
     Powers and duties
     Qualifications of members
     Removal
POLICE DEPARTMENT (continued)

Police calls
Answering, interfering with 18-13
Process, serving 18-9
Refusing to aid an officer 14-16
Regulations governing 18-5
Resisting or obstructing a peace officer 14-15
Salaries, vacations and sick leave 18-2
Salaries, vacations and sick leave. Also see Personnel Policy Manual 18-10
Witnesses, appearing as 18-10

POLLS
Election procedure, etc 2-3 et seq
Elections. See that title

POLLUTION
Park regulations 16-1 et seq
Parks and recreation. See that title
Sewer regulations 26-96 et seq
Water and sewers. See that title
Snowmobiles emitting pollutants. See Traffic Control Ordinance 13-1801 et seq

POOLROOMS
Amusement place regulations 5-1 et seq
Amusements and amusement places. See that title

POSTING BILLS
Prohibited 3-1

POSTING OF LICENSE
Special permits to nonprofit enterprises 12-8
Licenses and permits. See that title

POULTRY
Livestock and animals in general 6-1 et seq

PRIVY VAULTS
Private disposal systems 26-85 et seq
Water and sewers. See that title

PROFANITY
Indecency and obscenity. See that title

PROFESSIONS
Licenses and permits in general 12-1 et seq
Licenses and permits. See that title

PROJECTING SIGN
See Signs 7.50

PROPERTY
Criminal trespass to land 14-19
Damaging 14-32
Defacing streets, sidewalks or other public places 21-10
General rules of construction 1-2
Injury, damage to trees 24-10
Park regulations 16-1 et seq
Parks and recreation. See that title
Sewer facilities, damaging or tampering with 26-103
Water and sewers. See that title
Taking materials from public property 14-20
PROPERTY LINES
Planning and zoning in general
Planning and zoning. See that title

PUBLIC ADDRESS SYSTEMS
Unnecessary noises
Noises. See that title
Use of loudspeakers, etc., for advertising

PUBLIC AMUSEMENTS. See: Amusements and Amusement Places

PUBLIC ASSEMBLIES
Parades, processions and public gatherings
Parades, processions and public gatherings. See that title

PUBLIC DANCES
Amusement place regulations
Amusements and amusement places. See that title

PUBLIC DOCKS
Park regulations
Parks and recreation. See that title

PUBLIC HEALTH. See: Health and Sanitation

PUBLIC INDECENCY. See: Indecency and Obscenity

PUBLIC NUISANCES. See: Nuisances

PUBLIC PROPERTY
Damaging
Taking materials from

PUBLIC RECORDS
Access to records, duties of Clerk
Administrative duties of Mayor
Availability of records for inspection
City Clerk to maintain, keep
Code distribution, charges, etc.
Code of ordinances. See that title
Drafting of documents
City Attorney. See that title
Indexing

PUBLIC SEWERS. See: Water and Sewers

PUBLIC WAYS
Street defined re
Streets in general. See: Streets and Sidewalks

PUBLIC WORKS AND IMPROVEMENTS
Board of Local Improvements
Establishment, etc.
Director of Public Works
Appointment
Council meetings
Duty to attend, make reports
Office created
Public property, authority over
Streets, sidewalks, storm sewers, etc.
Authority over
Supervision of sewers, water systems

1133
Ordinances saved from repeal, other provisions not included herein. See the preliminary pages and the adopting ordinance of this code

Public works and water department
Uniform allowance. See Personnel Policy Manual

Trees and shrubbery, etc., in public ways
24-1 et seq
Streets and sidewalks. See that title

PYROTECHNICS
Public displays of fireworks
10-34

R

RABIES
Dog regulations
6-29 et seq
Animals and fowl. See that title

RADIATION HAZARDS
Emergency services and disaster agency
2-143 et seq
Emergency services and disaster agency. See that title

RADIOS
Answering, interfering with police calls
18-13
Unnecessary noises
14-8
Noises. See that title

RAMPs
Curb ramps for handicapped
21-22

REAL ESTATE SIGN
See Signs
7.50

REAL PROPERTY
Construed
1-2
Property in general. See: Property

RECKLESS CONDUCT
Engaging in
14-14

RECORDER OF DEEDS
Water and sewer capital development fee
26-169

RECORDS. See: Public Records

RECREATION. See: Parks and Recreation

REFRIGERATORS
Abandoned, etc.
14-22

REFUSE DISPOSAL. See: Garbage and Trash

REFUSING TO AID AN OFFICER
Offense
14-16

REGISTER
City Treasurer, responsibilities and duties
2-99 et seq
City Treasurer. See that title

REGISTRATION
Licenses and permits in general
12-1 et seq
Licenses and permits. See that title
RELIGIOUS ORGANIZATIONS
Charitable solicitations
Peddlers, canvassers and solicitors. See that title
Special permits to nonprofit enterprises
Licenses and permits. See that title

RELIGIOUS WORSHIP
Disturbing

REMOVAL-OF-BUSINESS SALES
Special sales regulated
Special sales. See that title

REPEAL OF ORDINANCES
Effect
Code of ordinances. See that title
Ordinances saved from repeal, other provisions not included herein. See the preliminary pages and the adopting ordinance of this code

RESISTING OR OBSTRUCTING A PEACE OFFICER
Offense

RESOLUTIONS
Ordinances saved from repeal, other provisions not included herein. See the preliminary pages and the adopting ordinance of this code

RESTAURANTS
Alcoholic beverage licenses and regulations
Food establishment regulations
Food and food services. See that title

RESTRAINT
Unlawful restraint

RESTROOMS
Park regulations
Parks and recreation. See that title

RETAILER'S OCCUPATION TAX
Imposed
Taxation. See that title

REVENUE OF CITY. See: Finances

RIFLES, REVOLVERS, ETC.
Weapons, offenses involving
Firearms and weapons. See that title

RIGHT OR FRANCHISE
Ordinances saved from repeal, other provisions not included herein. See the preliminary pages and the adopting ordinance of this code

RIGHTS-OF-WAY
Encroachments
Streets and sidewalks. See that title
<table>
<thead>
<tr>
<th>Topic</th>
<th>Section</th>
</tr>
</thead>
<tbody>
<tr>
<td>ROADS</td>
<td>1-2</td>
</tr>
<tr>
<td>Street defined re</td>
<td></td>
</tr>
<tr>
<td>Streets in general. See: Streets and Sidewalks</td>
<td></td>
</tr>
<tr>
<td>ROBERT'S RULES OF ORDER</td>
<td>2-52</td>
</tr>
<tr>
<td>Adopted for council procedures</td>
<td></td>
</tr>
<tr>
<td>ROCK FESTIVALS</td>
<td>15-1 et seq</td>
</tr>
<tr>
<td>Parades, processions and public gatherings</td>
<td></td>
</tr>
<tr>
<td>ROCK GARDENS</td>
<td>24-4</td>
</tr>
<tr>
<td>Improvements prohibited in parkways</td>
<td></td>
</tr>
<tr>
<td>ROCKS, STONE, ETC.</td>
<td>14-20</td>
</tr>
<tr>
<td>Taking materials from public property</td>
<td></td>
</tr>
<tr>
<td>ROLLER SKATING</td>
<td>5-1 et seq</td>
</tr>
<tr>
<td>Amusement place regulations</td>
<td></td>
</tr>
<tr>
<td>Amusements and amusements places. See that title</td>
<td></td>
</tr>
<tr>
<td>ROOF SIGN</td>
<td>7.50</td>
</tr>
<tr>
<td>See Signs</td>
<td></td>
</tr>
<tr>
<td>RUBBER CHECKS</td>
<td>14-26</td>
</tr>
<tr>
<td>Issuing</td>
<td></td>
</tr>
<tr>
<td>RULES OF CONSTRUCTION</td>
<td>1-2</td>
</tr>
<tr>
<td>General rules for interpreting code</td>
<td></td>
</tr>
</tbody>
</table>

S

<table>
<thead>
<tr>
<th>Topic</th>
<th>Section</th>
</tr>
</thead>
<tbody>
<tr>
<td>SABOTAGE, SUBVERSIVE ACTIVITIES</td>
<td>2-143 et seq</td>
</tr>
<tr>
<td>Emergency services and disaster agency</td>
<td></td>
</tr>
<tr>
<td>Emergency services and disaster agency. See that title</td>
<td></td>
</tr>
<tr>
<td>SALARIES</td>
<td></td>
</tr>
<tr>
<td>See: Personnel Policy Manual under separate cover</td>
<td></td>
</tr>
<tr>
<td>SALESMEN</td>
<td>19-1 et seq</td>
</tr>
<tr>
<td>Solicitors regulated</td>
<td></td>
</tr>
<tr>
<td>Peddlers, canvassers and solicitors. See that title</td>
<td></td>
</tr>
<tr>
<td>SANITATION</td>
<td></td>
</tr>
<tr>
<td>See: Health and Sanitation</td>
<td></td>
</tr>
</tbody>
</table>
SCAVENGERS
Business, commercial and industrial services 11-106
Containers to be kept closed 11-104
Definitions 11-99
Exemptions 11-100
Garbage and refuse generally 11-78 et seq
Garbage and trash. See that title
Licenses
Applications
Applicant's bond 11-119
Filing and contents 11-118
Mayor and council, action of 11-120
Bonds 11-119
Fees 11-121
Required 11-117
Revocation 11-123
Term, duration 11-122
Residential services 11-105
Vehicles
Containers and vehicles to be kept closed 11-104
Insurance 11-102
Watertight and covers required 11-103
Violations, penalty 11-101

SCHOOLS
Alcoholic beverage sales near 4-15
Charitable solicitations 19-1 et seq
Peddlers, canvassers and solicitors. See that title
Special permits to nonprofit enterprises 12-8
Licenses and permits. See that title
Unnecessary noises 14-8
Noises. See that title

SECONDHAND DEALERS AND PAWNBROKERS 12 Art I
SEDIMENTATION CONTROL. See: Soil Erosion and Sedimentation Control

SEAL
City seal described 2-1

SEPTIC TANKS
Private disposal systems 26-85 et seq
Water and sewers. See that title

SERVICE OCCUPATION TAX
Requirements 23-31 et seq
Taxation. See that title

SETTLEMENT OF (CERTAIN) OFFENSES 1-12

SEVERABILITY
Severability of parts of code 1-7

SEWERS. See: Water and Sewers

SHALL, MAY
Defined 1-2
SHEEP  
Livestock and animal regulations 6-1 et seq  
Animals and fowl. See that title

SHOOTING  
Weapons, offenses involving 14-64  
Firearms and weapons. See that title

SHOPLIFTING  
Engaging in 14-25

SHOUTING, HootING AND YELLING  
Unnecessary noises 14-8  
Noises. See that title

SHOWS  
Parades, processions and public gatherings 15-1 et seq  
Parades, processions and public gatherings. See that title

SHRUBBERY. See: Streets and Sidewalks

SIDEWALKS. See: Streets and Sidewalks

SIGNALLING DEVICES  
Unnecessary noises 14-8  
Noises. See that title

SIGNATURE OR SUBSCRIPTION  
Defined 1-2

SIGNS AND BILLBOARDS  
Purpose, General Provisions, Administration, Sign Standards, Definitions 7.50

SIGNS, GOVERNMENT  
Theft, defacement, destruction, alteration or removal of 14-33

SINGING, WHISTLING AND YELLING  
Unnecessary noises 14-8  
Noises. See that title

SKATEBOARDS  
Rules, regulations and restrictions 16-49

SKATING RINKS  
Amusement place regulations 5-1 et seq  
Amusements and amusements places. See that title

SKILL BALL MACHINES  
Devices, Coin-operated machines and devices 9-1 et seq

SLINGSHOTS  
Weapons, offenses involving 14-64  
Firearms and weapons. See that title

SLOT MACHINES  
Devices, Coin-operated machines and devices 9-1 et seq
<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>SMOKING</strong></td>
<td></td>
</tr>
<tr>
<td>11-130</td>
<td>Declared nuisance</td>
</tr>
<tr>
<td>11-132</td>
<td>Designation of areas</td>
</tr>
<tr>
<td>11-133</td>
<td>No smoking signs</td>
</tr>
<tr>
<td>11-131</td>
<td>Prohibited</td>
</tr>
<tr>
<td><strong>SNOW AND ICE</strong></td>
<td></td>
</tr>
<tr>
<td>16-1 et seq</td>
<td>Park regulations</td>
</tr>
<tr>
<td></td>
<td>Parks and recreation. See that title</td>
</tr>
<tr>
<td>21-18</td>
<td>Removal from sidewalks</td>
</tr>
<tr>
<td><strong>SNOW FENCES</strong></td>
<td></td>
</tr>
<tr>
<td>7-Art XI</td>
<td>Fence regulations</td>
</tr>
<tr>
<td></td>
<td>Fences, walls, hedges and enclosures. See that title</td>
</tr>
<tr>
<td><strong>SNOWMOBILES</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td>See: Traffic Control Ordinance under separate cover.</td>
</tr>
<tr>
<td><strong>SOCIETIES</strong></td>
<td></td>
</tr>
<tr>
<td>1-2</td>
<td>Person construed re</td>
</tr>
<tr>
<td>12-8</td>
<td>Special permits to nonprofit enterprises</td>
</tr>
<tr>
<td></td>
<td>Licenses and permits. See that title</td>
</tr>
<tr>
<td><strong>SOD, GRASS, ETC.</strong></td>
<td></td>
</tr>
<tr>
<td>14-20</td>
<td>Taking materials from public property</td>
</tr>
<tr>
<td><strong>SOIL EROSION AND SEDIMENTATION CONTROL</strong></td>
<td></td>
</tr>
<tr>
<td>18.50 et seq</td>
<td></td>
</tr>
<tr>
<td><strong>SOLAR ENERGY</strong></td>
<td></td>
</tr>
<tr>
<td>7-Art XV</td>
<td></td>
</tr>
<tr>
<td><strong>SOLICITING</strong></td>
<td></td>
</tr>
<tr>
<td>16-1 et seq</td>
<td>Park regulations</td>
</tr>
<tr>
<td></td>
<td>Parks and recreation. See that title</td>
</tr>
<tr>
<td></td>
<td>Peddlers, transient merchants, canvassers and solicitors. See that title</td>
</tr>
<tr>
<td><strong>SPECIAL ASSESSMENTS</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Ordinances saved from repeal, other provisions not included herein. See the preliminary pages and the adopting ordinance of this code</td>
</tr>
<tr>
<td><strong>SPECIAL ELECTIONS</strong></td>
<td></td>
</tr>
<tr>
<td>2-4</td>
<td>Calling</td>
</tr>
<tr>
<td></td>
<td>Elections. See that title</td>
</tr>
<tr>
<td><strong>SPECIAL SALES</strong></td>
<td></td>
</tr>
<tr>
<td>20-1</td>
<td>Definitions</td>
</tr>
<tr>
<td>20-8</td>
<td>Interval between sales</td>
</tr>
<tr>
<td>20-13, 20-16</td>
<td>Inventory responsibility, etc</td>
</tr>
<tr>
<td>20-4</td>
<td>Licenses</td>
</tr>
<tr>
<td></td>
<td>Applications</td>
</tr>
<tr>
<td></td>
<td>Required, contents</td>
</tr>
<tr>
<td>20-16</td>
<td>Duties of licensee</td>
</tr>
<tr>
<td>20-5</td>
<td>Established business requisite to</td>
</tr>
<tr>
<td>20-6</td>
<td>Exceptions</td>
</tr>
<tr>
<td>20-10</td>
<td>Fees</td>
</tr>
<tr>
<td>20-13</td>
<td>Limited to inventoried goods</td>
</tr>
<tr>
<td>20-12</td>
<td>Limited to particular sale and location</td>
</tr>
<tr>
<td>20-15</td>
<td>Nontransferability</td>
</tr>
<tr>
<td>20-11</td>
<td>Period, renewal</td>
</tr>
<tr>
<td>20-3</td>
<td>Provisions supplement general provisions</td>
</tr>
<tr>
<td>20-2</td>
<td>Required</td>
</tr>
<tr>
<td>20-14</td>
<td>Surrender of other licenses</td>
</tr>
<tr>
<td>20-9</td>
<td>Location restricted</td>
</tr>
<tr>
<td>20-7</td>
<td>Persons exempt</td>
</tr>
<tr>
<td>20-6</td>
<td>Survivors of businessmen</td>
</tr>
<tr>
<td></td>
<td>Exceptions</td>
</tr>
</tbody>
</table>
SPORTS
Amusement place regulations
Amusements and amusement places. See that title 5-1 et seq

SPRING GUNS
Weapons, offenses involving
Firearms and weapons. See that title 14-64 seq

STABLES
Keeping of animals
Animals and fowl. See that title 6-2

STATE
Defined 1-2

STATISTICS
City Clerk, duties 2-88

STEALING
Shoplifting 14-25
Theft 14-27

STOLEN PROPERTY
Custody 18-12

STONE, ROCKS, ETC.
Taking materials from public property 14-29

STORM SEWERS
Drainage required 7-Art XVI

STORM WATER MANAGEMENT 17-25

STORMS
Emergency services and disaster agency 2-143 et seq
Emergency services and disaster agency. See that title

STREETS AND SIDEWALKS
Barricades. See also that title
Disturbing 21-9
Protection of street openings 21-15
Required, lights required 21-8
Billposting 3-1
Building moving regulations 7-Art XII
Building moving. See that title
Building regulations 7-14 et seq
Buildings. See that title
Curb
Ramps for handicapped 21-22
Unlawful curb cuts 21-23
Defacing 21-10
Defects, reports 21-6
Deposits on sidewalks 21-17
Duty to remove 21-18
Deposits on streets 21-16
Drains, obstructing 21-11
Encroachments

Definitions

Obstructions. See within this title that subject

Penalty

Permissible encroachments

Prohibited

Project right-of-way lines established

Provisions declared additional

Excavations and tunnelling

Barricades. See also within this title that subject

Manner regulated

Permits

Applications

Deposit required

Fees

Insurance required

Required

Supervision

Surface, restoring

Temporary sidewalks required

Tree regulations

Trees and shrubbery. See that title

Water and sewers. See that title

Games, playing

Gas pumps prohibited

General supervision

Glass, nails, other injurious articles

Deposits on streets

Goods, wares and merchandise

Private use of streets, etc.

Injuries, damages, etc.

New pavement

Loitering

Loitering. See that title

Merchandise, construction materials, other items

Depositing on sidewalks

New pavements

Injury to

Obstructions

Drainage, obstructing

Encroachments. See hereinabove that subject

Generally

Other obstructions. See elsewhere herein specific subjects

Persons obstructing passageways

Trees and shrubbery

Trees and shrubbery. See that title

Opening, paving, widening, vacating, etc.

Ordinances saved from repeal, other provisions not included herein. See the preliminary pages and the adopting ordinance of this code

Protection

Parades, processions and public gatherings

Parades, processions and public gatherings

Park regulations

Parks and recreation. See that title

Permits

Driveways. See zoning ordinance under separate cover

Excavations and tunneling. See within this title that subject

Overhanging signs. See within this title that subject

Permit for construction

Permit for openings
<table>
<thead>
<tr>
<th>STREETS AND SIDEWALKS (continued)</th>
<th>SECTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Planning and zoning in general</td>
<td>17-1 et seq</td>
</tr>
<tr>
<td>Planning and zoning. See that title</td>
<td></td>
</tr>
<tr>
<td>Poles and wires. See also that title</td>
<td></td>
</tr>
<tr>
<td>Permission required</td>
<td></td>
</tr>
<tr>
<td>Private use</td>
<td>21-10</td>
</tr>
<tr>
<td>Repairs</td>
<td>21-5</td>
</tr>
<tr>
<td>Right-of-way</td>
<td></td>
</tr>
<tr>
<td>Encroachments. See hereinabove that subject</td>
<td></td>
</tr>
<tr>
<td>Sewer regulations</td>
<td>26-1 et seq</td>
</tr>
<tr>
<td>Water and sewers. See that title</td>
<td></td>
</tr>
<tr>
<td>Sidewalks</td>
<td></td>
</tr>
<tr>
<td>Defined</td>
<td>1-2</td>
</tr>
<tr>
<td>Excavations and tunneling. See hereinabove that subject</td>
<td></td>
</tr>
<tr>
<td>Obstructing, removing during course of building construction</td>
<td>7-15</td>
</tr>
<tr>
<td>Signs</td>
<td></td>
</tr>
<tr>
<td>Overhanging signs. See hereinabove that subject</td>
<td></td>
</tr>
<tr>
<td>Snow and ice accumulations</td>
<td></td>
</tr>
<tr>
<td>Removal</td>
<td>21-18</td>
</tr>
<tr>
<td>Snowmobile operations. See Traffic Control Ordinance under separate cover</td>
<td>13-1 et seq</td>
</tr>
<tr>
<td>Specifications, acceptance of work</td>
<td>21-3</td>
</tr>
<tr>
<td>Street</td>
<td></td>
</tr>
<tr>
<td>Defined</td>
<td>1-2</td>
</tr>
<tr>
<td>Trees and shrubbery in general</td>
<td>24-1 et seq</td>
</tr>
<tr>
<td>Trees and shrubbery. See that title</td>
<td></td>
</tr>
<tr>
<td>Tunneling. See hereinabove: Excavations and Tunneling</td>
<td></td>
</tr>
<tr>
<td>Water and sewers</td>
<td>26-1 et seq</td>
</tr>
<tr>
<td>Water and sewers. See that title</td>
<td></td>
</tr>
<tr>
<td>Weeds and brush</td>
<td>24-26 et seq</td>
</tr>
<tr>
<td>Weeds and brush. See that title</td>
<td></td>
</tr>
<tr>
<td>Wrecked, junked, etc. vehicles</td>
<td>27-1 et seq</td>
</tr>
<tr>
<td>Wrecked, junked and abandoned vehicles. See that title</td>
<td></td>
</tr>
<tr>
<td>SUBDIVISIONS</td>
<td></td>
</tr>
<tr>
<td>Building permit</td>
<td></td>
</tr>
<tr>
<td>Cash contribution for schools, parks, libraries, etc Buildings. See that title</td>
<td>7-4</td>
</tr>
<tr>
<td>Ordinance continued in effect</td>
<td></td>
</tr>
<tr>
<td>Planning and zoning. See that title</td>
<td>17-2</td>
</tr>
<tr>
<td>Ordinances saved from repeal, other provisions not included herein. See the preliminary pages and the adopting ordinance of this code</td>
<td></td>
</tr>
<tr>
<td>SUBSTANDARD BUILDINGS</td>
<td></td>
</tr>
<tr>
<td>Regulated</td>
<td></td>
</tr>
<tr>
<td>Buildings. See that title</td>
<td>7-Art XVII</td>
</tr>
<tr>
<td>SURVEYS, MAPS AND PLATS</td>
<td></td>
</tr>
<tr>
<td>Ordinances saved from repeal, other provisions not included herein. See the preliminary pages and the adopting ordinance of this code</td>
<td></td>
</tr>
<tr>
<td>Planning and zoning in general</td>
<td>17-1 et seq</td>
</tr>
<tr>
<td>Planning and zoning. See that title</td>
<td></td>
</tr>
<tr>
<td>Wards</td>
<td>2-5</td>
</tr>
<tr>
<td>SWEAR OR SWORN. See: Oath, Affirmation, Swear or Sworn</td>
<td>Section</td>
</tr>
<tr>
<td>SWIMMING</td>
<td></td>
</tr>
<tr>
<td>Parks regulations</td>
<td>16-1 et seq</td>
</tr>
<tr>
<td>Parks and recreation. See that title</td>
<td></td>
</tr>
<tr>
<td>Section</td>
<td>Title</td>
</tr>
<tr>
<td>---------</td>
<td>--------------------------------</td>
</tr>
<tr>
<td>22-8</td>
<td>Building line, etc</td>
</tr>
<tr>
<td>22-2</td>
<td>Compliance</td>
</tr>
<tr>
<td>22-1</td>
<td>Defined</td>
</tr>
<tr>
<td>22-4</td>
<td>Drawings, plans, etc.</td>
</tr>
<tr>
<td>22-15</td>
<td>Electrical requirements</td>
</tr>
<tr>
<td>22-20</td>
<td>Fences</td>
</tr>
<tr>
<td>22-14</td>
<td>Floor, slope</td>
</tr>
<tr>
<td>22-11</td>
<td>Inlets</td>
</tr>
<tr>
<td>22-6</td>
<td>Inspections</td>
</tr>
<tr>
<td>22-19</td>
<td>Lifesaving devices</td>
</tr>
<tr>
<td>22-8</td>
<td>Location</td>
</tr>
<tr>
<td>22-13</td>
<td>Materials</td>
</tr>
<tr>
<td>22-12</td>
<td>Outlets</td>
</tr>
<tr>
<td>22-3</td>
<td>Permits</td>
</tr>
<tr>
<td>22-5</td>
<td>Fees</td>
</tr>
<tr>
<td>22-9</td>
<td>Recirculation</td>
</tr>
<tr>
<td>22-10</td>
<td>Recirculation system and appurtenances</td>
</tr>
<tr>
<td>22-14</td>
<td>Resistance to pressure</td>
</tr>
<tr>
<td>22-16</td>
<td>Skimmers</td>
</tr>
<tr>
<td>22-13 et seq</td>
<td>Slopes</td>
</tr>
<tr>
<td>22-17</td>
<td>Steps or ladders</td>
</tr>
<tr>
<td>22-18</td>
<td>Walk areas</td>
</tr>
<tr>
<td>22-13</td>
<td>Walls, slope</td>
</tr>
<tr>
<td>22-7</td>
<td>Water supply</td>
</tr>
<tr>
<td>22-10</td>
<td>Livestock and animal regulations</td>
</tr>
<tr>
<td>22-17</td>
<td>Animals and fowl. See that title</td>
</tr>
<tr>
<td>14-64</td>
<td>Weapons, offenses involving</td>
</tr>
<tr>
<td>22-18</td>
<td>Firearms and weapons. See that title</td>
</tr>
</tbody>
</table>
TAXATION

Abatement of tax 23-40
Application and evaluation 23-40
Consideration 23-40
Recommendation 23-40
Home Rule Municipal Retailers Occupation and Service Taxes 23-36
Hotel/Motel Tax .. 23-1

Licenses and permits. See that title
Ordinances saved from repeal, other provisions not included herein. See the preliminary pages and the adopting ordinance of this code

Retailer's occupation tax 23-16
Service occupation tax 23-31
Simplified Municipal Telecommunications Tax 23-44

TAXICABS (also includes Limousine Services)

Bond or insurance required 25-35
Cab stands 25-29
Conduct of drivers 25-33
Crime, use in perpetrating 25-37
Defined 25-16
Drivers
Generally 25-32 et seq
Drivers to be licensed 25-32
Intoxicating liquor, offenses re 25-33
Licenses
Application 25-17
Bond or insurance required 25-35
Character of applicant 25-19
Drivers. See within this title that subject
Fees
Deposit of 25-22
Established, payment 25-20
Fee in lieu of other fees 25-23
Notice when vehicles added 25-24
Return on license denial 25-21
Notice of motor license, sticker number 25-28
Notice when vehicles added 25-24
Number limitation 25-18
Replacement of vehicle 25-27
Required 25-17
Tags, stickers 25-25
Display 25-26
Term of 25-26.1
List of drivers 25-34
Marking of vehicles 25-31
Notice of motor license, sticker number 25-28
Notice when vehicles added 25-24
Number limitation 25-18
Replacement of vehicle 25-27
Requirements for vehicles 25-30
Route to be direct 25-39
Tag and sticker. See within this title: Licenses
Traffic rules, obedience 25-36

TECHNICAL WORDS. See: Nontechnical and Technical Words

1150
<table>
<thead>
<tr>
<th>Section</th>
<th>Topic</th>
</tr>
</thead>
<tbody>
<tr>
<td>23-44</td>
<td>TELECOMMUNICATIONS</td>
</tr>
<tr>
<td>14-4</td>
<td>TELEPHONE HARASSMENT</td>
</tr>
<tr>
<td>18-13</td>
<td>TELEPHONES</td>
</tr>
<tr>
<td>1-2</td>
<td>TENANT IN COMMON, ETC.</td>
</tr>
<tr>
<td>1-2</td>
<td>TENANT OR OCCUPANT</td>
</tr>
<tr>
<td>1-2</td>
<td>TENEMENTS</td>
</tr>
<tr>
<td>7-Art XI</td>
<td>TENNIS COURTS</td>
</tr>
<tr>
<td>1-2</td>
<td>TENSE</td>
</tr>
<tr>
<td>5-1 et seq</td>
<td>THEATERS AND THEATRICALS</td>
</tr>
<tr>
<td>14-27</td>
<td>THEFT</td>
</tr>
<tr>
<td>14-25</td>
<td>THEFT</td>
</tr>
<tr>
<td>1-2</td>
<td>TIME</td>
</tr>
<tr>
<td>14-37 et seq</td>
<td>TOBACCO ORDINANCE</td>
</tr>
<tr>
<td>2-143 et seq</td>
<td>TORNADOS</td>
</tr>
<tr>
<td>12-1 et seq</td>
<td>TRADES</td>
</tr>
<tr>
<td>13-1</td>
<td>TRAFFIC</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>
TRAFFIC (continued)
Parades, processions and public gatherings
Parades, processions and public gatherings. See that title
Park regulations
Parks and recreation. See that title
Parking, stopping and standing
Wrecked, junked, etc., vehicles
Wrecked, junked and abandoned vehicles. See that title
Passageways, obstructing
Pedestrians
Building safeguards
Safeguards during building construction
Snowmobiles. See: Traffic Control Ordinance under separate cover
Street obstructions, other applicable provisions affecting traffic. See: Streets and Sidewalks
Wrecked, junked, etc., vehicles
Wrecked, junked and abandoned vehicles. See that title

TRANSIENT MERCHANTS
Solicitors regulated
Peddlers, canvassers and solicitors. See that title

TRASH. See: Garbage and Trash

TRASH FIRES
Open fires
Open fires. See that title

TREASURER. See: City Treasurer

TREE PRESERVATION ORDINANCE

TREES AND SHRUBBERY
Aborists license and bond
Application for permits
Attaching advertisements, notices
Care of street trees and other trees
Distance from street corners and fire plugs
Distance from utilities
Gas leaks
Improvements prohibited in public rights-of-way
Injuring
Permitted street tree species
Planting distance from curb and sidewalk
Precautions during excavations
Preservation Ordinance
Pruning and corner clearance on private property
Removal of public trees, shrubs
Removal of stumps
Responsibility of owner/occupant to maintain premises and parkway
Spacing
Street tree defined
Tree care and removal on private property
Tree topping
Vegetation likely to fall on public ways
Weeds and brush
Wires

TRESPASS
Criminal trespass to land
Criminal trespass to vehicles

TURKEYS
Livestock and animals in general
UNDERBRUSH. See: Weeds and Brush

UNLAWFUL ACTIVITIES
   Persons responsible for unlawful activities on their premises 14-77

UNLAWFUL RESTRAINT
   Committing 14-28

UNSAFE BUILDINGS
   Regulated 7-1 et seq
      Buildings. See that title

U.S. PUBLIC HEALTH SERVICE FOOD SERVICE SANITATION MANUAL
   Enforcement interpretation for food provisions 11-37
      Food and food services. See that title

UTILITIES
   Building moving interfering with 7-Art XII7
      Electrical regulations 7-Art X
         Electricity. See that title
      Flood control. See that title
   Garbage disposal regulations 11-78 et seq
      Garbage and trash. See that title
   Park regulations 16-1 et seq
      Parks and recreation. See that title
   Water and sewers 26-1 et seq
      Water and sewers. See that title
VACCINATION
Dogs
Animals and fowl. See that title
Section 6-30

VAGRANCY
Defined, commission of
Engaging in
14-9

VANDALISM
Criminal damage to property
14-32 et seq

VEHICLE IMPOUNDMENT

VEHICLES. See: Motor Vehicles and Other Vehicles
13-16 et seq

VEHICLES FOR HIRE
Taxicabs
Taxicabs. See that title
25-16 et seq

VENDING MACHINES
Devices, Coin-operated machines and devices
9-1 et seq
Milk vending machines
11-51
Milk and milk products. See that title

VENDORS
Park regulations
16-1 et seq
Parks and recreation. See that title
Solicitors, regulated
19-1 et seq
Peddlers, canvassers and solicitors. See that title

VIADUCTS
Street defined re
1-2
Streets in general. See: Streets and Sidewalks

VIOLATIONS
General penalty
1-8
Code of ordinances. See that title

VITAL STATISTICS
Duties of Clerk
2-88

VOCATIONS
Licenses and permits in general
12-1 et seq
Licenses and permits. See that title

VOTING PROCEDURE
Election procedure, etc
2-3 et seq
Elections. See that title

VULGARITY
Acts, etc., deemed disorderly conduct
14-4
Indecency and obscenity. See that title
WAGERING
Gambling
Gambling. See that title

WALLS. See: Fences, Walls, Hedges and Enclosures

WAR, ENEMY ACTION
Emergency services and disaster agency
Emergency services and disaster agency. See that title

WARDS
Generally

WARRANTS
City Treasurer, responsibilities and duties
City Treasurer. See that title
Finances of City in general. See: Finances
Issuance of bad checks

WASHROOMS
Park regulations
Parks and recreation. See that title

WATER AND SEWERS
Building sewers and connections
Connections
Notice
Excavations
Indemnification of City
Liability for costs
Manner of making connections
Notice when sewer ready for connection
Old sewers, use
Permits
Application
Classes
Inspection fee
Liability for costs
Required
Separate building sewer - exception
Standards and specifications
Unpolluted wastes
Use of public sewers. See within this title that subject

Charges and rates
Sewer rates and charges. See within this title that subject
Water supply and distribution. See within this title that subject

Director of Public Works
Director of Public Works. See: Public Works and Improvements
Harmful wastes. See within this title: Use of Public Sewers
Industrial wastes
Use of public sewers. See within this title that subject
Meters and charges
Water supply and distribution. See within this title that subject

Park regulations
Parks and recreation. See that title
Plumbing regulations, compliance
Pollution
Use of public sewers. See within this title that subject

Private disposals
Abandonment when sewer becomes available
Maintenance
Minimum permissible lot area
Private disposals (continued)

Permits
County permit required 26-87
Inspection of 26-88
Occupancy 26-89
When permit effective 26-88
Prohibited, when 26-85
Required, when 26-86
Sewage disposal in general. See within this title:
Sewers and Sewage Disposal

Public sewers
Use of public sewers. See within this title that subject

Rates and charges
Sewer rates and charges. See within this title that subject
Water supply and distribution. See within this title that
subject

Sewer rates and charges
Access to records 26-154
Annual audit of accounts 26-152
Billing due date 26-145
Delinquency penalty 26-145
Deposit - record of funds 26-151
Disposition of revenues by City Clerk 26-150
Effective date 26-154
Lien declared 26-146
Metering devices 26-143
Meter reading - mail-in card 26-144
Notices of termination 26-148
Rates reviewed annually 26-142
Reinstatement of service 26-149
Termination of service upon non-payment 26-147
Termination procedure 26-148
User service charges - metered 26-140
User service charges - unmetered 26-141

Sewers and sewage disposal
Building sewers and connections
Independent sewers required for every building 26-107
Connections required when sewer available 26-73
Correction of violations 26-72
Damaging, tampering with facilities 26-76
Definitions 26-70
Excavations 26-77
Excavations. See also that title
Illicit Discharge and Connection to Stormwater Sewer System 26-160
Inspectors
Powers and authority 26-71
Municipal sewer outside City 26-78
Installation responsibility - supervision 26-79
Maintenance responsibility 26-80
Private disposal. See within this title that subject
Subsoil drains, discharge into sanitary sewer 7-22
Treatment of deposits 26-75
Unsanitary deposits 26-74
Use of public sewers. See within this title that subject

Swimming pool regulations 22-1 et seq
Swimming pools. See that title

Use of public sewers
Authority to reject or regulate wastes 26-123
Control manholes 26-128
Discharging to joint city-state storm sewer 26-124
Grease, oil and sand interceptors 26-126
Harmful, dangerous wastes 26-122
Illicit Discharge and Connection to Stormwater Sewer System 26-160
Interceptors 26-126
Measurements, tests, analyses 26-130
Precautionary facilities, maintenance 26-127
WATER AND SEWERS (Continued)

Use of public sewers (continued)

Prohibited discharges

Special arrangements

Unpolluted wastes

Permissible discharge of

Wastes conditionally prohibited

Water and sewer capital development fee

Against whom assessed

Amount

Collection, duty of Clerk

Established

Recorder of Deeds

Copy of provisions filed with

Revenue, disposition

When payable

Water supply and distribution

Charges. See hereinbelow: Meters and Charges

Compliance with plumbing regulations

Cross-connection control

Approval of connections

Installation according to Plumbing Code

Responsibility for cleanup of water supply system

Right to enter premises

Surveys and investigations

Termination of water service upon violation; contamination

Fire sprinkler

System permit fees; monitoring water usage

Meters and charges

Billing and collection

Bypass

Construction use of water

Foreclosure of lien

Installation and location of meter

Lien declared, when

Location

Meters required

Nonpayment, discontinuing service for

Notice of lien

Rates

Other than Lakeland Park and Lakeland Shores

Lakeland Park and Lakeland Shores

Reading

Repairs of meters

Turn-on service charge

Permits, notice for connections, etc.

Private supplies

Connection upon extension of City system

County well permit required

Occupancy permit

Prohibited when public supply available

Resale of water

Service outside City

Service pipes

Excavations. See that title

Municipal liability disclaimer

Repairs

Responsibility for installing

Specifications

Supervision

Sprinkling of lawns, etc., regulated

Tampering with equipment

Wells. See within this subtitle: Private Supplies

Who may turn on service
WATER AND SEWERS (Continued)

Water using air conditioning

 appeals  26-52
 approval  26-47
 compliance  26-46
 definitions  26-45
 inspections  26-49
 notice of completion  26-47
 notice to correct noncompliance  26-50
 permits  26-47
 revocation of permit  26-51
 standards of operation  26-48

 Wells. See within this title: Water Supply and Distribution

WATERWAYS

 Park regulation  16-1 et seq

 Parks and recreation. See that title

WEAPONS. See: Firearms and Weapons

WEEDS AND BRUSH

 Abatement by City upon noncompliance  24-30
 Barberry bushes  24-28
 Charge for abatement by city  24-31
 Lien for charges  24-32
 Notice to destroy  24-29
 Nuisances
 Declared  24-26
 Open fires regulated
 Open fires. See that title  10-16 et seq
 Prohibited  24-27

WELLS

 Private water supplies
 Water and sewers. See that title  26-35 et seq

WHISTLING, HOOTING AND SHOUTING

 Unnecessary noises
 Noises. See that title  14-8

WHOLESALE, WHOLESALERS, ETC.

 Construed  1-2

WIND ENERGY CONVERSION SYSTEMS (WECS)

 Application for permit  7-Art XVIII

WINDOW PEEPING

 Acts, etc., deemed disorderly conduct  14-4

WINE AND BEER

 Alcoholic beverage licenses and regulations  4-1 et seq

WITNESSES

 Police Officers appearing as
 Police department. See that title  18-10

WORDS AND PHRASES

 General definitions and rules of construction  1-2

WORK TOURS

 Law enforcement personnel  2-71
WRECKED, JUNKED AND ABANDONED VEHICLES
(Also see Traffic Control Ordinance under separate cover)

<table>
<thead>
<tr>
<th>Definition</th>
<th>27-1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Disposition of unclaimed vehicles</td>
<td>27-8</td>
</tr>
<tr>
<td>Procedure</td>
<td>27-7</td>
</tr>
<tr>
<td>Impounding vehicle</td>
<td>27-6</td>
</tr>
<tr>
<td>Interpretation of provisions</td>
<td>27-10</td>
</tr>
<tr>
<td>Notice</td>
<td>27-4</td>
</tr>
<tr>
<td>Disposition upon receipt of</td>
<td></td>
</tr>
<tr>
<td>Service and content</td>
<td>27-5</td>
</tr>
<tr>
<td>Nuisance declared</td>
<td>27-2</td>
</tr>
<tr>
<td>Penalty</td>
<td>27-11</td>
</tr>
<tr>
<td>Permission required to deposit upon roadway</td>
<td>27-3</td>
</tr>
<tr>
<td>Redemption of vehicle removed by City</td>
<td>27-9</td>
</tr>
</tbody>
</table>

WRITS, WARRANTS AND OTHER PROCESSES

| Serving of process by police | 18-9 |
| Police department. See that title |

"WRITTEN: or "IN WRITING"

| Construed | 1-2 |
### YARDS AND OPEN SPACES

<table>
<thead>
<tr>
<th>Fence regulations</th>
<th>7-112 et seq</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fences, walls, hedges and enclosures. See that title</td>
<td></td>
</tr>
</tbody>
</table>

### YEAR

| Construed | 1-2 |
| Fiscal year designated | 2-2 |

### YELLING, SHOUTING AND Hooting

<p>| Unnecessary noises | 14-8 |
| Noises. See that title | |</p>
<table>
<thead>
<tr>
<th>Topic</th>
<th>Section</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alcoholic beverage premises locations</td>
<td>4-14 et seq</td>
</tr>
<tr>
<td>Building requirements</td>
<td>7-1 et seq</td>
</tr>
<tr>
<td>Certificate of occupancy</td>
<td></td>
</tr>
<tr>
<td>Buildings. See that title</td>
<td></td>
</tr>
<tr>
<td>Fallout shelters</td>
<td>7-18</td>
</tr>
<tr>
<td>Fence regulations</td>
<td>7-112 et seq</td>
</tr>
<tr>
<td>Fence, walls, hedges and enclosures. See that title</td>
<td></td>
</tr>
<tr>
<td>Filing and hearing fees</td>
<td>17-6</td>
</tr>
<tr>
<td>License consideration, change of location</td>
<td>12-5</td>
</tr>
<tr>
<td>Licenses and permits. See that title</td>
<td></td>
</tr>
<tr>
<td>Park regulations</td>
<td>16-1 et seq</td>
</tr>
<tr>
<td>Parks and recreation. See that title</td>
<td></td>
</tr>
<tr>
<td>Planning and zoning in general</td>
<td>17-1 et seq</td>
</tr>
<tr>
<td>Planning and zoning. See that title</td>
<td></td>
</tr>
<tr>
<td>Settlement of (Certain) Offenses</td>
<td>1-12</td>
</tr>
<tr>
<td>Swimming pool locations</td>
<td>22-8</td>
</tr>
<tr>
<td>Swimming pools. See that title</td>
<td></td>
</tr>
<tr>
<td>Zoning sign Deposit</td>
<td>17-7</td>
</tr>
</tbody>
</table>