

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

**[Supplemented June 1, 2013]
(Through Ord. No. 13-5)**

**PREPARED BY:
Illinois Codification Services
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CITY OF NEWTON

ORDINANCE NO. 00-

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

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

THIS 2ND DAY OF MAY, 2000

**Published in book form by authority of the Mayor and the City Council of the City of Newton,
Jasper County, Illinois this 2nd day of May, 2000.**

**UNDER THE SUPERVISION OF
MAX L. TEDFORD
CITY ATTORNEY**

ORDINANCE NO. 00-

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

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

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

SEE EXHIBIT "A" FOLLOWING

Passed this 2nd day of May, 2000 by the Mayor and City Council of the City of Newton, Jasper County, Illinois, and deposited and filed in the office of the City Clerk in said City on that date.

JEAN GHAST
CITY CLERK
NEWTON, ILLINOIS

NAME	AYE	NAY	ABSTAIN	ABSENT	CONFLICT
Larry Brooks					
Ross McClane					
Vernon Hanson					
Tom Brown					
Shirley Schuetter					
Ken Albrecht					
Gene Zuber					
Frank J. Rubsam					

Approved by the Mayor of the City of Newton, Jasper County, Illinois, this 2nd day of May, 2000.

ROBERT B. KERANS
MAYOR
NEWTON, ILLINOIS

ATTEST:

JEAN GHAST
CITY CLERK
NEWTON, ILLINOIS

(SEAL)

CITY CLERK'S CERTIFICATE

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

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

In witness whereof, I have set and affixed the Corporate Seal of the City of Newton, Illinois, this 2nd day of May, 2000.

JEAN GHAST
CITY CLERK
NEWTON, ILLINOIS

(SEAL)

LIST OF ORDINANCES

<u>ORD. #</u>	<u>TITLE</u>	<u>DATE</u>	<u>LOCATION IN CODE</u>
92-4	Administration: Salaries	03/17/92	Sec. 1-3-1
92-7	Liquor: Hours	06/16/92	Chapter 21
92-8	Administration: Appointments	06/30/92	Chapter 1
92-13	Utilities: Deposit	11/03/92	Ch. 38; Art. II
93-1	Motor Vehicle: Penalties	01/19/93	Chapter 24
93-2	Motor Vehicle: Parking	02/02/93	Chapter 24
93-8	Administration: Committees	05/06/93	Sec. 1-2-5
93-9	Motor Vehicles: Stops	07/06/93	Ch. 24-3-3
93-11	Motor Vehicles: Stops	07/20/93	Ch. 24-3-3
93-12	Mobile Homes	08/03/93	Chapter 23

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

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

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

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

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

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

<u>ORD. #</u>	<u>TITLE</u>	<u>DATE</u>	<u>LOCATION IN CODE</u>
05-15	Issuance of Bonds	06/07/05	Special Legislation
05-16	Electric System	06/07/05	Section 11-1-1
05-17	Motor Vehicles: Load Limits	07/05/05	Ch. 24; Schd. "K"
05-18	Employees	07/05/05	Section 12-1-6(B)
05-19	Appropriation	2005	Special Legislation
05-20	Issuance of Bonds	07/19/05	Special Legislation
05-21	Payment of Governmental Securities	07/19/05	Special Legislation
05-22	Utilities: Sewer Rates	07/19/05	Section 38-1-4(A) (B)
05-23	Cemetery: Charges	08/02/05	Section 9-1-1
05-24	Employees: Department Heads	08/16/05	Section 12-1-37
05-25	Streets: Culverts	09/20/05	Section 33-1-13(D)
05-26	Appropriation	10/04/05	Special Legislation
05-27	Annexation	10/04/05	Special Legislation
05-28	Electric: Incentives	10/04/05	Section 11-2-1
05-29	Agreement for Water Service	10/18/05	Special Legislation
05-30	Freedom of Information	11/15/05	Chapter 16
05-31	Tax Levy	2005	Special Legislation
05-32	Business: Tattoo Artists	12/06/05	Ch. 7; Art. VII
05-33	Appropriation	12/20/05	Special Legislation
06-01	Liquor: Licenses	02/07/06	Section 21-2-7(E)
06-02	Vacation of Property	03/21/06	Special Legislation
06-03	Health Regulations: Hazardous Substance Policy	04/04/06	Chapter 18
06-04	Streets: Culverts	05/02/06	Section 33-1-13(D)
06-05	Prevailing Wage	2006	Special Legislation
06-06	Appropriation	2006	Special Legislation
06-07	Motor Vehicles: Parking	08/01/06	Ch. 24; Schd. "H"
06-08	Vacation of Alleys	10/17/06	Special Legislation
06-09	Motor Vehicles: Parking	10/17/06	Ch. 24; Schd. "H"
06-10	Administration: Rules	10/17/06	Section 1-2-11(E)
06-11	Administration: Salaries	10/24/06	Section 1-3-1(B)
06-12	Annexation	11/07/06	Special Legislation
06-13	Sale of Personal Property	12/05/06	Special Legislation
06-14	Tax Levy	2006	Special Legislation
07-01	Vacation of Alley	03/20/07	Special Legislation
07-02	Zoning	04/03/07	Chapter 40
07-03	Property Maintenance Code	04/03/07	Chapter 29
07-04	Freedom of Information: Copy Costs	05/15/07	Section 16-1-1
07-05		05/15/07	
07-06	Prevailing Wage	2007	Special Legislation

<u>ORD. #</u>	<u>TITLE</u>	<u>DATE</u>	<u>LOCATION IN CODE</u>
07-07	Capital Development Fund	06/05/07	Sections 10-1-5(B); 10-1-6
07-08	Appropriation	2007	Special Legislation
07-09	Appropriation	07/03/07	Special Legislation
07-10	Zoning: Map	07/17/07	Special Legislation
07-11	Appropriation	2007	Special Legislation
07-12	Abatement of Taxes	08/07/07	Special Legislation
07-13	Abatement of Taxes	08/07/07	Special Legislation
07-14	Offenses: Tobacco Use	08/07/07	Section 27-2-32
07-15	Tax Levy	2007	Special Legislation
07-16	Employee Code	12/18/07	Chapter 12
08-1	Electric System	02/05/08	Secs. 11-1-2; 11-1-3
08-2	Annexation: Woods	02/19/08	Special Legislation
08-3	Zoning: Signs	03/04/08	Secs. 40-6-9(A); 40-6-10(M)
08-4	Zoning: Fees	03/04/08	Section 40-9-14(A)
08-5	Zoning: Fees	03/04/08	Section 40-9-14(B)
08-6	Zoning: Map	03/04/08	Special Legislation
08-7	Annexation	03/18/08	Special Legislation
08-8	Electric & Utilities	03/18/08	Secs. 11-1-4; 11-1-7; 38-1-8; 38-1-9; 38-1-10; 38-1-17; 38-1-18
08-9	\$1,975,000 Revenue Bonds	04/01/08	Special Legislation
08-10	Tax Increment Finance	04/01/08	Chapter 35
08-11	Annexation: Various Areas	04/15/08	Special Legislation
08-12	G.O. Aquatic Facility Bonds	05/20/08	Special Legislation
08-13	\$2,468,000 Water Bonds	05/20/08	Special Legislation
08-14	Buildings: Dangerous	06/17/08	Ch. 6; Art. II
08-15	Animals: Dogs	06/17/08	Secs. 3-1-9; 3-1-12
08-16	Prevailing Wage	2008	Special Legislation
08-17	Appropriation	2008	Special Legislation
08-18	Administration: Salaries	08/15/08	Section 1-3-1
08-19	Vacation of Street	09/02/08	Special Legislation
08-20	Motor Vehicles: Golf Carts	09/16/08	Ch. 24; Art. IX
08-21	TIF Redevelopment Plan	10/21/08	Special Legislation
08-22	TIF Redevelopment Project	10/21/08	Special Legislation
08-23	TIF Redevelopment Project	10/21/08	Special Legislation
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EXHIBIT "A"

CHAPTER I

ADMINISTRATION

ARTICLE I - GENERAL CODE PROVISIONS

DIVISION I - TITLE

1-1-1 TITLE. Upon the adoption by the City Council, this City Code is hereby declared to be and shall hereafter constitute the official "**Revised Code of Ordinances of the City.**" The Revised Code of Ordinances shall be known and cited as the "**City Code**", and it is hereby published by authority of the City Council and shall be kept up-to-date as provided in **Section 1-1-3** under the direction of the City Attorney, acting for said City Council. Any reference to the number of any section contained herein shall be understood to refer to the position of the same number, its appropriate chapter and article heading and to the general penalty clause relating thereto as well as to the section itself when reference is made to this City Code by title in any legal document. **(See 65 ILCS Sec. 5/1-2-3)**

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

1-1-3 AMENDMENTS. Any ordinance amending this City Code shall set forth the article, chapter, and section number of the section or sections to be amended, and this shall constitute a sufficient compliance with any statutory requirement pertaining to the amendment or revision by ordinance of any part of this City Code. All such amendments or revisions by ordinance shall be immediately forwarded to the codifiers and the ordinance material shall be prepared for insertion in its proper place in each copy of this City Code. Each such replacement page shall be properly identified and shall be inserted in each individual copy of the City Code on an annual basis. **(See 65 ILCS Sec. 5/1-2-3) (See Sec. 1.01B)**

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

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

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

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

DIVISION II - SAVING CLAUSE

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

Tax Levy Ordinances; Appropriation Ordinances; Ordinances Relating to Boundaries and Annexations; Franchise Ordinances and other Ordinances Granting Special Rights to Persons or Corporations; Contract Ordinances and Ordinances Authorizing the Execution of a Contract or the Issuance of Warrants; Salary Ordinances; Ordinances Establishing, Naming, or Vacating Streets, Alleys, or Other Public Places; Improvement Ordinances; Bond Ordinances; Ordinances Relating to Elections; Ordinances Relating to the Transfer or Acceptance of Real Estate by or from the City; and all Special Ordinances. **(See Sec. 1.03)**

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

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

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

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

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

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

CITY CLERK'S CERTIFICATE

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

ss.

CITY CLERK'S OFFICE

I, Jean Ghist, City Clerk of the **City of Newton, Illinois**, do hereby certify that the following **Revised Code of Ordinances of the City of Newton, Illinois of 1997**, published by authority of the City Council were duly passed by the City Council of the **City of Newton, Illinois**, approved by the Mayor and published in book form according to law on this date, and that these ordinances are true and perfect copies of the ordinances, as passed, approved and now of record and on file in my office as provided by law.

In witness whereof, I have set my hand and affixed the corporate seal of the **City of Newton, Illinois**, this 7th day of October, 1997.

**JEAN GHIST
CITY CLERK
CITY OF NEWTON**

(SEAL)

1-1-13 - 1-1-14 RESERVED.

DIVISION III - DEFINITIONS

1-1-15 CONSTRUCTION OF WORDS. Whenever any word in any section of this Code, importing the plural number is used in describing or referring to any matters, parties or persons, any single matter, party or person shall be deemed to be included, although distributive words may not have been used.

When any subject matter, party or person is referred to in this Code by words importing the singular number only, or the masculine gender, several matters, parties or persons and females as well as males and bodies corporate shall be deemed to be included; provided that these rules of construction shall not be applied to any section of this Code which contains any express provision excluding such construction or where the subject matter or content may be repugnant thereto.

1-1-16 DEFINITIONS. Whenever the following words or terms are used in this Code, they shall have the meanings herein ascribed to them unless the context makes such meaning repugnant thereto:

"AGENT" as used in this Code shall mean a person acting on behalf of another.

"CITY" shall mean the City of Newton, Illinois.

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

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

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

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

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

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

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

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

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

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

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

"MAY". The word "may" is permissive.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"WILLFULLY" when applied to the intent with which an act is done or omitted implies simply a purpose or willingness to commit the act or make the omission referred to. It

does not require any intent to violate law, or to injure another, or to acquire an advantage.

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

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

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

DIVISION IV - GENERAL PENALTY

1-1-20 PENALTY.

(A) Any person convicted of a violation of any section of this Code shall be fined not less than **Seventy-Five Dollars (\$75.00) nor more than Seven Hundred Fifty Dollars (\$750.00)** for any **one (1) offense**. (Ord. No. 96-3; 02-20-96)

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

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

(D) All municipal ordinance offenses may be satisfied without a court appearance by written plea of guilty and payment of the minimum fine, plus court costs, except when a court appearance is required by the ordinance violated or except when the offense would constitute the second or more ordinance offense of the same person within **one (1) year** of that person's first ordinance offense.

(E) A penalty imposed for violation of an ordinance may include, or consist of, a requirement that the defendant perform some reasonable public service work such as but not limited to the picking up of litter in parks or along public highways or the maintenance of public facilities.

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

1-1-21 APPLICATION.

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

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

(C) Whenever the doing of any act or the omission to do any act constitutes a breach of any section or provision of this City Code, and there shall be no

fine or penalty specifically declared for such breach, the provisions of this Code shall apply and a separate offense shall be deemed committed upon each day during or on which a breach or violation occurs or continues.

1-1-22 LIABILITY OF OFFICERS. The failure of any officer or employee to perform any official duty imposed by this Code shall not subject such officer or employee to the penalty imposed for violation of this Code, unless a penalty is specifically provided for.

1-1-23 LICENSE. When a person is convicted of a violation of any section of this Code, any license previously issued to him by the City may be revoked by the court or by the City Council.

ARTICLE II - CITY OFFICIALS

DIVISION I - CITY COUNCIL

1-2-1 CITY COUNCIL. The City Council shall consist of the Mayor and **eight (8)** Aldermen, **two (2)** from each of the **four (4) wards**, and their term of office shall be for **four (4) years**, and until their successors are elected and have qualified. The term of one of the Aldermen in each ward shall expire every **two (2) years**. (See **65 ILCS Sec. 5/3.1-10-50(D) and 5/3.1-20-10**) (See Sec. 2.02)

1-2-2 REGULAR MEETINGS. The regular stated meetings of the City Council shall be held in the City Hall Building on the **first (1st) and third (3rd) Tuesdays** in each month at **6:00 P.M.** When said meeting date falls upon a legal holiday, the meeting shall be held on the next secular day at the same hour. Adjourned meetings may be held at such times as may be determined by the Council. Public notice of regular meetings shall be given in accordance with the **Meetings of Public Agencies Act of the State of Illinois, Illinois Compiled Statutes, Ch. 5, Sections 120/1 through 120/5**. (See **65 ILCS Sec. 5/3.1-40-25**) (See Sec. 2.05)

1-2-3 SPECIAL MEETINGS. Special meetings of the City Council may be called by the Mayor or any **three (3)** Aldermen by giving **at least forty-eight (48) hours notice** thereof by delivering to them personally written or printed notices of the time of such meeting at the residences of the Aldermen; such notices shall be served by mail, by the Chief of Police or his designated representative. Said notices shall specify the purpose of said special meeting and the business to be taken up at that time and place. Such notice shall be posted at the City Hall and shall be provided to any local newspaper of general circulation or any local radio or television station that has filed an annual request for such notice. The notice shall be provided to such news media in the same manner as said notice is given to the Mayor and members of the City Council, provided such news media has given the City an address within the City at which such notice may be given. (See **65 ILCS Sec. 5/3.1-40-25 and 5 ILCS Sec. 120/2.02 and 120/2.03**) (See Sec. 2.05B)

1-2-4 VACANCY. When a vacancy occurs, if more than **twenty-eight (28) months** remain in the term and the vacancy occurs not less than **one hundred thirty (130) days** before the general municipal election, next scheduled under the general election law, the office shall be filled for the remainder of the term at that general municipal election. During the period from the time that the vacancy occurs until the next election of Aldermen, the Mayor shall appoint a qualified person to the office subject to the advise and consent of the City Council. (See **65 ILCS Sec. 5/3.1-10-50(B)**)

1-2-5 COMMITTEES. The following standing committees of the City Council are hereby established, to-wit:

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

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

(B) The committees shall be appointed annually by the Mayor.

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

(D) So far as is practicable, reports of committees shall be in writing.

(E) As provided by law, any report of a committee of the Council shall be deferred for final action thereon to the next regular meeting of the same after the report is made, upon the request of any **two (2)** Aldermen present. **(See 65 ILCS Sec. 5/3.1-40-35) (See Sec. 2.04G)**

(F) All committee meetings are subject to the Open Meetings Act requirements and minutes shall be taken. **(See 5 ILCS Sec. 120/1 and 120/2.06) (Ord. No. 93-8; 05-06-93)**

1-2-6 SPECIAL COMMITTEES. Special Committees may be appointed by the Mayor, subject to the advice and consent of the Aldermen, as may be needed from time to time.

1-2-7 QUORUM. At all meetings of the City Council, a majority of the corporate authorities shall constitute a quorum for the transaction of business, and if no such quorum attends such meeting of the Council, the Aldermen may adjourn from day to day until a quorum is present; and shall have power to compel the attendance of absent members, except when such members are physically unable to attend such meetings. **(See 65 ILCS Sec. 5/3.1-40-20)**

EDITOR'S NOTE: When the Council has a Mayor and **eight (8) Aldermen**, a quorum is **five (5)**, which may consist of the Mayor and **four (4) Aldermen**, or **five (5) Aldermen**.

1-2-8 COMPELLING ATTENDANCE. It shall be the duty of each and all Aldermen to attend all regular meetings of the City Council and all special meetings when each has been duly notified of the date and place of such meeting. If, at any special meeting duly called, a quorum is not present, the Aldermen in attendance may adjourn the same to some stated time. **(See 65 ILCS Sec. 5/3.1-40-20) (See Sec. 2.04B)**

1-2-9 APPROPRIATIONS. The Council shall pass an ordinance within the first quarter of each fiscal year, to be termed the annual appropriation ordinance. In this ordinance the Council (1) may appropriate such sums of money as are deemed necessary to defray all necessary expenses and liabilities of the City, and (2) shall specify the objects and purposes for which these appropriations are made, and the amount appropriated for each object or purpose. Except as otherwise provided, no further appropriations shall be made at any other time within the same fiscal year, unless a proposition to make each additional appropriation has been first sanctioned by a petition signed by electors of the City numbering more than **fifty percent (50%)** of the number of votes cast for the candidates for Mayor at the last preceding general municipal election at which a Mayor was elected, by a petition signed by them, or by a majority of those voting on the question at a general state or municipal election or at a special municipal election duly called therefore.

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

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

1-2-10 RESERVED.

DIVISION II - RULES OF THE CITY COUNCIL

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

- (A) **Order of Business.** The order of business shall be as follows:
- (1) Call to order.
 - (2) Pledge of Allegiance.
 - (3) Roll Call.
 - (4) Adopt or amend agenda.
 - (5) Approval of minutes of regular meeting.
 - (6) Approval of bills and accounts payable.
 - (7) Public comments.
 - (8) Positive comments/communications.
 - (9) Old business.
 - (10) New business.
 - (11) Committee reports and/or council representative reports.
 - (12) Statements by: Council members, City Attorney, City Treasurer, City Clerk, Mayor.
 - (13) Next regular meeting and scheduled committee meetings.
 - (14) Adjournment.

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

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

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

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

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

(D) **Visitors.** No person other than a member of the Council shall address that body, without permission of the Council.

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

(F) **Debate.** No member shall speak more than once on the same question, except by consent of the Presiding Officer or unless **three-fourths (3/4)** of the corporate authorities agree that one's right to debate should be limited to speak only once and then not

until every other Alderman desiring to speak shall have had an opportunity to do so; provided, however, that the proponent of the matter under consideration, as the case may be, shall have the right to open and close debate.

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

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

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

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

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

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

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

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

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

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

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

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

When the Clerk has commenced to call the roll of the members for the taking of a vote by yeas and nays, all debate on the question before the City Council shall be deemed

concluded, and during the taking of the vote, no member shall be permitted to explain his vote, but shall respond to the calling of his name by the Clerk, by answering yea or nay, as the case may be.

(Q) **Announcement and Changes of Vote.** The result of all votes by yeas and nays shall not be announced by the Clerk, but shall be handed by him to the chairman for announcement, and no vote shall be changed after the tally list has passed from the hands of the Clerk.

(R) **Precedence of Motions.** When a question is under debate, the following motions shall be in order and shall have precedence over each other in order, as listed:

- (1) To adjourn to a day certain.
- (2) To adjourn.
- (3) To take a recess.
- (4) To lay on the table.
- (5) The previous question.
- (6) To refer.
- (7) To amend.
- (8) To defer or postpone to a time certain.
- (9) To defer or postpone (without reference to time.)
- (10) To defer or postpone indefinitely.

Numbers (2), (4), and (5) to be decided without debate.

(S) **Motions to Adjourn.** A motion to adjourn the City shall always be in order, except:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(EE) **Recognition by Chairman – Time Limits**. Persons other than City Council members, desiring to speak at a meeting of the City Council or any committee thereof, shall obtain recognition of the Chairman of that meeting before speaking. Unless otherwise ordered by a majority of the members of the City Council present at a meeting, no person shall speak for more than **five (5) minutes**. The maximum number of persons allowed to speak at any City Council meeting or committee meeting thereof shall be **six (6)** in number to be scheduled on a first come, first serve basis of notification to the City Clerk. Unless otherwise ordered by a majority of the members of the City Council present at the meeting, no person shall speak to the City Council or any committee thereof for more than **two (2) minutes** on any topic about which the speaker has spoken at a prior meeting of the City Council or committee thereof and such person shall be subject to the overall **five (5) minute** time limitation. **(Ord. No. 06-10; 10-17-06)**

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

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

1-2-13 **RESERVED.**

DIVISION III - ORDINANCES

1-2-14 ORDINANCES.

(A) **Attorney.** It shall be the duty of the City Attorney to prepare such ordinances as may be required by the City Council.

(B) **Introduced.** When a proposed ordinance is introduced, it shall be read one time by title only and referred to the proper committee unless the City Council shall otherwise specifically direct.

(C) **Vote Required-Yeas and Nays Record.** The passage of all ordinances for whatever purpose, and of any resolution or motion (1) to create any liability against a city or (2) for the expenditure or appropriation of its money, shall require the concurrence of a majority of all members then holding office on the City Council, including the Mayor, unless otherwise expressly provided by the Code or any other act governing the passage of any ordinance, resolution, or motion; provided that, where the Council consists of an odd number of Aldermen, the vote of the majority of the Aldermen shall be sufficient to pass an ordinance. The yeas and nays shall be taken upon the question of the passage of the designated ordinances, resolutions, or motions and recorded in the journal of the City Council. In addition, the corporate authorities at any meeting may by unanimous consent to take a single vote by yeas or nays on the several questions of the passage on any two (2) or more of the designated ordinances, orders, resolutions or motions placed together for voting purposes in a single group. The single vote shall be entered separately in the journal under the designation "omnibus vote", and in such event the Clerk may enter the words "omnibus vote" or "consent agenda" in the journal in each case in lieu of entering names of the members of City Council voting "yea" and of those voting "nay" on the passage of each of the designated ordinances, orders, resolutions and motions included in such omnibus group or consent agenda. The taking of such single or omnibus vote and such entries of the words "omnibus vote" or "consent agenda" in the journal shall be a sufficient compliance with the requirements of this section to all intents and purposes and with like effect as if the vote in each case had been separately by yeas and nays on the question of the passage of each ordinance, order, resolution and motion included in such omnibus group, and separately recorded in the journal. Likewise, the yeas and nays shall be taken upon the question of the passage of any other resolution or motion at the request of any Alderman and shall be recorded in the journal. **(See 65 ILCS Sec. 5/3.1-40-40)**

(D) **Ordinances - Approval-Veto.** All resolutions and motions (1) which create any liability against a City, or (2) that provide for the expenditure or appropriation of its money, or (3) to sell any City property, and all ordinances, passed by the City Council shall be deposited with the City Clerk. If the Mayor approved of them, he shall sign them. Those ordinances, resolutions and motions which the Mayor disapproves shall be returned to the City Council, with his written objections, at the next regular meeting of the City Council occurring not less than five (5) days after their passage. The Mayor may disapprove of any one (1) or

more sums appropriated in any ordinance, resolution, or motion making an appropriation, and, if so, the remainder shall be effective. However, the Mayor may disapprove entirely of an ordinance, resolution, or motion making an appropriation. If the Mayor fails to return any ordinance or any specified resolution or motion with his written objections, within the designated time, it shall become effective despite the absence of the Mayor's signature. **(See 65 ILCS Sec. 5/3.1-40-45)**

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

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

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

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

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

DIVISION IV - GENERAL PROVISIONS

1-2-19 CORPORATE SEAL.

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

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

1-2-20 ELECTIONS.

(A) **Election Procedure.** The provisions of the **Illinois Compiled Statutes, Chapter 10 and Chapter 65, Section 5/3.1-10-10** concerning municipal elections shall govern the conduct of the City elections.

(B) **Inauguration.** The inauguration of newly elected City officials shall occur at the first regular or special meeting of the City Council in the month of May following the general municipal election in April. **(See 65 ILCS Sec. 5/3.1-10-15)**

1-2-21 APPOINTMENT OF ELECTED OFFICIALS. No Alderman of this City, during the term of office for which he is elected, may accept or be appointed to or hold any office appointed by the Mayor except if such Alderman is granted a leave of absence from such office. However, such Alderman may serve as a volunteer fireman and receive compensation for such service. Any appointment in violation of this section is void. **(See 65 ILCS Sec. 5/3.1-15-15)**

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

1-2-22 MUNICIPAL OFFICERS - REGULATIONS.

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

(B) Qualifications; Appointive Office.

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

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

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

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

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

(F) **Fees; Report of Fees.** No officer of the municipality shall be entitled to charge or receive any fees as against the City. All officers of the City entitled to receive fees shall keep a correct account thereof, and make a report thereof under oath to the City Council prior to the regular meeting of each month. In the report, they shall specify from whom such fees were received, for what service, and when received. All fees received shall be paid over into the City Treasury.

(G) **Other Rules and Regulations.** Every officer of the City shall perform such other duties and be subject to such other rules and regulations as the City Council may provide by law. **(See 65 ILCS Sec. 5/3.1-10-40)**

- (H) **Conservators of Peace.**
- (1) The Mayor and policemen in municipalities shall be conservators of the peace. Those persons and others authorized by ordinance shall have power:
- (a) to arrest or cause to be arrested, with or without process, all persons who break the peace or are found violating any municipal ordinance or any criminal law of the State,
 - (b) to commit arrested persons for examination,

- (c) if necessary, to detain arrested persons in custody over night or Sunday in any safe place or until they can be brought before the proper court, and
- (d) to exercise all other powers as conservators of the peace prescribed by the corporate authorities.
- (2) All warrants for the violation of municipal ordinances or the State criminal law, directed to any person, may be served and executed within the limits of a municipality by any policeman of the municipality. For that purpose, policemen have all the common law and statutory powers of sheriffs. **(See 65 ILCS Sec. 5/3.1-15-25)**

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

"I, _____, do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of Illinois, and that I will faithfully discharge the duties of the office of _____ according to the best of my ability." (See Sec. 3.20)

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

(See 65 ILCS Sec. 5/3.1-15-20) (See 3.16C)
(See "Administration of Oaths", Section 1-2-63)

1-2-23 RESIGNATION OF APPOINTED OFFICIALS. Any officer of the City may resign from office. If such officer resigns he shall continue in office until his successor has been chosen and has qualified. If there is a failure to appoint a City officer, or the person appointed fails to qualify, the person filling the office shall continue in office until his successor has been chosen and has qualified. **(See 65 ILCS Sec. 5/3.1-10-50)**

1-2-24 QUALIFICATIONS; ELECTIVE OFFICE.

(A) A person is not eligible for an elective municipal office unless that person is a qualified elector of the municipality and has resided in the municipality at least one (1) year next preceding the election.

(B) A person is not eligible for an elective municipal office if that person is in arrears in the payment of a tax or other indebtedness due to the municipality or has been convicted in any court located in the United States of any infamous crime, bribery, perjury, or other felony.

(C) A person is not eligible for the office of Alderman unless that person has resided in the municipality, as the case may be, at least one (1) year next preceding the election or appointment. **(See 65 ILCS Sec. 5/3.1-10-5) (See Sec. 3.18)**

1-2-25 BONDS OF CITY OFFICERS.

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

(1)	Mayor	\$3,000.00
(2)	City Treasurer	\$100,000.00
(3)	City Clerk	\$100,000.00
(4)	City Collector	\$100,000.00
(5)	Police Chief	\$10,000.00
(6)	Treasurer's Assistant	\$10,000.00
(7)	Patrolmen	\$10,000.00
(8)	Clerk's Assistant	\$10,000.00

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

(C) **Surety.** The City Council shall not receive or approve any bond or security whereon the name of the City Council, any one of the Aldermen or any elected or appointed officer of the City appear as bondsman or security. If, by mistake, a bond containing the name of any such officer is approved by the City Council or if any bondsman, after becoming such is elected or appointed to any City office, this section shall not act as a release of any such obligation incurred. **(See Sec. 3.21)**

1-2-26 ALDERMEN OF CITIES. No member of the City Council of any City, during the term of office for which he or she is elected, may accept, be appointed to, or hold any office by the appointment of the Mayor, unless the Alderman is granted a leave of absence from such office, or unless he or she first resigns from the office of Alderman, or unless the holding of another office is authorized by law. The Alderman may, however, serve as a volunteer fireman and receive compensation for that service. Any appointment in violation of this Section is void. **(See 50 ILCS Sec. 105/2)**

1-2-27 LIABILITY INSURANCE.

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

for by any valid liability insurance policy covering the municipal corporation, officer, employee or elected official.

(B) **Indemnification.** If the City Council elects not to purchase liability insurance covering and insuring municipal officers, elected officials and employees as provided in this Section, then the City shall indemnify and cause to defend municipal officers, elected officials and employees from any claim filed by an individual, partnership or corporation when the claim is founded on any act or omission of the municipal officers, elected officials or employees while in the performance of their official duties, except the City shall not indemnify, but shall defend any municipal officer, elected official or employee from any claim made by an individual, partnership or corporation wherein the claim alleges that the municipal officer, elected official or employee acted intentionally, maliciously or wantonly and further, shall not indemnify or cause to defend the officials or employees where the claim is directly or indirectly related to the negligent care or use of a vehicle as defined by the **Illinois Compiled Statutes**, and the City shall not indemnify any municipal officer, elected official or employee from any claim made by a municipal officer, elected official or employee. Notwithstanding any other provision of this Code, the City shall not indemnify or cause to defend any municipal officers, elected officials or employees if the municipal officers, elected officials or employees have liability insurance insuring the municipal officers, elected officials or employees from the alleged claim; however, the City shall indemnify the municipal officer, elected official or employee the personal deductible limits of his personal policy. **(See 745 ILCS Sec. 10/2-201 et seq.)**

1-2-28 BIDDING AND CONTRACT PROCEDURES.

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

(B) **Formal Contract Procedure.** All work or other public improvement which is not to be paid for in whole or in part by special assessment or special taxation, and all purchases, orders or contracts for supplies, materials, equipment or contractual services except as otherwise provided herein, when the estimated cost thereof shall exceed **Ten Thousand Dollars (\$10,000.00)**, shall be purchased from the lowest responsible bidder, after due notice inviting bids, unless competitive bidding is waived by a vote of two-thirds (2/3) of the Aldermen then holding office.

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

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

(E) **Bid Deposits.** When deemed necessary by the City Council, bid deposits shall be prescribed in the public notices inviting bids. Unsuccessful bidders shall be

entitled to the return of their bid deposits upon the award of the contract by the City Council. A successful bidder shall forfeit any bid deposit required by the City Council upon failure on his part to enter into a contract within **ten (10) days** after the award.

(F) **Bid Opening Procedure.**

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

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

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

(I) **Award of Contract.**

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

amounts as it shall find reasonably necessary to protect the best interests of the City.

(J) **Open Market Procedure.** All work and purchases of supplies, materials and services of less than the estimated value of **Ten Thousand Dollars (\$10,000.00)** shall be made in the open market, without newspaper advertisement and without observing the procedure prescribed by this section for the award of formal contracts.

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

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

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

1-2-29 PECUNIARY INTEREST IN CONTRACTS -- PROHIBITION.

(A) No municipal officer shall be interested, directly or indirectly, in his own name or in the name of any other person, association, trust or corporation, in any contract, work or business of the municipality, or in the sale of any article, whenever the expense, price and consideration of the contract, work business or sale is paid either from the treasury or by any assessment levied by any statute or ordinance. No municipal officer shall be interested, directly or indirectly, in the purchase of any property which:

- (1) belongs to the municipality, or
- (2) is sold for taxes or assessments, or
- (3) is sold by virtue of legal process at the suit of the municipality.

(B) However, any elected or appointed member of the governing body and any person serving on a municipal advisory panel or commission may provide materials, merchandise, property, services or labor, if:

- (1) the contract is with a person, firm, partnership, association, corporation or cooperative association in which such interested member of the governing body of the municipality or advisory panel or commission member has less than a seven and one-half percent (7 1/2%) share in the ownership; and
- (2) in the case of an elected or appointed member of the governing body, such interested member publicly discloses the nature

- and extent of his interest prior to or during deliberations concerning the proposed award of the contract; and
- (3) in the case of an elected or appointed member of the governing body, such interested member abstains from voting on the award of the contract, though he shall be considered present for the purposes of establishing a quorum; and
 - (4) such contract is approved by a majority vote of those members presently holding office; and
 - (5) the contract is awarded after sealed bids to the lowest responsible bidder if the amount of the contract exceeds **One Thousand Five Hundred Dollars (\$1,500.00)**, but the contract may be awarded without bidding if the amount is less than **One Thousand Five Hundred Dollars (\$1,500.00)**; and
 - (6) the award of the contract would not cause the aggregate amount, of all such contracts so awarded to the same person, firm, association, partnership, corporation, or cooperative association in the same fiscal year to exceed **Twenty-Five Thousand Dollars (\$25,000.00)**.

(C) In addition to the above exemption, any elected or appointed member of the governing body and any person serving on a municipal advisory panel or commission may provide materials, merchandise, property, services or labor if:

- (1) The award of the contract is approved by a majority vote of The governing body of the municipality provided that, in the case of an elected or appointed member of the governing body, any such interested member shall abstain from voting; and
- (2) the amount of the contract does not exceed **Two Thousand Dollars (\$2,000.00)**; and
- (3) the award of the contract would not cause the aggregate amount of all such contracts so awarded to the same person, firm, association, partnership, corporation, or cooperative association in the same fiscal year to exceed **Four Thousand Dollars (\$4,000.00)**; and
- (4) in the case of an elected or appointed member of the governing body, such interested member publicly discloses the nature and extent of his interest prior to or during deliberations concerning present for the purposes of establishing a quorum.

(D) A contract for the procurement of public utility services by a municipality with a public utility company is not barred by this Section by one (1) or more members of the governing body being an officer or employee of the public utility company or holding interest if no more than **seven and one-half percent (7 1/2%)** in the public utility company, or holding an ownership interest of any size if the municipality has a population of less than **seven thousand five hundred (7,500)** and the public utility's rates are approved by the Illinois Commerce Commission. An elected or appointed member of the governing

body having such an interest shall be deemed not to have a prohibited interest under this Section.

(E) Any officer who violates this Section is guilty of a violation of this Code and in addition thereto any office held by such person so convicted shall become vacant and shall be so declared as part of the judgment of the court.

(F) Nothing contained in this Section, including the restrictions set forth in subsections (B), (C) and (D), shall preclude a contract or deposit of monies, loans or other financial services by a municipality with a local bank or local savings and loan association, regardless of whether a member or members of the governing body of the municipality are interested in such bank or savings and loan association as an officer or employee or as a holder of less than **seven and one-half percent (7 1/2%)** of the total ownership interest. A member or members holding such an interest in such a contract shall not be deemed to be holding a prohibited interest for purposes of this Act. Such interested member or members of the governing body must publicly state the nature and extent of their interest during deliberations concerning the proposed award of such a contract, but shall not participate in any further deliberations concerning the proposed award. Such interested member or members shall not vote on such a proposed award. Any member or members abstaining from participation in deliberations and voting under this Section may be considered present for purposes of establishing a quorum. Award of such a contract shall require approval by a majority vote of those members presently holding office. Consideration and award of any such contract in which a member or members are interested may only be made at a regularly scheduled public meeting of the governing body of the municipality. **(See 65 ILCS Sec. 5/3.1-55-10)**

1-2-30 SALARIES REGULATION.

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

(B) **Appointed.** No salary or compensation of any appointed official who is appointed for a definite term of office shall be decreased during such term, but may be increased. **(See 65 ILCS Sec. 5/3.1-50-5 and 5/3.1-50-6)**

1-2-31 CLAIMS.

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

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

1-2-32 MUNICIPAL YEAR. The municipal year of the City shall begin on **May 1st of each year and shall end on April 30th of the following year.** **(See 65 ILCS Sec. 5/1-1-2) (Sec. 3.27 presently)**

1-2-33 EXPENSES - REIMBURSEMENT. Each member of the corporate authorities may receive reimbursement from the municipality for expenses incurred by the

member in attending committee meetings of the corporate authorities or for other expenses incurred by the member in the course of performing official duties. **(See 65 ILCS Sec. 5/3.1-50-15(B))**

1-2-34 OFFICIAL RECORDS. All official records, including the Corporate Seal, shall be kept in the City Hall.

1-2-35 FEDERAL OLD AGE AND SURVIVOR'S INSURANCE SYSTEM.
(A) **Eligible employees** shall mean all employees of the City, eligible under the Federal Act, except persons elected to office by popular election and also the City Treasurer and City Attorney.
(B) **Withholdings** from salaries or wages of employees for the purpose provided in sections hereof are hereby authorized to be made in the amounts and at such times as may be required by applicable State or Federal laws or regulations, and shall be paid quarterly.

1-2-36 ILLINOIS MUNICIPAL RETIREMENT FUND.
(A) The City does hereby elect to participate in the **Illinois Municipal Retirement Fund.**
(B) **Special Tax.** The City includes in its levy and appropriation ordinance provisions for the levying of a special tax to pay the City's cost of participating in the Retirement Fund and appropriate therefrom funds to pay the cost of participation.

1-2-37 CERTIFICATES OF INSURANCE. All contractors and sub-contractors doing work for the City of Newton shall first provide a Certificate of Insurance indicating insurance coverage as follows:
(A) Commercial general liability (CGL) or GL - **One Million Dollars (\$1,000,000.00)** per occurrence and **Two Million Dollars (\$2,000,000.00)** aggregate.
(B) Excess and/or umbrella in such amounts as the City may require. Such policy shall provide that the periods for the underlying insurance coverage and the excess policies are the same.
(C) Products and completed operations - **Two Million Dollars (\$2,000,000.00)** aggregate. Such coverage must remain in force for at least **five (5) years** following completion of the project.
(D) Worker's compensation - in the amounts of the statutory limits required under the Illinois Worker's Compensation Act.
(E) Employer's liability - **One Million Dollars (\$1,000,000.00)** per occurrence, **One Million Dollars (\$1,000,000.00)** each accident, **One Million Dollars (\$1,000,000.00)** each disease, **One Million Dollars (\$1,000,000.00)** disease.
(F) Liquor liability - **One Million Dollars (\$1,000,000.00)** per occurrence, **Two Million Dollars (\$2,000,000.00)** aggregate.
(G) Auto liability - **One Million Dollars (\$1,000,000.00)** per occurrence combined single limit or **One Million Dollars (\$1,000,000.00)** bodily injury per occurrence, **Five Hundred Thousand Dollars (\$500,000.00)** property damage with the coverage being primary.

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

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

(J) All insurance coverages above described shall name the City of Newton, Illinois as an additional insured and a copy of the additional insured endorsement shall be supplied to the City. All of the coverage amounts above specified may be modified by the City Council of the City of Newton as it may determine on a case by case basis depending on, among other things, the size of the project and exposure.
(Ord. No. 10-23; 12-07-10)

1-2-38 MAIL. All mail, except as hereinafter provided, addressed to the City in any manner and bearing the address of 108 North Van Buren Street, Newton, Illinois or any other address maintained by the City shall be opened by the City Clerk and appropriately disbursed by the City Clerk to the appropriate Department of the City. All mail addressed to the Mayor, City Treasurer, City Clerk, Chief of Police, Police Department, Library, City Engineer, City Attorney or to an Alderman shall be turned over to that person without the same being opened. Additionally any mail addressed specifically to an Employee of the City and marked personal, privileged, or confidential shall be turned over to that person without it being opened. City Employees shall take all steps necessary to prevent personal mail from being sent to any address maintained by the City. **(Ord. No. 02-07; 06-04-02)**

1-2-39 RESERVED.

DIVISION V - MAYOR

1-2-40 ELECTION. The Mayor shall be elected for a **four (4) year** term and shall serve until his successor is elected and has qualified. **(See 65 ILCS Sec. 5/3.1-15-5 and 5/3.1-15-10)**

1-2-41 MAYOR PRO-TEM; TEMPORARY CHAIRMAN.

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

(B) In the absence of the Mayor, or Mayor pro tem, the corporate authorities may elect one of their members to act as a temporary chairman. The temporary chairman shall have only the powers of a presiding officer and a right to vote only in the capacity as trustee on any ordinance, resolution, or motion. **(See 65 ILCS Sec. 5/3.1-35-35) (See Sec. 2.04F)**

1-2-42 VACANCY. If a vacancy occurs in the office of the Mayor and there remains an unexpired portion of the term of at least **twenty-eight (28) months** and the vacancy occurs at least **one hundred thirty (130) days** before the general municipal election next scheduled under the general election law, the vacancy shall be filled at that general municipal election. The City Council shall elect one of its members as **"Acting Mayor"** who shall perform the duties and shall possess all the rights and powers of the Mayor until a successor to fill the vacancy has been elected and has qualified. **(See 65 ILCS Sec. 5/3.1-10-50)**

1-2-43 CHIEF EXECUTIVE OFFICER. The Mayor shall be the chief executive officer of the City and he shall see to the enforcement of all laws and ordinances. He shall preside over the meetings of the City Council and perform such duties as may be required of him by statute or law. He shall have supervision over all of the executive officers and City employees; provided, however, his control is subject to the power of the City Council to prescribe the duties of various officers and employees. He shall have the power and authority at any reasonable time to inspect all books, papers and records pertaining to City affairs and kept by any officer of the City. **(See 65 ILCS Sec. 5/3.1-15-10 and 3.1-35-20)**

1-2-44 RESERVED.

1-2-45 MAYOR'S SIGNATURE. The Mayor shall sign all City warrants, commissions, permits and licenses granted by authority of the City Council, except as otherwise provided, and such other acts and deeds as law or ordinance may require his official signature.

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

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

1-2-46 APPOINTMENT OF OFFICERS.

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

(B) **Filling Vacancies.** The Mayor shall appoint, by and with the advice and consent of the City Council, all officers of the City whose appointment will not otherwise be provided for by law; and whenever a vacancy shall occur in any office, which by law or ordinance the Mayor is empowered and required to fill, the Mayor shall, at the next regular meeting of the City Council, communicate to it the name of the appointee to such office and pending the concurrence of the City Council in such appointment, the Mayor may designate some suitable person to discharge the functions of such office. **(See 50 ILCS Sec. 105/2)**

1-2-47 SUPERVISE CONDUCT OF OFFICERS; REMOVAL OF OFFICERS. The Mayor shall supervise the conduct of all officers of the City and see that they faithfully and efficiently discharge the duties of their respective offices. Except where otherwise provided by statute, the Mayor may remove any officer appointed by the Mayor under this Code, on any written charge, whenever the Mayor is of the opinion that the interests of the municipality demand removal. The Mayor shall report the reasons for the removal to the corporate authorities at a meeting to be held not less than **five (5) days** nor more than **ten (10) days** after the removal. If the Mayor fails or refuses

to report to the corporate authorities the reasons for the removal, or if the corporate authorities by a **two-thirds (2/3) vote** of all members authorized by law to be elected disapprove of the removal, the officer thereupon shall be restored to the office from which the officer was removed. The vote shall be by yeas and nays, which shall be entered upon the journal of the corporate authorities. Upon restoration, the officer shall give a new bond and take a new oath of office. No officer shall be removed a second time for the same offense. **(See 65 ILCS Sec. 5/3.1-35-10) (See Sec. 3.25)**

1-2-48 DESIGNATION OF OFFICERS' DUTIES. Whenever there is a dispute as to the respective duties or powers of any appointed officer of the City, this dispute shall be settled by the Mayor, after consultation with the City Attorney; and the Mayor shall have the power to delegate to any appointive officer, any duty which is to be performed when no specific officer has been directed to perform that duty.

1-2-49 FORMAL OCCASIONS. 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 Mayor may select any other City officer to so act.

1-2-50 GENERAL DUTIES. The Mayor shall perform all the duties which are prescribed by law and shall take care that the laws and ordinances are faithfully executed.

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

1-2-51 BUSINESS LICENSE COMMISSIONER. The Mayor is hereby designated as License Commissioner to issue and revoke any and all business licenses as prescribed by law, with the advice and consent of the City Council.

1-2-52 LOCAL LIQUOR COMMISSIONER. The Mayor is hereby designated as Local Liquor Commissioner with all the powers to license and/or revoke any City liquor license according to State and City laws. **(See 235 ILCS Sec. 5/4-2)**

1-2-53 HEALTH COMMISSIONER. The Mayor is hereby declared to be Health Commissioner with all powers to abate and remove all nuisances or health hazards within the jurisdictional boundaries of the City authority as prescribed by law.

1-2-54 DECIDING VOTE - MAYOR. The Mayor shall preside at all meetings of the City Council. He shall not vote on any ordinance, resolution or motion, except:

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

In each instance specified, the Mayor shall vote. Nothing in this section shall deprive an Acting Mayor or Mayor Pro-tem from voting in his capacity as Alderman, but he shall not be entitled to another vote in his capacity as Acting Mayor or Mayor Pro-tem. **(See 65 ILCS Sec. 5/3.1-45-5) (See Sec. 2.04E)**

1-2-55 RESERVED.

DIVISION VI - CITY CLERK

1-2-56 **ELECTED.** The Clerk shall be elected at the same election as the Mayor for a **four (4) year term** and shall serve until his successor is elected and has qualified. Effective **May 1, 2013**, the City Clerk's position shall be a part-time elected position for which the City Clerk shall receive **Eight Thousand Dollars (\$8,000.00)** per year. For said salary the City Clerk shall work a minimum of **eight (8) hours** per week in the City Clerk's office and shall attend the bi-monthly City Council meetings. The City Clerk shall also perform such other duties as the City may request from time to time. Additional compensation for hours worked in excess of **eight (8) hours** per week shall be at the City's established rate for part-time employees. **(See 65 ILCS Sec. 5/3.1-15-5 and 5/3.1-30-5) (Ord. No. 11-14; 10-04-11)**

1-2-57 **VACANCY.** Whenever a vacancy occurs in the office of City Clerk and more than **twenty-eight (28) months** remain in the term and the vacancy occurs not less than **one hundred thirty (130) days** before the general municipal election, next scheduled under the general election law, the office shall be filled for the remainder of the term at that general municipal election. During the period from the time that the vacancy occurs until the next election of Aldermen, the Mayor shall appoint a qualified person to the office subject to the advice and consent of the City Council. **(See 65 ILCS Sec. 5/3.1-10-50(B))**

1-2-58 PUBLICATION OF ORDINANCES; COUNCIL MINUTES AND RECORDS.

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

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

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

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

(E) **Hours.** The office of the City Clerk shall be open Monday through Friday of each week excepting holidays in such facilities as the City Council may provide, and the hours that such office shall be open shall be prominently displayed on or at the entrance thereto.

Notwithstanding the foregoing, the hours of the City Clerk shall be as determined as set forth in **Section 1-2-56. (Ord. No. 11-14; 10-04-11)**

1-2-59 DELIVERY OF PAPERS TO OFFICERS. The Clerk shall deliver to the several committees of the City Council and to the officers of this City, all petitions, communications, reports and resolutions, orders, claims and other papers referred to those committees or officers by the Council on demand therefor. He shall also, without delay, deliver to the Mayor, all ordinances or resolutions, orders and claims in his charge which may require to be approved or otherwise acted upon by the Mayor. **(See 65 ILCS Sec. 5/3.1-35-90)**

1-2-60 PREPARATION OF DOCUMENTS, COMMISSIONS AND LICENSES. The Clerk shall prepare all commissions, licenses, permits and other official documents required to be issued by him under this Code and shall attest the same with the corporate seal, and he shall, in like manner, attest all deeds for the sale of real estate owned and conveyed by this City.

1-2-61 REPORT OF LICENSES. The Clerk shall report to the City Council at its regular meeting each month and oftener if the Council so requires the data contained in his license register with respect to licenses issued during the previous month.

1-2-62 DELIVERY OF LICENSES. In all cases where the City requires a license to be obtained for the purpose of engaging in or carrying on any business or occupation, and the licensee is required to obtain plates, tags or stickers from the Clerk, it shall be the duty of the Clerk to deliver such plates, tags, or stickers to the person paying the license fee.

1-2-63 ADMINISTRATION OF OATHS. The Clerk shall have the power to administer oaths or affirmations for all lawful purposes. **(See 65 ILCS Sec. 5/3.1-15-20)**

1-2-64 OUTSTANDING BONDS. The Clerk shall keep in his office in a book or books kept expressly for that purpose a correct list of all the outstanding bonds of the City, showing the number and amount of each, for and to whom the bonds are issued; and when the City bonds are issued, or purchased, or paid, or cancelled, the book or books shall show that fact; and in his annual report, the Clerk shall describe particularly the bonds sold during the year and the terms of sale with each and every item of expense thereof. **(See 65 ILCS Sec. 5/3.1-35-110)**

1-2-65 REPORTS. The Clerk shall, on or before the regular meeting in each month, make out and submit to the City Council a statement or report in writing of all the moneys received and warrants drawn by him during the preceding month, showing therein from or what sources and on what account moneys were received, and for what purposes and on what account the warrants were drawn or paid.

1-2-66 SUCCESSOR. The City Clerk shall carefully preserve in his office, all books, records, papers, maps and effects of every detail and description belonging to the City or pertaining to his office, and not in actual use and possession of other City officers; and upon the expiration of his official term, he shall deliver all such books, records, papers and effects to his successor in office. **(See 65 ILCS Sec. 3.1-10-35)**

1-2-67 PAYMENTS. The Clerk shall prepare monthly an itemized list of all moneys received and shall deliver a copy of the same to the City Treasurer and shall also pay over to the Treasurer all moneys received by him and take a receipt therefor.

1-2-68 NOTIFICATION TO PERSONS APPOINTED TO OFFICE. Within **five (5) days** after an appointment is made, the Clerk shall notify all persons appointed to office of their appointment. The office becomes vacant unless the person appointed qualifies within **ten (10) days** after such notice.

1-2-69 OTHER DUTIES. In addition to the foregoing duties, the City Clerk shall perform all such other duties pertaining to his office as are or may be imposed upon him by law or resolution or ordinance of the City Council, including but not limited to the following:

- (A) The City Clerk is the local election official and must fulfill the obligation required by the State Board of Elections.
- (B) Follow the requirements set forth in the Illinois Municipal handbook pertaining to City Clerks including the keeping of the corporate seal and all papers of the municipality.
- (C) Scan the Newton Press-Mentor and keep copies of notices published by the City.
- (D) Accept building permits applications and process until the permit has been issued and collect fees for building permits.
- (E) Collect franchise fees due to the City.
- (F) Collect City's share of animal control facility receipts.
- (G) Oversee updating of City Code Book on an annual basis.
- (H) Maintain a separate ledger containing minutes of all closed sessions by the City Council.
- (I) Perform duties as needed for zoning officials.
- (J) Maintain ledger and map showing ownership of burial plots in Riverside cemetery and update cemetery book as needed.
- (K) Issue new burial licenses.
- (L) Collect for grave openings.
- (M) Bill for and send renewal applications to all liquor license holders annually.
- (N) Bill for and collect the fees due for C.O.A.D. licensees annually.
- (O) Issue and collect for raffle licenses.
- (P) Issue and collect for solicitor's and peddler's permits.
- (Q) Perform miscellaneous other duties including answering the phone and radio, distributing JULIE reports, fax and copy reports, maintain contact with electric, water and sewer departments, participate in problem resolution with customers utilities, in general perform the duties that are necessary for the professional, efficient operation of the office including performing the duties of the Collector and/or Billing/Collecting Clerk during their absence.

(Ord. No. 11-14; 10-04-11)

1-2-70 DEPUTY CLERK. The City Clerk, when authorized by the City Council, may appoint the Deputy Clerk who shall have the power and duty to execute all documents required by any law to be executed by the Clerk and affix the seal of the City thereto whenever required. in signing any documents, the Deputy Clerk shall sign the name of the City Clerk followed with the word, "**By**" and the Deputy Clerk's name and the words, "**Deputy Clerk**".

The powers and duties herein described shall be executed by such Deputy Clerk only in the absence of the City Clerk from the City Clerk's office in the City Hall, and only when either written direction has been given by the City Clerk to such Deputy Clerk to exercise such power or the City Council has determined by resolution that the City Clerk is temporarily or permanently incapacitated to perform such functions.

(See 65 ILCS Sec. 5/3.1-30-10 and 5/3.1-10-45 and 5/3.1-35-95)

1-2-71 RESERVED.

DIVISION VII - CITY TREASURER

1-2-72 DEPARTMENT ESTABLISHED. There is hereby established a department of the municipal government of the City which shall be known as the "**Finance Department**". It shall consist of the Finance Committee and the Treasurer.

1-2-73 FINANCE COMMITTEE. The standing committee on Finance shall exercise a general supervision over the affairs of the Finance Department. It shall ascertain the condition and needs thereof; shall, from time to time, report the same to the Mayor and City Council so that a full understanding thereof shall be had and generally, shall do all the acts necessary to promote the efficiency of the Department.

1-2-74 TREASURER APPOINTED; VACANCY. Effective **May 1, 2013**, the City Treasurer shall be appointed by the Mayor annually and shall serve until his successor is appointed and has qualified. If a vacancy occurs in the office, it shall be filled by the Mayor, with the advice and consent of the City Council. The City Treasurer position is a full-time position and will be required to work a minimum of **forty (40) hours** per week. The City Treasurer attendance at City Council meetings or other evening meeting of the City are not to be considered part of the **forty (40) hour** work week. **(Ord. No. 11-15; 10-04-11)**

1-2-75 MONEY; WARRANTS; ACCOUNTS; PAYMENTS. The City Treasurer shall receive all moneys belonging to this City and shall pay all warrants signed by the Mayor and countersigned by the City Clerk and not otherwise; and shall keep a separate account of each fund or appropriation and the debits and credits belonging thereto. He shall give to every person paying money into the City Treasury a receipt therefor, specifying the date of payment, and upon what account paid, and he shall file copies of such receipts with the Clerk with his monthly reports. **(See 65 ILCS Sec. 5/3.1-35-40)**

1-2-76 WARRANT REGISTER. The Treasurer shall keep a register of all warrants redeemed and paid by him showing the number, date, and amount of each, the fund from which paid, and the name of the person to whom and when paid; and he shall cancel all warrants as soon as redeemed by him. **(See 65 ILCS Sec. 5/3.1-35-40 and 5/3.1-35-45)**

1-2-77 PERSONAL USE OF FUNDS. The Municipal Treasurer shall keep all money belonging to the Municipality and in the Treasurer's custody separate and distinct from the Treasurer's own money and shall not use, either directly or indirectly, the Municipality's moneys or warrants for the personal use and benefit of the Treasurer or of any other person. Any violation of this provision shall subject the Treasurer to immediate removal from office by the corporate authorities, who may declare the Treasurer's office vacant. **(See 65 ILCS Sec. 5/3.1-35-55)**

1-2-78 BOND. The Treasurer shall give bond conditioned upon the faithful performance of his duties and to indemnify the City for any loss due to neglect of duty or wrongful act on his part; and the amount of such bond shall not be less than **ten percent (10%)** of the highest amount of taxes and special assessments received by the Treasurer during any fiscal year in the preceding **five (5) fiscal years**, nor less than one and one-half times the largest amount which the Council estimates will be in his custody at any one time, nor less than **three (3) times** the number of residents of the City, as determined by the last Federal Census. Such bond shall be filed with the Clerk as required by statute. **(See 65 ILCS Sec. 5/3.1-10-45)**

1-2-79 SPECIAL ASSESSMENTS. The Treasurer shall collect all payments on special assessments and shall see to it that the same are properly recorded and credited to the particular account entitled thereto. **(See 65 ILCS Sec. 5/3.1-35-85)**

1-2-80 BOOKKEEPING. The Treasurer shall keep his books and accounts in such a manner as to show with accuracy, all moneys received and disbursed by him for the City, stating from whom and on what account received, and to whom and on what account paid out, and in such a way that the books and accounts may be readily investigated and understood, and the books and accounts and all files and papers of his office shall be, at all times, open to examination by the Mayor or the Finance Committee or the Council. **(See 65 ILCS Sec. 5/3.1-35-40)**

1-2-81 STATEMENTS. The Treasurer shall report to the corporate authorities at the regular monthly meeting, a full and detailed account of all receipts and expenditures of the municipality as shown by his books up to the time of the report. **(See 65 ILCS Sec. 5/3.1-35-45)**

1-2-82 REPORT DELINQUENT OFFICERS. It shall be the duty of the Treasurer to report to the City Clerk any officer of the City authorized to receive money for the use of the City who may fail to make a return of the moneys received by the Treasurer at the time required by law or by ordinances of the City.

1-2-83 YEAR-END REPORT. Within **six (6) months** after the end of each fiscal year, the Treasurer shall prepare and file annually with the City Clerk an account of monies received and expenditures incurred during the preceding fiscal year as specified in this section. The Treasurer shall show the following in such account:

(A) All monies received by the City, indicating the total amounts in the aggregate received in each account of the City, with a general statement concerning the source of such receipts; provided, however, for the purposes of this paragraph, the term

"account" shall not be construed to mean each individual taxpayer, householder, licensee, utility user, or such other persons whose payments to the City are credited to the general account; and

(B) Except as provided in paragraph (C) of this section all monies paid out by the City where the total amount paid during the fiscal year exceeds **Two Thousand Five Hundred Dollars (\$2,500.00)**, giving the name of each person to whom paid, on what account paid, and the total amount in the aggregate paid to each person from each account; and

(C) All monies paid out by the City as compensation for personal services, giving the name of each person to whom paid, on what account paid, and the total amount in the aggregate paid to each person from each account; and

(D) A summary statement of operations for all funds and account groups of the City as excerpted from the annual financial report, as filed with the appropriate state agency of the State of Illinois.

Upon receipt of such account from the City Treasurer, the City Clerk shall publish the account at least once in one or more newspapers published in the City. **(See 65 ILCS Sec. 5/3.1-35-65)**

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

1-2-84 SUBMIT APPROPRIATION TO CITY COUNCIL. The Treasurer shall on or before the **fifteenth (15th) day of May in each year**, and before the annual appropriations to be made by the City Council, submit to the City Council a report of his estimates as nearly as may be of moneys necessary to defray the expenses of the corporation during the current fiscal year. He shall, in said report, classify the different objects and branches of expenditures, giving as nearly as may be the amount required for each; and for the purpose of making such a report, he is hereby authorized to require of all officers their statement of the condition and expenses of their respective offices or departments with any proposed improvements, and the probable expense thereof, all contracts made and unfinished and the amount of any and all unexpended appropriations of the preceding year.

He shall, in such report, show the aggregate income of the preceding fiscal year, from all sources, the amount of liabilities outstanding upon which interest is to be paid, the bonds and debts payable during the year, when due and when payable; and in such report, he shall give such other information to the City Council as he may deem necessary to the end that the City Council may fully understand the money exigencies and demands upon the corporation for the current year. **(See 65 ILCS Sec. 5/3.1-35-115) (See Section 1-2-9)**

1-2-85 DEPOSIT OF FUNDS.

(A) **Designation by Council.** The Treasurer is hereby required to keep all funds and moneys in his custody belonging to the City in such places of deposit as have been designated by **Section 1-2-85(D)**. When requested by the Treasurer, the corporate authorities shall designate a bank or banks in which may be kept the funds and moneys of the City in the custody of the Treasurer. When a bank or savings and loan association has been designated as a depository, it shall continue as such depository until **ten (10) days** have elapsed after a new depository is designated and has qualified by furnishing the statements of resources and liabilities as required by this Section. When a new depository is designated, the corporate authorities shall notify the sureties of the Municipal Treasurer of that fact in writing at least **five (5) days** before the transfer of funds. The Treasurer shall be discharged from responsibility for all funds or money that the Treasurer deposits in a designated bank or savings and loan association while the funds and money are so deposited.

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

(C) The Municipal Treasurer may enter into agreements of any definite or indefinite term regarding the deposit, redeposit, investment, reinvestment, or withdrawal of municipal funds with consent of Mayor and Council.

(D) Each Municipal Treasurer may:

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

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

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

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

- (a) People's State Bank, Newton, IL
- (b) First National Bank, Newton, IL
- (c) Community Bank & Trust Co., Newton, IL
- (d) First National Bank of Dieterich - Newton Branch

1-2-86 DEPUTY CITY TREASURER.

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

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

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

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

1-2-87 OTHER DUTIES. In addition to the foregoing duties, the City Treasurer shall perform all such other duties pertaining to his office as are or may be imposed upon him by law or resolution or ordinance of the City Council, including but not limited to the following:

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

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

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

- (1) Review monthly financial reports, before presenting to the council for accuracy.
- (2) Review monthly Utility tax report before submitting to state.
- (3) Review Quarterly payroll reports 941, IL-941, State Unemployment Review Yearly W-2's, and State sales tax report.
- (4) Prepare the yearly budget for General Administration. Work with Finance Chairman and department heads in preparing yearly budgets for all other departments and enter into computer.
- (5) Prepare a copy of all budgets for Council approval before the last scheduled council meeting in April.
- (6) work with the Finance Chairman to prepare the yearly appropriations for all departments and enter into computer.
- (7) Prepare the yearly appropriations ordinance for approval before the last Council meeting in July, including all legal requirements. Provide the County Clerk a copy of the Council approved Appropriations Ordinance.
- (8) Determine amounts needed for yearly tax levy. Prepare yearly tax levy for Council approval and record at County Clerk before the last Tuesday in December.
- (9) Answer any questions the council or department heads might have concerning the Budget or coding of expenses.
- (10) Have available all records requested by the auditors and answer any questions auditors might have. After auditors have prepared a draft copy of the Audit check over the copy for accuracy, or discrepancies in adjustments. Make comments on major changes in audit report.
- (11) Assist in preparing annual treasurer report, meet all legal requirements and publish in paper within **six (6) months** after the end of a fiscal year.
- (12) **Motor Fuel Tax Audit.** Have all records available to MFT auditor.
- (13) Make sure all MFT expenses are within the MFT program.

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

(D) **Insurance.**

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

(E) **IMRF Agent.**

- (1) The City Treasurer is the authorized Agent for the Illinois Municipal Retirement Fund.
 - (2) Register new employees, discuss with employees their IMRF benefits, answer any questions, and complete required paperwork for benefits.
- (F) **Meetings.**
- (1) Attend scheduled Council meetings and attend scheduled committee meetings.
 - (2) Attend Illinois Municipal Treasurer's Association meetings and seminars, Clerk/Treasurers area meetings, State Treasurer symposiums, IMRF meeting and training sessions.
- (G) **Other Duties.**
- (1) **Health Insurance.**
 - (a) Administer the City of Newton Health Plan. Work with employees regarding problems with claims.
 - (b) Work with Risk Management and third party administrators on Policy changes to safeguard insurance plan and comply with Health Portability Act.
 - (c) Work with Third Party Administrators to enroll new employees and remove employees when they leave their employment with the City.
 - (d) Send required COBRA letter to employees leaving the city employment.
 - (e) Monitor explanation of benefits received by employees to insure proper payments are made to provider. Make sure employee's claims that have reached reinsurance status are properly reimbursed back to insurance account, Monitor Med-Trak claims. Attend any insurance meetings required for efficient operation of City health insurance plan.
 - (2) **TIF.** Administer City of Newton TIF Fund. Work closely with Economic Development Director to insure that Agreements are properly signed, and proper verification of expenses and payments are received by the City before reimbursement is made. Monitor income and expense closely, and send a report to Economic Development Director on status of funds. File TIF report after fiscal year-end audit is received from auditors.
 - (3) **FOIA Officer.**
 - (a) Registered at Illinois Attorney General Office and have online training.
 - (b) Receive request for documents submitted to the City pertaining to the Treasurer Office, ensure a timely response by the City.

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

1-2-88RESERVED.

DIVISION VIII - CITY COLLECTOR

1-2-89 GENERAL. The City Collector shall be a full-time administrative position. This position is appointed by the Mayor with the advice and consent of the City Council and reports to the Mayor and City Council and is subject to change, discipline or termination by the Mayor and City Council. Any person filling this position should have a good working knowledge of computers and the programs necessary to complete the billing and collection of the City utilities bills and other utility funds. The person filling this position shall also have a good working background in business, accounting, and record keeping with a minimum of **four (4) years** experience. Additionally, the person filling this position shall have good written and verbal communication skills in dealing with the public and experience with GIS mapping or willingness to learn.

A City Collector's salary shall be same hourly salary as the hourly employees in the Clerk and Treasurer's office or as established by the City Council. The salary for this position shall be paid by the City's **three (3)** utility funds on a prorated basis. The City Collector shall be responsible for the billing of and the collection of all City utility bills and other utility funds. The City Collector shall preserve all warrants returned to the City Collector and the City Collector shall keep books and accounts in the manner that the City Council may prescribe. All of the City Collector's warrants, books and vouchers and all papers pertaining to the City Collector's office, may be examined at any time by the Mayor or any member or committee of the Council. Weekly and more often if required by the Council, the City Collector shall pay over to the City Treasurer all money collected by the City Collector from all utility funds whatsoever, taking the City Treasurer's receipt therefore. All moneys collected by the City Collector shall be deposited into a clearing account at an approved local bank by the City Treasurer.

The position of billing clerk shall report to the City Collector.
(Ord. No. 11-16; 10-04-11)

1-2-90 REPORT; ANNUAL STATEMENT. The City Collector shall make a monthly written report to the Council or to any other officer designated by the Council, of all utility funds collected by the City Collector, the account whereon collected, or of any other official matter. Between the **fifteenth (15th)** and the **thirtieth (30th) of** May of each year, the City Collector shall file a statement of (1) all utility funds collected by the City Collector during the year, (2) the particular warrant, special assessment, or account on which collected, (3) the balance of money uncollected on all warrants in the City Collector's possession, and (4) the balance remaining uncollected at the time of return on all warrants which the City Collector returned to the City Collector's office during the preceding fiscal year. The City Treasurer shall publish the statement at least once, within **six (6) months**, in **one (1)** or more newspapers published in, or with a general circulation in the City. **(Ord. No. 04-9; 10-05-04)**

1-2-91 DETENTION OF PUBLIC MONEY. The City Collector is prohibited from keeping the City's money in the City Collector's possession, or in the possession of any other person beyond the time prescribed for its payment to the City Treasurer. Any violation of this provision shall subject the City Collector to immediate removal from office. **(Ord. No. 04-9; 10-05-04)**

1-2-92 OTHER DUTIES. In addition to the foregoing duties, the City Collector shall perform all such other duties pertaining to his office as are or may be imposed upon him by law or resolution or ordinance of the City Council, including but not limited to the following:

(A)

Responsibilities.

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

- (23) Maintain records of bulk water sold.
- (24) Communicate with ERBA and other charities concerning customer accounts. Calculate and post ERBA payments to customers' accounts and maintain credit availability information.
- (25) Correspond with customers and/or landlords as needed concerning returned checks, ERBA or charity payments, utility shut-off or turn-on due to non-payment, non-payment of final bills, deposit requirements, budget accounts, automatic withdrawal (ACH) customers, etc.
- (26) Generate mass mailings to ACH and budget customers as needed.
- (27) Sign checks requiring **three (3) signatures** as requested by the City Treasurer.

(B)

Other Duties.

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

(Ord. No. 11-16; 10-04-11)

1-2-93 - 1-2-95 RESERVED.

DIVISION IX - JUDICIARY

1-2-96 APPOINTMENT OF ATTORNEY. The Attorney shall be appointed by the Mayor, by and with the advise and consent of the City Council for the term of **one (1) year**, unless sooner removed for cause, and until his successor shall have been appointed and qualified. The Attorney shall have full charge of the law affairs of the City and shall be known as the City Attorney and shall receive an annual salary as determined by the appropriation ordinance, compensation for office services and advice, and shall receive reasonable fees for other services rendered when, in his judgment, or in the judgment of the Mayor or City Council, the same are necessary or are for the best interests of the City. **(See 65 ILCS Sec. 5/3.1-30-5)**

1-2-97 PROSECUTE FOR CITY. The City Attorney shall prosecute or defend on behalf of the City in all cases in which the interests of the corporation or any officer thereof are involved; and the City Clerk shall furnish him with certified copies of any ordinance, bond or paper in his keeping necessary to be filed or used in any suit or proceedings.

1-2-98 PREPARATION OF ORDINANCES. He shall, when required, advise the City Council or any officer in all matters of law in which the interests of the corporation are involved, and he shall draw such ordinances, bonds, forms and contracts, or examine and pass upon the same, as may be required of him by the Mayor, the City Council, or any committee thereof.

1-2-99 JUDGMENTS. He shall direct executions to be issued upon all judgments recovered in favor of the City, and he shall direct their prompt service. He shall examine all the bills of the officers of courts, and of other officers of the law, and shall certify to their correctness and the liability of the City therefore.

1-2-100 VIOLATIONS OF ORDINANCES. He shall institute and prosecute an action in every case of violation of a City ordinance when instructed to do so by the Mayor or the City Council.

1-2-101 PROSECUTION OF SUITS. He shall not be required to prosecute any suit or action arising under the ordinances of the City when, upon investigation of the same, he shall become satisfied that the complaint was instituted maliciously, vexatiously, or without just cause; and he shall dismiss or discontinue any such suit or proceeding upon such terms as he may deem just or equitable.

1-2-102 COLLECTION OF TAXES. He is hereby authorized and instructed to enforce the collection of any and all taxes and special assessments in the collection of which the City is interested and to attend all sales of real or personal property made to enforce the collection of such taxes or special assessments and to bid thereat on behalf of the City.

1-2-103 COMMISSIONS. The City Attorney shall act as the legal advisory for the Utilities Systems, for the Plan Commission, for the Park and for all other boards and commissions hereafter established by the City Council. He shall perform all legal services as may be required for those boards and commissions.

1-2-104 - 1-2-105 RESERVED.

DIVISION X - CITY ENGINEER

1-2-106 APPOINTMENT. With the advice and consent of the City Council, the Mayor may appoint an engineer for the City, who shall serve for the term of the Mayor or for such period not exceeding the term of the Mayor, as may be designated by the Mayor and City Council.

1-2-107 DUTIES - SALARY. The City Engineer shall make and submit plans, estimates and specifications for any public work which may be proposed or ordered by the City Council. He shall also examine all public works under his charge and see that the plans, estimates and specifications for the same are properly executed. He shall also receive a salary as established in the annual budget.

1-2-108 RESERVED.

DIVISION XI - DEPARTMENTS OF GOVERNMENT

1-2-109 DEPARTMENTS CREATED. The business and affairs of the City shall be conducted by the following City departments:

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

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

1-2-110 DEPARTMENT HEADS. The Superintendent or individual in charge of each of the departments shall be responsible for the operation of the respective department as provided in this Code.

1-2-111 APPOINTMENT. The Mayor, with the advice and consent of the City Council, shall, with the exception of the Police Department, appoint a superintendent or individual who shall be responsible for the operation of the respective department, provided that all such appointees shall be regular employees engaged in the performance of their work.

1-2-112 EMPLOYEES OF DEPARTMENTS. The City Council shall designate the number of employees in each department and define the duties and period of employment of each. The heads of the various departments, with the advice and consent of the City Council, shall procure such employees for the operation of the various departments and shall have authority to remove any employee. However, such removal may be rescinded by the City Council and the removed employee reinstated by the affirmative vote of the majority of the City Council.

ARTICLE III - SALARIES

1-3-1 SALARIES OF CITY OFFICIALS. Effective **May 1, 2013** the following salaries are hereby established for elected City Officials:

(A) **Mayor.** The Mayor shall receive **Ten Thousand Dollars (\$10,000.00)** per year.

(B) **Alderman.** Each Alderman shall receive **Five Thousand Dollars (\$5,000.00)** per year, payable quarterly.

(C) **Clerk.** The City Clerk shall be a part-time elected position for which the City Clerk shall receive **Eight Thousand Dollars (\$8,000.00)** per year. For said salary, the City Clerk shall work a minimum of **eight (8) hours** per week in the City Clerk's office and shall attend the bi-monthly City Council meetings. The City Clerk shall also perform such other duties as the City may request from time to time. Additional compensation for hours worked in excess of **eight (8) hours** per week shall be at the City's established rate for part-time employees.

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

(Ord. No. 11-13; 10-04-11)

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

[ED. NOTE: The salaries of elected officials who hold elective office for a definite term shall neither be increased nor diminished during that term and shall be fixed at least six (6) months before to a general municipal election in which voting is held for those offices.]

ARTICLE IV - WARDS

1-4-1 WARDS ESTABLISHED. The City of Newton is hereby districted into **four (4) wards**, the boundaries being as follows:

(A) **Ward One.** Beginning at the center point of the intersection of Jourdan and Van Buren Streets in the City of Newton, thence East along the center line of Jourdan Street to the center line of First Street, thence South along the center line of First Street to the center line of Washington Street, thence East along the center line of Washington Street to the center line of Park Street, thence South along the center line of Park Street to the center line of Decatur Street, thence East along the center line of Decatur Street to the center line of Scott Street, thence East along the center line of Hillcrest Drive to the corporate limits of the City of Newton, thence North along said corporate limits, thence West along said corporate limits to the center line of Scott Street, thence North along the center line of Scott Street to the center line of the Indiana Railroad right-of-way, thence in a Northeasterly direction along the corporate limits of the City of Newton 1,665.55 feet to the Quarter Section Line, thence North along said corporate limits, thence East along said corporate limits, thence North along said corporate limits to the Northeast Corner of said City of Newton, thence in a Westerly direction along said corporate limits along the South Bank of the Embarras River to the Northeast Corner of St. Thomas Cemetery, thence West along said corporate limits, thence South along said corporate limits, thence West along said corporate limits, thence South along said corporate limits to the center line of Water Street, thence East along the center line of Water Street to the center line of Goble Street, thence South along the center line of Goble Street to the center line of Jourdan Street, thence East along the center line of Jourdan Street to the point of beginning.

(B) **Ward Two.** Beginning at the center point of the intersection of Jourdan and Van Buren Streets, in the City of Newton, thence South along the center line of Van Buren Street to the center line of Reynolds Street, thence West along the center line of Reynolds Street to the center line of Liberty Avenue, thence North along the center line of Liberty Avenue to the center line of Fairground Avenue, thence West along the center line of Fairground Avenue to the center line of Westend Avenue, thence South along the center line of Westend Avenue to the center line of Ira Avenue, thence West along the center line of Ira Avenue to the center line of Arca Avenue, thence South along the center line of Arca Avenue to the center line of Foster Street, thence West along the center line of Foster Street to the center line of Hutton Drive, thence North along the center line of Hutton Drive to the corporate limits of the City of Newton, thence West along said corporate limits, thence North along said corporate limits to the North right-of-way of the Indiana Railroad, thence West along the North right-of-way of the Indiana Railroad to the West line of Illinois Drive and said corporate limits, thence North along the West line of Illinois Drive and said corporate limits to the North right-of-way of State Route 33, thence Easterly along the North right-of-way of State Route 33 to said corporate limits, thence North 630 feet along said corporate limits, thence East 414.71 feet along said corporate limits, thence South 530 feet along said corporate limits, thence West 162 feet along said corporate limits, thence South 100 feet along said corporate limits to the North right-of-way of State Route 33, thence East 371 feet along said North right-of-way, thence North 992 feet along said corporate limits, thence East 987.5 feet along said corporate limits to the West line of Acklin Acres Subdivision

in the City of Newton, thence North along said West line of said Acklin Acres Subdivision to the Northwest Corner of said City of Newton, thence East along said corporate limits, thence South along said corporate limits, thence East along said corporate limits to the Southeast Corner of Section 35, T7N, R9E, 3rd P.M., thence East along the center line of Water Street to the center line of Goble Street, thence South along the center line of Goble Street to the center line of Jourdan Street, thence East along the center line of Jourdan Street to the point of beginning.

(C) **Ward Three.** Beginning at the center point of the intersection of Reynolds and Van Buren Streets in the City of Newton, thence South along the center line of Van Buren Street to the center line of Martin Street, thence West along the center line of Martin Street to the center line of Jackson Street, thence South along the center line of Jackson Street to the corporate limits of the City of Newton, thence West along said corporate limits to the center line of Liberty Avenue, thence North along the center line of Liberty Avenue to said corporate limits, thence West along said corporate limits to the Southwest corner of the City of Newton, thence North along said corporate limits to the center line of Foster Street, thence West along the center line of Foster Street to the center line of Arca Avenue, thence North along the center line of Arca Avenue to the center line of Ira Avenue, thence East along the center line of Ira Avenue to the center line of Westend Avenue, thence North along the center line of Westend Avenue to the center line of Fairground Avenue, thence East along the center line of Fairground Avenue to the center line of Liberty Avenue, thence South along the center line of Liberty Avenue to the center line of Reynolds Street, thence East along the center line of Reynolds Street to the point of beginning.

(D) **Ward Four.** Beginning at the center point of the intersection of Jourdan and Van Buren Streets in the City of Newton, thence East along the center line of Jourdan Street to the center line of First Street, thence South along the center line of First Street to the center line of Washington Street, thence East along the center line of Washington Street to the center line of Park Street, thence South along the center line of Park Street to the center line of Decatur Street, thence East along the center line of Decatur Street to the center of Scott Street, thence East along the center line of Hillcrest Drive to the corporate limits of the City of Newton, thence South along said corporate limits, thence West along said corporate limits, thence South along said corporate limits, thence West along said corporate limits, thence South along said corporate limits, thence West along said corporate limits to the center line of Scott Street, thence South along the center line of Scott Street to the center line of Wilson Street, thence West along the center line of Wilson Street to the corporate limits of the City of Newton, thence South along said corporate limits, thence West along said corporate limits, thence South along said corporate limits, thence West along said corporate limits, thence North along said corporate limits to the center line of Wilson Street, thence West along the center line of Wilson Street to the center of the right-of-way of the Indiana Railroad, thence in a Northwesterly direction along said center line of the Indiana Railroad to the corporate limits of said City, thence Northwesterly along said center line of the Indiana Railroad to the Quarter Section line, thence South along said Quarter Section line to the North line, South Half, Northeast Quarter, Northeast Quarter, Section 12, T6N, R9E, 3rd P.M., thence East along said North line to the Easterly right-of-way of the Indiana Railroad, thence Southeasterly along said Easterly right-of-way to the North line, North Half, West Half, Southwest Quarter, Northwest Quarter, Section 7, T6N, R10E, 3rd P.M., thence East along the North line of said North Half to the Northeast Corner of said North Half, thence South to the Southeast Corner of said North Half, thence West to the center line of Public

Road 1200E, thence North along the center line of Public Road 1200E to the corporate limits of the City of Newton, thence West 206.70 feet along said corporate limits, thence South 208.70 feet along said corporate limits, thence West 801.67 feet along said corporate limits, thence Southeasterly 558.56 feet along said corporate limits, thence South 332.3 feet along said corporate limits to the Northerly right-of-way of State Route 130, thence Southwesterly 80 feet to the Southerly right-of-way of said State Route 130, thence Northwesterly along said Southerly right-of-way to said corporate limits, thence South along said corporate limits, thence West along said corporate limits to the center line of Public Road 1150E, thence North along the center line of Public Road 1150E to the center line of Russel Street, thence West along the center line of Russel Street to the center line of Jackson Street, thence North along the center line of Jackson Street to the center line of Martin Street, thence East along the center line of Martin Street to the center line of Van Buren Street, thence North along the center line of Van Buren Street to the point of beginning.

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

(Ord. No. 01-18; 07-17-01)

ARTICLE V - MANAGEMENT ASSOCIATION

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

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

(Ord. No. 08-26; 12-02-08)

ARTICLE VI – ETHICS ACT

1-6-1 STATE OFFICIALS AND EMPLOYEES ETHICS ACT.

(A) The regulations of Sections 5-15 (**5 ILCS 430/5-15**) and Article 10 (**5 ILCS 430/10-10 through 10-40**) of the State Officials and Employees Ethics Act, **5 ILCS 430/1-1 et seq.**, (hereinafter referred to as the “Act” in this Section) are hereby adopted by reference and made applicable to the officers and employees of the City to the extent required by **5 ILCS 430/70-5**.

(B) The solicitation or acceptance of gifts prohibited to be solicited or accepted under the Act, by any officer or any employee of the City, is hereby prohibited.

(C) The offering or making of gifts prohibited to be offered or made to an officer or employee of the City under the Act, is hereby prohibited.

(D) The participation in political activities prohibited under the Act, by any officer or employee of the City, is hereby prohibited.

(E) For purposes of this Section, the terms “officer” and “employee” shall be defined as set forth in **5 ILCS 430/70-5(c)**.

(F) The penalties for violations of this Section shall be the same as those penalties set forth in **5 ILCS 430/50-5** for similar violations of the Act.

(G) This Section does not repeal or otherwise amend or modify any existing ordinances or policies which regulate the conduct of City officers and employees. To the extent that any such existing ordinances or policies are less restrictive than this Section, however, the provisions of this Section shall prevail in accordance with the provisions of **5 ILCS 430/70-5(a)**.

(H) Any amendment to the Act that becomes effective after the effective date of this Section shall be incorporated into this Section by reference and shall be applicable to the solicitation, acceptance, offering and making of gifts and to prohibited political activities. However, any amendment that makes its provisions optional for adoption by municipalities shall not be incorporated into this Section by reference without formal action by the corporate authorities of the City.

(I) If the Illinois Supreme Court declares the Act unconstitutional in its entirety, then this Section shall be repealed as of the date that the Illinois Supreme Court’s decision becomes final and not subject to any further appeals or rehearings. This Section shall be deemed repealed without further action by the corporate authorities of the City if the Act is found unconstitutional by the Illinois Supreme Court.

(J) If the Illinois Supreme Court declares part of the Act unconstitutional but upholds the constitutionality of the remainder of the Act, or does not address the remainder of the Act, then the remainder of the Act as adopted by this Section shall remain in full force and effect; however, that part of this Section relating to the part of the Act found unconstitutional shall be deemed repealed without further action by the corporate authorities of the City.

(Ord. No. 04-1; 05-04-04)

CHAPTER 3

ANIMALS

ARTICLE I - DOGS

3-1-1 APPOINTMENT OF HUMANE OFFICER. The City Council may from time to time, and upon such terms and conditions as it deems proper, contract with any qualified person or corporation for assistance in carrying out the provisions of this Chapter and delegate to such qualified person or corporation the management and control of the local Animal Shelter, and may, pursuant to said contract, appoint such person or corporation humane officer for the City.

3-1-2 POWERS OF POLICE. Nothing in this Chapter contained shall be interpreted as interfering with, or restricting, the power of the City Police to take whatever action may be reasonably necessary to protect persons and property from the depredations of any dogs which may be running at large within the City, nor shall this Chapter be interpreted as preventing the necessary killing of any dog by the Dog-catcher and Pound-master in the course of his apprehension of such dog, where such dog is found running at large and fiercely, dangerously and viciously resists the efforts of the Dog-catcher and Pound-master to catch the same.

3-1-3 ENCLOSURE AND MUZZLING OF DOGS. Any dog that behaves in a manner that a reasonable person would believe poses a threat of physical injury to any person or animal shall be kept confined in an enclosure, as provided for in **Section 3-2-1(C)** of this Chapter, by its owner or other person in possession or control of the dog.

Any time that the dog is not in the enclosure it shall be kept muzzled by its owner or other person in possession or control of the dog so as to prevent it from biting any person or animal. The dog shall be securely restrained with a leash not exceeding **six (6) feet** in length and the dog shall be in the direct control and supervision of its owner or other person in possession or control of the dog, which owner or other person in possession of the dog must be **eighteen (18) years** of age or older.

In addition to the penalties provided for in **Section 1-1-20** of this Code for violations of the provisions of this Chapter, any dog which is not properly enclosed or muzzled as above provided shall be impounded by Jasper County Animal Control until the requirements of this Section are complied with. Impounded dogs shall be subject to the impoundment provisions of **Section 3-1-14(B)(3)** and the redemption provision of **Section 3-1-14(B)(5)** of this Chapter. **(Ord. No. 11-11; 09-06-11)**

3-1-4 INOCULATION AGAINST RABIES. It shall be the duty of every person who keeps, harbors or otherwise maintains a dog more than **four (4) months** of age in the City of Newton, Illinois, to have the same inoculated against rabies by a licensed veterinarian and to keep the same inoculated at all times.

3-1-5 COLLAR AND TAG. Every owner shall provide each dog, more than **four (4) months** of age kept, harbored or otherwise maintained by him in the City, with a sturdy collar to which the aforesaid license tag shall be securely fastened and it shall be the owner's duty to make certain that the collar and tag are worn at all times by the dog when off the owner's premises.

3-1-6 UNAUTHORIZED REMOVAL OF TAG. It shall be unlawful for any person other than a police officer, humane officer or other person charged with the enforcement of this Chapter to remove a license tag from any dog without the owner's or his agent's consent.

3-1-7 NUISANCES.

(A) Any dog which runs at large is hereby declared to be a public nuisance and such dog shall be apprehended and impounded if found running at large by a police officer, humane officer or other person charged with the enforcement of this Chapter.

(B) Any dangerous dog as defined herein which is found to be unconfined on the owner's premises, or found beyond the owner's premises and not securely leashed and muzzled or otherwise securely restrained and muzzled, is hereby declared to be a public nuisance and such dog shall be apprehended and impounded if so found by a police officer, humane officer or other person charged with the enforcement of this Article.

3-1-8 DOG BITES. If an owner has notice that his dog has bitten any person, it shall be unlawful for such owner to kill such dog, or sell or give such dog away, or to permit or allow such dog to be taken beyond the limits of the City except to a licensed veterinary hospital. It shall be the duty of such owner to immediately report the incident to the police department and to immediately place such dog in a licensed veterinary hospital or in the Humane Animal Shelter where such dog shall be quarantined for a period of at least **ten (10) days**, or upon the request of any police officer, humane officer or other person charged with the enforcement of this Chapter, to deliver such dog to them for such placement. The owner shall immediately furnish the police department with the name and location of said hospital. At the expiration of the quarantine period, and prior to the release of such dog, the owner shall furnish the police department with a certificate of a licensed veterinarian stating that such dog does not have rabies. All costs of maintaining such dog in a veterinary hospital or Humane Animal Shelter shall be the obligation and responsibility of the owner and shall be paid by said owner.

In all cases where any dog has bitten a person and is slain or dies within **ten (10) days** from the time of the bite, it shall be the duty of the person slaying such dog and the owner of such dog to notify the police department and to immediately deliver the head of such dog intact to said department or cause the same to be done.

3-1-9 DISTURBING QUIET, DAMAGING PROPERTY AND REMOVAL OF WASTE. It shall be unlawful for an owner to keep, harbor or otherwise maintain a dog in the City which shall disturb the quiet of any person or neighborhood, or which shall attack any person, or which shall cause danger or fear to any person or neighborhood.

It shall be the duty of any person who walks, runs or otherwise has a dog on private or public property to remove and properly dispose of that dog's fecal waste immediately after the deposit of said waste by the dog. Failure to perform this duty shall be unlawful and shall constitute an ordinance violation. **(Ord. No. 08-15; 06-17-08)**

3-1-10 RABIES. Any dog suffering from rabies is hereby declared to be a public nuisance and such dog may be slain by any police officer or such other person charged with the enforcement of this Chapter, if the same cannot be safely apprehended and impounded. It shall be the duty of any person keeping, harboring or otherwise maintaining any such dog to place it immediately in a veterinary hospital, or upon demand, to surrender such dog to any police officer, humane officer or other person charged with the enforcement of this Chapter.

It shall be the duty of every person who discovers that any dog is suffering with rabies or that any dog or other animal has been bitten by a dog or other animal suffering with rabies to report such fact immediately to the Chief of Police. Such report shall give the name, if known, and the place of residence of the person keeping, harboring, or otherwise maintaining any such dog or other animal, the place where the same can be found, and the license number of any dog, if known. Any such dog or other animal shall be immediately confined in a veterinary hospital or the Humane Animal Shelter or taken up and impounded and securely kept until it can be determined whether any such dog or other animal is suffering with rabies.

3-1-11 UNLAWFUL TREATMENT OF DOGS. It shall be unlawful for any person to maliciously shoot, poison, kill, injure, abuse or ill-treat any dog. Any person who kills or injures a dog while driving a vehicle shall stop at the scene of the accident and render such assistance as practicable and shall immediately report the incident to the police department.

3-1-12 HINDERING ENFORCEMENT. It shall be unlawful to hinder or molest any police officer, humane officer or person or corporation engaged in the enforcement of this Chapter, who shall have the right to enter upon private property in the pursuit and search for a dog.

It shall further be unlawful to cause or to allow a dog to be chained or housed outside in such a manner that allows the dog to be able to come within **fifteen (15) feet** of any sidewalk, utility meter of the City or any entrance to a residential or commercial structure, unless such dog is within a fenced in area that keeps the dog within the confines of that fenced in area. **(Ord. No. 08-15; 06-17-08)**

3-1-13 ENFORCEMENT. The Chief of Police and such other persons as may be designated by him or the City Council are hereby authorized and directed to enforce this Article.

3-1-14 DOGS RUNNING AT LARGE.

(A) **Definitions.** As used in this Section, unless the context otherwise requires, the terms specified have the following meanings.

- (1) **"Dog"** means all members of the classification, Canis Familiaris.
- (2) **"Owner"** means any person having a right of property in a dog, who keeps or harbors a dog, who has it in his care, acts as its custodian, or who knowingly permits a dog to remain on or about any premises occupied by him or her. Native wildlife remaining on or about any premises shall not be included in this definition.
- (3) **"Control"** means any owned dog that is either secured by a leash or lead, or under voice control, or on the property of its owner, or confined within crate or cage, or confined within a vehicle, or on the property of another person with the consent of that person.
- (4) **"Person"** means any individual, firm, corporation, partnership, society, association or other legal entity, any public or private institution, municipal corporation, unit of local government or other business units.
- (5) **"Voice control"** means the immediate recall of a dog at the sound of its owner.

(B) **Dogs Leaving Property.**

- (1) It shall be unlawful for any owner to permit any dog to leave its owner's property when not under the control of its owner or his or her agents or representatives.
- (2) Any dog found running at large contrary to the provisions of this Section shall be apprehended and impounded by any law enforcement official of the City or the City of Newton/Jasper County Animal Control Officer.
- (3) Impounded dogs shall be held a minimum of **seven (7) days**. All unclaimed dogs shall be placed for adoption, humanely euthanized or otherwise disposed of in accordance with the Illinois State law.
- (4) For the purpose of carrying out the provisions of this act, the City of Newton/Jasper County Animal Control Officer, his or her authorized representatives, or any law enforcement officer of the City may enter upon private premises to apprehend a stray dog.
- (5) **Redemption of Dogs.** Any dog, which shall be impounded pursuant to this Section, may be redeemed by the owner. The

cost of impoundment is hereby established at **Twenty-Five Dollars (\$25.00)** plus **Seven Dollars (\$7.00)** daily board for the first offense, **Fifty Dollars (\$50.00)** plus **Seven Dollars (\$7.00)** daily board for the second offense and **Seventy-Five Dollars (\$75.00)** plus **Seven Dollars (\$7.00)** daily board for the third offense. Any fraction of a day shall constitute an entire day. Fee for pickup of any unwanted dogs shall be **Twenty-Five Dollars (\$25.00)**.

- (6) **Adoption of Dogs.** Any dog may be released for adoption to a responsible person of age **eighteen (18)** or over after said dog has been held for at least **seven (7) days**. Fee for adoption shall be **Twenty-Five Dollars (\$25.00)**. All adopted dogs must be spayed or neutered or provisions made for such procedure prior to release.
- (7) All fees collected under this Section shall be deposited with the City Treasurer.
- (8) Complaints from the public under this Section shall be directed to the City or the Jasper County Sheriff's office. Complainant shall sign a complaint form prior to action being taken by the City of Newton/Jasper County, Illinois Animal Control Officer or City Police.
- (9) Every owner of a female dog in heat shall cause such dog to be securely confined in an enclosed area while that dog is in heat.
- (10) The City law enforcement officers and the City of Newton/Jasper County Animal Control Officer shall not be responsible for accidents or disease to any dog while under their control.
- (11) No person shall cause any dog to be dumped or abandoned in the City. Any person so convicted of such an offense shall be guilty of a petty offense and shall be fined not less than **One Hundred Dollars (\$100.00)** nor more than **Five Hundred Dollars (\$500.00)**.
- (12) Any person convicted of any violation of the provisions of this Section, other than illegal dumping or abandonment of dogs, may be fined not less than **Twenty-Five Dollars (\$25.00)** nor more than **Five Hundred Dollars (\$500.00)** for each offense. City Police Officers shall issue citations for violations of this Section.

(Ord. No. 04-18; 12-21-04)

3-1-15 PENALTY. The penalties established in **Section 1-1-20** of this Code shall apply to this Chapter.

ARTICLE II - VICIOUS AND DANGEROUS DOGS

3-2-1 **DEFINITIONS.** For purposes of this Article:

(A) **"Vicious dog"** means:

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

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

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

(B) **"Dangerous dog"** means any individual dog which when either unmuzzled, unleashed, or unattended by its owner, or a member of its owner's family, in a vicious or terrorizing manner, approaches any person in an apparent attitude of attack upon streets, sidewalks, or any public grounds or places.

(C) **"Enclosure"** means a fence or structure of at least **six (6) feet** in height, forming or causing an enclosure suitable to prevent the entry of young children, and suitable to confine a vicious dog in conjunction with other measures which may be taken by the owner or keeper, such as tethering of a vicious dog within the enclosure. Such enclosure shall be securely enclosed and locked and designed with secure sides, top and bottom and shall be designed to prevent the animal from escaping from the enclosure.

(D) **"Impounded"** means taken into the custody of the public pound in the City or town where the vicious dog is found.

(E) **"Found to Be Vicious Dog"** means:

- (1) that the Administrator, an Animal Control Warden, or a law enforcement officer has conducted an investigation and made a finding in writing that the dog is a vicious dog as

defined in paragraph (1) of Subsection (A) and, based on that finding, the Administrator, an Animal Control Warden, or the Director has declared in writing that the dog is a vicious dog or

- (2) that the circuit court has found the dog to be a vicious dog as defined in paragraph (1) of Subsection (A) and has entered an order based on that finding.

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

(A) If it is necessary for the owner or keeper to obtain veterinary care for the dog or

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

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

3-2-3 OWNER'S RESPONSIBILITY. If the owner of the dog has not appealed the impoundment order to the circuit court in the County in which the animal was impounded within **seven (7) working days**, the dog may be humanely dispatched. A dog found to be a vicious dog shall not be released to the owner until the Administrator, an Animal Control Warden, or the Director approves the enclosure as defined in this Section.

No owner or keeper of a vicious dog shall sell or give away the dog.

3-2-4 DOG PERMITTED TO LEAVE PREMISES. It is unlawful for any person to maintain a public nuisance by permitting any dangerous dog or other animal to leave the premises of its owner when not under control by leash or other recognized control methods.

Guide dogs for the blind or hearing impaired, support dogs for the physically handicapped, and sentry, guard, or police-owned dogs are exempt from this Section; provided, an attack or injury to a person occurs while the dog is performing duties as expected. To qualify for exemption under this Section, each such dog shall be currently inoculated against rabies in accordance with this Code. It shall be the duty of the owner of such exempted dog to notify the Administrator of changes of address. In the case of a sentry or guard dog, the owner shall keep the Administrator advised of the location

where such dog will be stationed. The Administrator shall provide police and fire departments with a categorized list of such exempted dogs, and shall promptly notify such departments of any address changes reported to him.

3-2-5 INJUNCTION. The Administrator, the City Attorney, or any citizen of the City in which a dangerous dog or other animal exists may file a complaint to enjoin all persons from maintaining or permitting such, to abate the same, and to enjoin the owner of such dog or other animal from permitting same to leave his premises when not under control by leash or other recognized control methods. Upon the filing of a complaint in the circuit court, the court, if satisfied that this nuisance may exist, shall grant a preliminary injunction with bond in such amount as the court may determine enjoining the defendant from maintaining such nuisance. If the existence of the nuisance is established, the owner of such dog or other animal shall be in violation of this Act, and in addition the court shall enter an order restraining the owner from maintaining such nuisance and may order that such dog or other animal be humanely dispatched. **(See 510 ILCS Sec. 5/17)**

3-2-6 LIABILITY OF OWNER OR DOG ATTACKING OR INJURING PERSON. If a dog, or other animal, without provocation, attacks or injures any person who is peaceably conducting himself in any place where he may lawfully be, the owner of such dog or other animal is liable in damages to such person for the full amount of the injury sustained. **(See 510 ILCS Sec. 5/16)**

3-2-7 RIGHT OF ENTRY - INSPECTIONS. For the purpose of carrying out the provisions of this Code and making inspections hereunder, the Administrator, or his authorized representative, or any officer of the law may enter upon private premises to apprehend a straying dog or other animal, a dangerous dog or other animal, or a dog or other animal thought to be infected with rabies. If, after request therefor, the owner of such dog or other animal shall refuse to deliver the dog or other animal to the officer, the owner shall be in violation of this Code. **(See 510 ILCS Sec. 5/17)**

(See 510 ILCS Sec. 5/24)

ARTICLE III

MISCELLANEOUS ANIMALS AND POULTRY

3-3-1 UNLAWFUL TO MAINTAIN. It shall be unlawful for any person to keep, maintain or raise any one or more of the following animals: cow(s), swine, sheep, horse(s), goat(s), chicken(s), mule(s), jackass(s), llama(s), alpaca(s), ostrich(s), duck(s), geese or other hoofed animals, livestock or poultry within the corporate limits of the City.

This paragraph shall not apply to the Jasper County Agricultural Association Fairgrounds located within the corporate limits of the City. **(Ord. No. 05-13; 05-03-05)**

3-3-2 PENALTY. The penalties established in **Section 1-1-20** of this Code shall apply to this Chapter.

(Ord. No. 03-02; 02-18-03)

CHAPTER 6

BUILDING REGULATIONS

ARTICLE I - BUILDING CODES

6-1-1 ADOPTION OF INTERNATIONAL RESIDENTIAL CODE. A certain document, **three (3) copies** of which were heretofore placed on file in the office of the City Clerk, being marked and designated the International Residential Code, 2003 edition, as published by the International Code Council, Incorporated, is hereby adopted as the Building Regulations of the City, for the control of building one- and two-family dwelling structures as herein defined, and each and all of the regulations, provisions, penalties, conditions and terms of the International Residential Code, 2003 edition, are hereby referred to, adopted and made a part hereof, as if fully set forth in this Chapter, subject to the modifications, exceptions and additional regulations set out in **Section 6-1-2** hereof.

6-1-2 AMENDMENT TO CODE. Modification to the text of the International Residential Code, 2003 edition, are as follows:

(A) **Section 101.1.** Title: Insert "City of Newton" for (name of jurisdiction).

(B) **Section 101.3.** Purpose. Is hereby deleted and the following inserted in lieu thereof:

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

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

Building Permit Committee.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Right to Appeal.

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

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

the Building Official. The decision of the Building Permit Committee shall constitute the final decision of the City relative to the appeal.

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

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

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

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

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

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

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

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

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

Air freezing index: 1055
Mean annual temperature: 53.4

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

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE II - DANGEROUS AND/OR DILAPIDATED BUILDINGS

6-2-1 DEFINED.

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

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

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

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

No person shall remove, alter, or deface any Notice required to be posted pursuant to this Article. If the Notice given hereunder has not complied within **ten (10) days** from the date when the Notice is served, the City may proceed to remedy the condition or demolish the dangerous building; except as specifically otherwise provided herein, the City may demolish,

repair, or cause the demolition or repair of a dangerous and dilapidated building as provided within **65 ILCS 5/11-31-1**.

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

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

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

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

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

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

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

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

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

ARTICLE III - BUILDING DEMOLITION INCENTIVES

6-3-1 PROGRAM ESTABLISHED. A property owner who causes the demolition and disposal of a dangerous and/or dilapidated building within the City shall be eligible to receive reimbursement in an amount not to exceed **Two Thousand Five Hundred Dollars (\$2,500.00)** per lot for the owner's costs in utilizing dumpster(s) to remove the materials and debris generated by the demolition and disposal of the dangerous and/or dilapidated building. As a condition to reimbursement, the property owner must submit a before and after picture of the lot evidencing the demolition and disposal of the dangerous and/or dilapidated building and a copy of the paid receipt for the dumpster(s) cost incurred by the owner for the said demolition and disposal. Qualification for reimbursement and the amount of reimbursement up to the maximum of **Two Thousand Five Hundred Dollars (\$2,500.00)** per lot shall be subject to the approval of the City Council in its sole discretion.

6-3-2 ANNUAL BUDGET. The City intends to budget annually for the incentives above described the sum of **Fifteen Thousand Dollars (\$15,000.00)** and has budgeted the sum of **Fifteen Thousand Dollars (\$15,000.00)** for the 2009-2010 fiscal year.

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

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

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

ARTICLE IV - INTERNATIONAL PROPERTY MAINTENANCE CODE

6-4-1 ADOPTION OF CODE. A certain document, **three (3) copies** of which were heretofore placed on file in the office of the City Clerk, being marked and designated the International Property Maintenance Code, 2003 edition, as published by the International Code Council, Incorporated, is hereby adopted as the Property Maintenance Code of the City, for the regulation and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, the demolition of such existing structures in the City of Newton; as herein defined, and each and all of the regulations, provisions, penalties, conditions and terms of the International Property Maintenance Code, 2003 edition, are hereby referred to, adopted and made a part hereof, as if fully set forth in this Chapter, subject to the modifications, exceptions and additional regulations set out in **Section 6-1-2** hereafter.

6-4-2 AMENDMENT TO CODE. Modification to the text of the International Property Maintenance Code, 2003 edition, are as follows:

(A) **Section 101.1.** Title: Insert "City of Newton" for (name of jurisdiction).

(B) **Section 103.1.** General. Is hereby deleted and the following inserted in lieu thereof:

GENERAL. The Department of Property Maintenance Inspection is hereby created and the executive official in charge thereof shall be known as the Code Official (Chief of Police or other designee of the City).

(C) **Section 103.2.** Appointment is hereby deleted and the following inserted in lieu thereof:

Appointment. The Code Official shall be appointed by the Mayor with the advice and consent of the City Council.

(D) **Section 103.3.** Deputies is hereby deleted and the following inserted in lieu thereof:

Deputies. In accordance with the prescribed procedures of this jurisdiction and with the concurrence of the City Council, the Code Official shall have the authority to appoint a deputy code official, other related technical officers, inspectors and other employees.

(E) **Section 103.5.** Fees is hereby deleted without substitution.

(F) **Section 106.4.** Violation Penalties is hereby deleted and the following inserted in lieu thereof:

Violation Penalties. Any person, who shall violate a provision of this Code, or fail to comply therewith, or with any of the requirements thereof, shall be prosecuted within the limits provided by **Section 1-1-20**. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

Prosecution of Violations. Any person failing to comply with a notice of violation or order served in accordance with this Code shall be deemed guilty of an Ordinance Violation, and the violation shall be deemed a strict liability offense. If the notice of violation is not complied with, the Code Official shall institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this Code or of the order or direction made pursuant thereto.

(G) **Section 110.3.** Failure to Comply is hereby deleted and the following inserted in lieu thereof:

Failure to Comply. If the owner of a premises fails to comply with a demolition order within the time prescribed, the Code Official,

(A) May, with City Council approval, cause the structure to be demolished and removed either through an available public agency or by contract or arrangement with private persons, and the costs of such demolition and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate, or

(B) May initiate the appropriate proceedings at law or equity to compel compliance with the demolition order, and

(C) Shall seek recovery from the owner of the condemned premises by lien on the real estate or Court Order, all attorney's fees, code official fees and expenses and all other expenses of the City in enforcing its demolition order or causing the demolition and removal.

(Ord. No. 12-2; 02-21-12)

(H) **Section 304.14.** Insect Screens is hereby deleted without substitution.

(I) **Section 602.3.** Heat Supply. Insert 09/01 to 06/01 for Dates.

(J) **Section 602.4.** Occupiable work spaces is hereby deleted without substitution.

6-4-3 EFFECT ON EXISTING ORDINANCES, REMEDIES.

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

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

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

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

(Ord. No. 11-18; 11-01-11)

CHAPTER 7

BUSINESS CODE

ARTICLE I - LICENSES

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

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE II - SOLICITORS

7-2-1 **DEFINITIONS.** For the purpose of this Chapter, the following words as used herein shall be construed to have the meanings herein ascribed thereto, to-wit:

"REGISTERED SOLICITOR" shall mean and include any person who has obtained a valid **Certificate of Registration** as hereinafter provided, and which certificate is in the possession of the solicitor on his or her person while engaged in soliciting.

"RESIDENCE" shall mean and include every separate living unit occupied for residential purposes by **one (1)** or more persons, contained within any type of building or structure.

"SOLICITING" shall mean and include any **one (1)** or more of the following activities:

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

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

7-2-3 **APPLICATION FOR CERTIFICATE OF REGISTRATION.** Applications for a Certificate of Registration shall be made upon a form provided by the Chief of Police of this municipality and filed with such Chief. The applicant shall truthfully state in full the information requested on the application, to-wit:

- (A) Name and address of present place of residence and length of residence at such address; also, business address if other than residence address; also, Social Security Number.
- (B) Address of place of residence during the past **three (3) years** if other than present address.
- (C) Age of applicant and marital status; and if married, the name of spouse.
- (D) Physical description of the applicant.
- (E) Name and address of the person, firm or corporation or association with whom the applicant is employed or represents; and the length of time of such employment or representation.
- (F) Name and address of employer during the past **three (3) years** if other than the present employer.
- (G) Description sufficient for identification of the subject matter of the soliciting in which the applicant will engage.

- (H) Period of time for which the Certificate is applied.
- (I) The date or approximate date of the latest previous application for a Certificate under this Chapter, if any.
- (J) Has a Certificate of Registration issued to the applicant under this Chapter ever been revoked?
- (K) Has the applicant ever been convicted of a violation of any of the provisions of this Code or the regulations of any other Illinois municipality regulating soliciting?
- (L) Has the applicant ever been convicted of the commission of a felony under the laws of the State of Illinois or any other State or Federal law of the United States?
- (M) The last **three (3) municipalities** where the applicant carried on business immediately preceding the date of application in this municipality and the address from which such business was conducted in those municipalities.
- (N) Also, such additional information as the Chief of Police may deem necessary to process the application.

All statements made by the applicant upon the application or in connection therewith shall be under oath.

The Chief of Police shall cause to be kept in his office an accurate record of every application received and acted upon, together with all other information and data pertaining thereto and all Certificates of Registration issued under the provisions of this Chapter and of the denial of applications.

Applications for Certificates issued shall be numbered in consecutive order as filed, and every Certificate issued and any renewal thereof shall be identified with the duplicate number of the application upon which it was issued.

No Certificate of Registration shall be issued to any person who has been convicted of the commission of a felony under the laws of the State of Illinois or any other State or Federal law of the United States within **five (5) years** of the date of the application; nor to any person who has been convicted of a violation of any of the provisions of this Chapter, nor to any person whose Certificate of Registration issued hereunder has previously been revoked as herein provided.

7-2-4 ISSUANCE AND REVOCATION OF CERTIFICATE. The Chief of Police, after consideration of the application and all information obtained relative thereto, shall deny the application if the applicant does not possess the qualifications for such Certificate as herein required, and that the issuance of a Certificate of Registration to the applicant would not be in accord with the intent and purpose of this Code. Endorsement shall be made by the Chief of Police upon the application of the denial of the application. When the applicant is found to be fully qualified, the Certificate of Registration shall be issued forthwith.

Any Certificate of Registration issued hereunder shall be revoked by the Chief of Police if the holder of the Certificate is convicted of a violation of any provision of this Chapter, or has made a false material statement in the application or otherwise becomes disqualified for the issuance of a Certificate of Registration under the terms of this Chapter. Immediately upon such revocation, written notice thereof shall be given by the Chief of Police to the holder of the Certificate in person or by certified [return receipt requested] U. S. Mail, addressed to his or her residence address set forth in the application. Immediately upon the giving of such notice, the Certificate of Registration shall become null and void.

The Certificate of Registration shall state the expiration date thereof.

7-2-5 POLICY ON SOLICITING. It is declared to be the policy of this municipality that the occupant or occupants of the residences in this municipality shall make the determination of whether solicitors shall be or shall not be invited to their respective residences.

7-2-6 NOTICE REGULATING SOLICITING. Every person desiring to secure the protection intended to be provided by the regulations pertaining to soliciting contained in this Article shall comply with the following directions:

(A) Notice of the determination by the occupant of giving invitation to solicitors or the refusal of invitation to solicitors to any residence shall be given in the manner provided in paragraph (B) of this section.

(B) A weatherproof card, approximately **three inches by four inches (3" x 4")** in size shall be exhibited upon or near the main entrance door to the residence indicating the determination by the occupant and containing the applicable words, as follows:

"ONLY REGISTERED SOLICITORS INVITED"

OR

"NO SOLICITORS INVITED"

(C) The letters shall be at least **one-third inch (1/3")** in height. For the purpose of uniformity, the cards shall be provided by the Chief of Police to persons requesting the same, at the cost thereof.

(D) Such card so exhibited shall constitute sufficient notice to any solicitor of the determination by the occupant of the residence of the information contained thereon.

7-2-7 COMPLIANCE BY SOLICITORS. It is the duty of every solicitor upon going onto any premises in this municipality upon which a residence as herein defined is located to first examine the notice provided for in **Section 7-2-6** if any is attached and be governed by the statement contained on the notice.

If the notice states **"ONLY REGISTERED SOLICITORS INVITED,"** then the solicitor not possessing a valid Certificate of Registration as herein provided for shall immediately and peacefully depart from the premises; and if the notice states, **"NO SOLICITORS INVITED,"** then the solicitor, whether registered or not shall immediately and peacefully depart from the premises.

Any solicitor who has gained entrance to any residence, whether invited or not, shall immediately and peacefully depart from the premises when requested to do so by the occupant.

7-2-8 UNINVITED SOLICITING PROHIBITED. It is declared to be unlawful and shall constitute a nuisance for any person to go upon any premises and ring the doorbell upon or near any door, or create any sound in any other manner calculated to attract the attention of the occupant of such residence for the purpose of securing an audience with the occupant thereof and engage in soliciting as herein defined, in defiance of the notice exhibited at the residence in accordance with the provisions of **Section 7-2-6** .

7-2-9 **TIME LIMIT ON SOLICITING.** It is hereby declared to be unlawful and

7-2-10 SOLICITATIONS ON PUBLIC HIGHWAYS. No person shall stand on a

(A) The soliciting agency shall be one that is registered with the Attorney

(B) Solicit only at intersections where all traffic from all directions is required

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

(D) Be liable for any injury to any person or property during the solicitation

(E) Any person so engaged in such solicitation shall be at least **sixteen (16)**

(F) Solicit only during daylight hours.

(G) Any one charitable organization shall be limited to conducting no more than

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

7-2-11 FEES. Upon making an application for a Certificate, the applicant shall pay

(A) **Daily License:** **\$10.00 per person per day.**

(B) **Annual License:** **\$50.00 per person per year.**

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

ARTICLE III - PEDDLERS

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

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

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

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

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

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

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

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

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

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

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

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

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

- | | | |
|-----|-------------------------------|------------------------------------|
| (A) | <u>Daily License:</u> | \$10.00 per person per day |
| (B) | <u>Annual License:</u> | \$50.00 per person per year |

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

ARTICLE IV - COIN-OPERATED MACHINES

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

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

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

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

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

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

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

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

(C) The address of the place where the applicant proposes to operate.

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

(E) A statement that the applicant has never been convicted of a felony and is not disqualified to receive the license under this section.

7-4-4 PROHIBITED LICENSEES. No license under this section shall be issued to:

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

(B) Any person who is not of good character and reputation in the community.

(C) Any person who has been convicted of a felony under the laws of Illinois; or of being the keeper of a house of ill-fame; or of pandering or other crime or misdemeanor opposed to decency or morality.

(D) Any person whose license issued under this Chapter has been revoked for cause.

(E) Any partnership, unless all of the members of the partnership are qualified to obtain such license.

(F) Any corporation if any officer, manager or director thereof, or any stockholder or stockholders owning in the aggregate more than **five percent (5%)** of the stock of such corporation, would not be eligible to receive a license for any reason other than citizenship or residency within this municipality.

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

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

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

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

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

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

7-4-7 PLACEMENT; GAMBLING PROHIBITED.

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

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

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

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

7-4-9 RIGHT OF ENTRY. The Chief of Police has the power to and shall inspect any place, building or premises in which any licensed device or devices are operated or set up for

operation at such times and intervals as he may deem necessary for the proper enforcement of this Article.

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

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

ARTICLE V - RAFFLE CODE

7-5-1 DEFINITIONS. The definition set forth in the Raffles Act, **230 ILCS 15/1** are hereby adopted and incorporated herein by this reference.

7-5-2 LICENSE REQUIRED. No person or organization shall conduct or partake in the selling of raffle chances within the limits of the City of Newton, Illinois, without having a license to do so issued by the Newton City Clerk in a manner hereinafter provided. Licenses shall be issued only to bona fide religious, charitable, labor, fraternal, educational or veterans' organizations that operate without profit to their members and which have been in existence continuously for a period of **five (5) years** immediately before making application for a license and which have had during the entire **five (5) year** period a bona fide membership engaged in carrying out their objectives or to a nonprofit fundraising organization that the licensing authority determines is organized for the sole purpose of providing financial assistance to an identified individual or group of individuals suffering extreme financial hardship as the result of an illness, disability, accident or disaster.

The definitions of the above types of organizations as are set forth in the Raffles Act **230 ILCS 15/2(b)** are hereby adopted and incorporated herein by this reference.

7-5-3 LICENSE APPLICATIONS - ISSUANCE - RESTRICTIONS - PERSONS INELIGIBLE. Applications for licenses, issuance of licenses, restrictions on licenses and persons ineligible for licenses shall be governed by the provisions of **230 ILCS 15/3** which such provisions are hereby adopted and incorporated herein by this reference.

7-5-4 CONDUCT OF RAFFLES. The conduct of raffles in the City of Newton, Illinois shall be governed by the provisions of **230 ILCS 15/4** which such provisions are hereby adopted and incorporated herein by this reference.

7-5-5 RAFFLES - MANAGER - BOND. The operation of raffles by a raffles manager and the bonding requirements of such manager shall be governed by the provisions of **230 ILCS 15/5**, which provisions are hereby adopted and incorporated herein by this reference.

7-5-6 RECORDS. The records to be maintained by the individual or organization licensed hereunder shall be kept and maintained in accordance with the provisions of **230 ILCS 15/6**, which provisions are hereby adopted and incorporated herein by this reference.

7-5-7 TERM AND FEES.
(A) The aggregate retail value of all prizes or merchandise awarded by a licensee in a single raffle shall not exceed **Fifty Thousand Dollars (\$50,000.00);**
(B) The maximum value of retail value of each prize awarded by a licensee in a single raffle shall not exceed **Twenty-Five Thousand Dollars (\$25,000.00);**

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

(D) The maximum number of days which chances may be issued or sold shall not exceed **three hundred sixty-five (365) days;**

(E) Licenses issued pursuant to this Article shall cost **Five Dollars (\$5.00)** and shall be valid for **one (1) raffle** or for up to **fifty-two (52) weekly raffles** and may be suspended or revoked for any violation of this Article;

(F) Any license issued under this Article shall be nontransferable.

7-5-8 LIMITED CONSTRUCTION. Nothing in this Article shall be construed to authorize the conducting or operating of any gambling scheme, enterprise, activity or device other than raffles as provided for herein.

7-5-9 POLITICAL COMMITTEES. The licensing and operation of raffles by political committees shall be governed by the provisions of **230 ILCS 15/8.1**, which provisions are adopted and incorporated herein by this reference.

(Ord. No. 97-3; 02-04-97)

ARTICLE VI – YARD SALES

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

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

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

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

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

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

ARTICLE VII – TATTOO ARTISTS

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

7-7-2 DEFINITIONS.

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

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

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

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

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

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

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

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

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

7-7-3 PREMISES.

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

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

7-7-4 EQUIPMENT.

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

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

(C) Solder used as a part of the equipment must be lead free.

(D) All equipment and preparation materials used in the application of the tattoo shall be stored in such a manner as to prevent accidental contaminations.

(E) All tables or counters shall be constructed of a nonabsorbent, smooth, easily cleanable, durable material which is capable of being sanitized.

(F) Clean, dry and disposable sanitary toweling shall be provided and used for no other purpose than with the tattooing process. Towels and sheets shall be discarded or cleaned after each use. (No repeat use between clients.)

(G) Floors, walls and ceiling shall be constructed of a smooth, easily cleanable, durable material. Concrete or pumice blocks used for interior wall construction shall be finished and sealed to provide an easily cleanable surface.

(H) Kneeling pads, other pads, and contact surfaces such as, but not limited to machine heads and clipcords, shall be cleaned and sanitized after each use. Such contact surfaces shall be sanitized by rinsing, spraying, or swabbing with a chemical sanitizing solution that will provide the equivalent bactericidal effect of a solution containing at least 100 ppm of available chlorine as a hypochlorite and having a temperature of at least **75°F.**

(I) A test kit or other device that accurately measures the parts per million concentration of the sanitizing solution shall be available and used after each mixing of a new batch.

7-7-5 BODY FLUID PRECAUTIONS.

(A) Hands shall be properly washed before and after contact with clients. Hands must be washed before and after gloves are used. If hands come in contact with blood, body fluids or human tissue they must be immediately washed with bactericidal soap and water.

(B) Surgical gloves must be worn when contact with blood, body fluids, tissue or contaminated surfaces is anticipated.

(C) Gowns and/or aprons must be worn when providing services for clients if clothing is likely to be soiled with blood/body fluids.

(D) Protective eyewear should be worn when services are being provided for the customer. Employees of the tattooer are required to wear protective eyewear while tattooing.

7-7-6 PREPARATION OF SKIN AND AFTER CARE.

(A) All materials used in the application of the tattoo are to be provided in sufficient quantities as to preclude the need for replenishment during the actual tattooing. In the event that supplies do run out during the tattooing, the tattooer is to either have an assistance, after proper hand washing, deliver the needed items, or the tattooer must remove their gloves, properly wash their hands, replenish supplies, properly wash their hands and put on new, unused surgical grade gloves.

(B) The skin surface to be tattooed shall be shaved clean by a razor.

(C) The skin surface to be tattooed shall be thoroughly washed for at least **one (1) minute** with a bactericidal soap.

(D) During the tattooing, any oils, creams, gels, stencils, etc. used must be dispensed in a sanitary manner. These items must be discarded after each tattoo.

(E) Following the application of the tattoo, the area of the skin having the tattoo shall be properly covered.

(F) Before leaving the tattoo parlor or facility, each client shall receive printed tattoo care instructions approved by the City.

7-7-7 DISEASES. All communicable diseases resulting from a tattoo shall be reported to the City by the facility operator and the person having received the tattoo. This shall be done immediately upon detection of a disease or complication.

7-7-8 STERILIZATION OF EQUIPMENT.

(A) Dry heat at **300°F** for a minimum of **two (2) hours**.

(B) Autoclave at **250°F** under **twenty (20) pounds** pressure for **fifteen (15) minutes**.

(C) Use of either method also requires that approved temperature indicators be used on all packaging.

(D) Needles, tubes and bars shall remain in their sterilization packages until used.

Any one of the above methods mentioned is approved by the City for proper sterilization of tattooing equipment.

7-7-9 RECORDS AND LIMITATIONS.

(A) A file with the date of the procedure, tattooer's name, type of tattoo, client's name, age, address and phone number shall be kept for a minimum of **three (3) years**, and made available for the City upon inspection of the facility. The client's age is to be documented by a picture I.D. which includes the client's date of birth.

(B) The tattooing of any person under the age of **twenty-one (21)** by any person, other than a person licensed to practice medicine in all of its branches is prohibited. **(720 ILCS 5/12-10)** This information is to be posted next to the facility permits.

7-7-10 SANITARY FACILITIES.

(A) **Potable Water.** The potable water supply must be constructed and operated in accordance with the law.

(B) **Sewage Disposal.** All water-carried waste shall be disposed of by discharging into a sewerage system operated and maintained under permit of the Illinois Environmental Protection Agency (IEPA) or a private sewage system constructed in accordance with the Illinois Private Sewage Disposal Licensing Act and Code.

(C) **Solid Waste Disposal.**

(1) **Containers.**

(a) All solid waste shall be kept in durable containers that do not leak or absorb liquids. Infectious waste, biohazard bags, shall be used to line containers used for materials that have come into contact with body fluids.

(b) Containers shall be stored inside the establishment and shall be provided with tight-fitting lids and kept covered when not in use.

(2) **Disposal.** All garbage and rubbish shall be disposed of at least once a week to an IEPA regulated landfill or incinerator.

(D) **Sharps.** Used needles, lancets and other sharp items must be placed in puncture resistant containers located in the use area. The puncture resistant containers shall be disposed of by a licensed IEPA medical waste disposal company.

7-7-11 PERMITS.

(A) It shall be unlawful for any person to tattoo persons within the City who does not possess a valid permit issued by the City. Only a person who is age **twenty-one (21)** or older who complies with the requirements of this Article shall be entitled to receive and retain such a permit. Prior to applying for a permit or renewal of an existing permit, the applicant and all employees of the applicant must obtain a health certificate from a licensed physician certifying that the applicant and/or employee are free from any communicable diseases. It shall be unlawful to employ any person in the business of a tattooer who does not hold such a valid health certificate.

(B) **Issuance of Permits.**

(1) Any person desiring to tattoo shall make written application for a permit at least **one (1) week** prior to the proposed date of opening, or in the event of persons currently engaged in such activities, within **one (1) week** from the effective date

of this Article, on forms provided by the City. Such application shall be completed and signed by the owner or his or her representative.

- (2) Upon receipt of such application, the City shall inspect the establishment named in the application prior to the date of opening; and it shall determine if the establishment is in compliance with the provisions of this Article. When an inspection reveals that the provisions of the Article have been met, a permit shall be issued. The permit is valid for a period of **twelve (12) months** from the date of issuance. The permit shall be prominently posted in public view.
- (3) The total number of tattoo establishments shall not exceed **two (2)** at any one time.
- (4) Permits issued hereunder are not transferable.

(C)

Suspension of Permits.

- (1) Permits may be suspended temporarily by the City for failure of the holder to comply with the requirements of this Article.
- (2) Whenever a permit holder or operator has failed to comply with any notice issued under the provisions of any notice under the provision of **Section 7-7-8** of this Article, the permit holder or operator shall be notified in writing that the permit is, upon service of the notice, suspended and that an opportunity for a hearing will be provided, if, within **seventy-two (72) hours**, a written request for a hearing is filed with the City by the permit holder.
- (3) Notwithstanding the other provisions of this Article, whenever the City finds unsanitary or other conditions in the tattoo operation which, in its judgment, constitute a substantial immediate hazard to the public health, it may without warning, notice or hearing, issue a written notice to the permit holder or operator citing such condition, specifying the corrective action to be taken, and specifying the time period within which such action shall be taken; and, if deemed necessary, such other shall state that the permit is suspended at the time of inspection. Tattoo service operations are to be immediately discontinued. Any person to whom such an order is issued shall comply therewith, but, upon written petition, filed not more than **seventy-two (72) hours** after the discontinuance order, may request a hearing for abatement of the order. The City shall provide a hearing not later than **five (5) days** from the filing of said petition.

(D)

Reinstatement of Suspended Permits. Any person whose permit has been suspended may, at any time, make application for a reinspection for the purpose of reinstatement of the permit. Within **five (5) days** following receipt of a

written request, including a statement signed by the applicant that in his opinion the conditions causing suspension of the permit have been corrected, the City shall make a reinspection. If the applicant is in compliance with the requirements of this Article, the permit shall be reinstated.

(E) **Revocation of Permits.** For serious and/or repeated violations of any of the requirements of this Article, or for interference with the City, or its designees, in the performance of its duties, the permit may be permanently revoked after an opportunity for a hearing has been provided. Prior to such hearing, the City shall notify the permit holder in writing, stating the reasons for which the permit is subject to revocation, and advising that the permit shall be permanently revoked at the end of **five (5) days** following service of such notice unless within such **five (5) day** period a written petition for a hearing is filed with the City. A hearing shall be provided no later than **five (5) days** from the filing of said petition. A permit may be suspended for cause pending its revocation or a hearing relative thereto.

7-7-12 INSPECTIONS.

(A) At least quarterly, each tattooer located in the City shall be inspected. As many additional inspections or reinspections as are necessary for the enforcement of this Article will be made.

(B) The City, or its designee after proper identification, shall be permitted to inspect, at any reasonable time, any tattooer within the City, or its policy jurisdiction, for the purpose of determining compliance with this Article. They shall be permitted to examine records of the tattooer to obtain information pertaining to supplies purchased, received or used in the act of tattooing and persons employed by the tattooer.

(C) Whenever an inspection of a tattooer is made, a record of findings will be made. A copy will be made available to the permit holder or operator.

(D) Whenever an inspection of a tattooer discovers that any of the provisions of this Article have been violated, the permit holder or operator will be notified of such violations by means of an inspection report form or written notice. In such notifications, a specific and reasonable period of time for the correction of the violation found will be noted.

7-7-13 PERMIT FEES. The annual fee for a Tattoo Permit shall be **Five Hundred Dollars (\$500.00)**. Such fees shall be payable upon receipt of an invoice issued by the City.

(Ord. No. 05-32; 12-06-05)

CHAPTER 8

CABLE TELEVISION FRANCHISE

8-1-1 SHORT TITLE. This franchise shall be known and may be cited as the City of Newton Cable Television Franchise.

8-1-2 DEFINITIONS. For the purpose of this franchise the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future; words in the plural number include the singular number and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

(A) **"Basic Cable Service"** shall mean any service tier which included the retransmission of local television broadcast signals as defined by Section 76.5(ii) of the Rules and Regulations of the Federal Communications Commission.

(B) **"City Council"** is the City Council of the City of Newton.

(C) **"Cable Service" or "Cable Television Service"** means:

- (1) the one-way transmission to subscribers of video programming or other programming services;
- (2) subscriber interaction, if any, which is required for the selection of such programming; and
- (3) any other communications or other electronic services which the Company proposes, now or in the future, to provide to its subscribers over its cable system.

(D) **"Cable Television System", "Cable System" or "CATV System"** means a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within a community.

(E) **"Company"** is the grantee of rights under this franchise and is known as Telecommunications Management, LLC d/b/a NewWave Communications.

(F) **"FCC"** is the United States federal agency known as the Federal Communications Commission.

(G) **"Gross Annual Receipts"** shall mean any and all compensation and other consideration received by the Company from cable television subscribers in payment for receipt of normal monthly cable service within the City of Newton; provided, however, that gross annual receipts shall not include one time revenues such as charges for installation, reconnection, relocation, modification of installation, inspection or repair, system revenue not earned from subscribers, the amount of any franchise or copyright fees passed on to subscribers or any taxes, fees, or charges on or for services furnished by the Company herein imposed directly or indirectly on any subscriber by any state, city

or other governmental unit or third party and collected by the Company on behalf of such entity.

(H) **"Municipality"** is the City of Newton, in Jasper County in the State of Illinois.

(I) **"Optional Channel(s)"** shall mean such other channel or channels, not included in basic service, which may be made available to subscribers by the Company at an additional charge on an optional basis.

(J) **"Person"** is an individual, firm, partnership, association, corporation, company or organization of any kind.

(K) **"Premium Channel(s)"** shall mean specialized service such as Home Box Office and/or other premium entertainment services that may be made available by the Company.

8-1-3 GRANT OF AUTHORITY.

(A) The Company is granted the non-exclusive right to construct on, through, along, under and over the streets, highways, easements, sidewalks, rights-of-way, and all other public places and public ways of the City of Newton, Illinois, a distribution system for a cable television service which system is to include, but not necessarily to be limited to, line or lines of wire, cables, or other conductors, together with all necessary feeders or service wires, poles and other attachments, devices or apparatus necessary to or usually used in connection with such a system; to maintain and keep said system in proper condition after its construction; and to operate said system in the usual and customary manner.

(B) This franchise includes the right for the Company to make such contracts as it deems necessary and proper and is able to negotiate with those public utilities and public service corporations, permitting it to use the existing utility poles, conduit, and facilities for its installation and to erect any necessary poles, conduit, and facilities for its use.

(C) This grant and privilege is made upon the terms and conditions hereinafter set forth.

(D) The Municipality shall not grant any franchises or other types of authorizations for cable service to other persons on terms or conditions any more favorable or less burdensome than those in its existing franchise agreement with the Company or any amendment thereto.

8-1-4 CONSTRUCTION STANDARDS.

(A) All work performed in the construction, operation, maintenance and repair of the system shall be performed in a safe, thorough and reliable manner using materials of good and durable quality. All construction, including installation, shall conform to all applicable federal and state laws and regulations, ordinances, local laws and regulations and the National Electric Safety Code. The Company shall provide to the Municipality, on request, all maps, plans and specifications as to proposed installations

and shall keep the Municipality informed as to any proposed changes or alterations in same.

(B) Any municipal property damaged or destroyed by Company shall be repaired or replaced by Company and restored to serviceable condition to the reasonable satisfaction of the Municipality.

(C) The Company shall have the authority to trim trees upon and overhanging all streets, alleys, easements, sidewalks and other public places so as to prevent the branches of such trees from coming into contact with the facilities of the Company.

(D) The Company shall, upon **seventy-two (72) hours** advance written notice from any person holding an appropriate permit issued by the Municipality, temporarily raise or lower its lines to permit the moving of any building or structure. The actual expense of such temporary removal shall be paid by the person requesting the same and the Company shall have the right to require payment in advance for such temporary removal.

8-1-5 LINE EXTENSION POLICY. It shall be the obligation of the Company to serve all residents of the City, without regard to the income level of the residents of the local area in which any group of potential subscribers resides, to the extent that the density of homes, terrain and other factors render providing service economically compensatory, practicable, and technically feasible.

8-1-6 INDEMNIFICATION AND INSURANCE.

(A) The Company shall at all times defend, indemnify and save harmless the said City of Newton, members of its City Council and its officers and employees from and against any and all actions, suits, damages, costs, charges and expenses by reason of the location, maintenance and operation of the cable system in any streets, highways or other public places of the City of Newton, by the Company in connection with the operation of its cable system in the City of Newton.

(B) The Company shall at all times maintain in continuous effect throughout the term of this franchise a general liability insurance policy covering claims for liability and damages. It shall include, at a minimum, the following types of insurance coverage:

- (1) property damage -- not less than **One Million Dollars (\$1,000,000.00)** for each occurrence;
- (2) personal and bodily injury -- not less than **One Million Dollars (\$1,000,000.00)** for each occurrence.

(C) A Certificate for the above required minimum insurance, in form satisfactory to the City Attorney, shall be submitted to the City of Newton, upon the execution of this Agreement. The policy shall require that the insurance carrier must give written notice to the Company and the Municipality **thirty (30) days** prior to a cancellation of or a material change in the policy.

8-1-7 FRANCHISE FEE.

(A) The Company shall pay to the City of Newton, a franchise fee of **three percent (3%)** of its basic and premium TV revenue from its cable television operations in the City of Newton.

(B) The aforesaid payments shall be made to the City of Newton, without demand, on or before the **seventy-fifth (75th) day** after the end of the quarter. The Company shall keep accurate records of its gross annual receipts during the **twelve (12) months** period preceding the aforesaid payments and shall submit a summary of said records in the form of Exhibit A to the City of Newton along with its payments.

(C) The Company shall keep its books and records open for inspection during normal business hours, upon reasonable notice, to the duly authorized officials or agents of the City of Newton. Any information coming into the possession of the City as a result of this Agreement shall be treated as confidential and shall not be subject to public disclosure.

8-1-8 RATES AND CHARGES. A schedule of the current rates and charges currently imposed by the Company shall:

(A) be on file at all times during the term of this franchise with the City Council;

(B) furnished to each subscriber upon initial connection to the Company's cable system.

8-1-9 COMPLAINT PROCEDURES. The Company shall maintain a toll-free telephone, for the purpose of receiving and resolving all complaints regarding the quality of service, equipment malfunctions and similar matters. The Company shall give notice to each subscriber at the time of initial connection to the cable system of the established complaint procedures, that is, the address and telephone number to which inquiries or complaints are to be addresses. Notwithstanding circumstances beyond the Company's control, all service calls will be completed in a prompt and diligent manner and all system related outages will be responded to within a **twenty-four (24) hour** period.

8-1-10 BOOKS AND RECORDS.

(A) The Municipality reserves the right to inspect all pertinent books, records, maps, plans, financial statements and other like materials of the Company which pertain to the cable system, upon reasonable notice and during regular business hours. Such information shall be treated as confidential and shall not be disclosed by the Municipality or its agents to the public or to any third party.

(B) The Municipality shall abide by federal laws applicable to the Company or the cable system governing subscriber privacy with respect to any personally identifiable subscriber information that comes into its possession pursuant to its right to inspect the Company's books and records under this franchise.

8-1-11 DURATION AND RENEWAL. This agreement shall remain in full force and effect for a period of **ten (10) years** from the date of this Agreement. Thereafter renewal of the franchise shall be governed by applicable federal law.

8-1-12 GOVERNING LAW. This agreement is subject to all applicable provisions of the Communications Act of 1934, as amended, and regulations promulgated by the FCC pursuant thereto, as well as state laws or regulations governing cable television operations not inconsistent therewith.

8-1-13 SEVERABILITY. If any section, subsection, sentence, clause, phrase or portion of this franchise agreement is for any reason held invalid by any court or agency of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of the franchise agreement.

8-1-14 SUCCESSORS AND ASSIGNS. The rights and privileges and all of the obligations, duties and liabilities created by this agreement shall pass to and be binding upon the successors of the City and the successors, transferees, representatives and assigns of the Company, however, the Company shall not sell assign or otherwise transfer this contract without written consent of the City.

8-1-15 NONCOMPLIANCE. The City shall notify the Company in writing of any alleged violation/breach or failure to meet any of the material terms or provisions in this agreement. The Company shall have **thirty (30) days** from the date of receipt of the written notice to correct or remedy the violation/breach or failure to meet any of the material terms or provisions of the contract.

If not corrected or remedied within said **thirty (30) day** period, the City will give **ten (10) days** prior written notice to Company of a public hearing to be conducted by

the City to determine if the Company is diligently pursuing reasonable actions to cure the alleged violation/breach or to determine if there are circumstances beyond its control which prevent the Company from curing the alleged violation/breach. The Company will have the right to be represented by attorneys and to present such evidence as it shall desire concerning the alleged violation/breach and related issues at such public hearing.

If, following the public hearing the City determines that the Company remains in violation/breach and is not diligently pursuing reasonable actions to cure the violations/breaches, the City may so declare and terminate this contract without further notice, hearing or other procedural requirement of or by the City to effect termination of this contract.

The Company shall have the right to appeal the City's action to the appropriate state or federal judicial or administrative forum in the manner and within the time as provided by the law of such forum.

8-1-16 NOTICES. All official correspondence should be sent certified mail, return receipt requested. The Company should be notified at:

J. Keith Davidson
Chief Financial Officer NewWave Communications
One Montgomery Plaza, 4th Floor
Sikeston, MO 63801
573-481-2403

(Ord. No. 09-7; 07-07-09)

CHAPTER 9

CEMETERY

9-1-1 CEMETERY CHARGES ESTABLISHED. The following charges shall apply to all City of Newton cemeteries:

(A) The charges for all grave openings shall be **Three Hundred Seventy-Five Dollars (\$375.00).**

(B) The charge for burial of cremation remains shall be **Two Hundred Dollars (\$200.00).**

(C) The charge for a gravesite shall be **Three Hundred Dollars (\$300.00)** each.

(Ord. No. 13-2; 02-05-13)

9-1-2 CITY SHALL CONTROL IMPROVEMENTS. All improvements or alteration of individual property in the cemetery shall be made under the direction of and subject to the consent, satisfaction and approval of the City; and, should they be made without its written consent, the City shall have the right to remove, alter or change such improvements or alterations at the expense of the lot owner, at any time.

The City reserves the right to remove from any lot, anything that it deems unsightly, or which in any way conflicts with the City's Rules and Regulations, or general beauty of the cemetery. If any tree, shrub or plant standing on any lot, by means of its roots, branches or otherwise, is or becomes detrimental to adjacent lots or avenues, or if for any other reason its removal is deemed necessary, the City shall have the right to remove such tree, shrub or plant or any part thereof, or otherwise correct the condition existing as in its judgment seems best, and without any notice to any interested person.

(Ord. No. 10-21; 09-07-10)

9-1-3 WORK TO BE DONE BY CITY. All grading, landscape work and improvements of any kind, and all care on lots, shall be done and all trees and shrubs and ground cover of any kind shall be planted, trimmed, cut or removed only by the City, provided, the City may, approve the grounds work to be performed by an agent or agents, which work shall be supervised by the City. All mowing, grave digging, monumental work must be done according to OSHA standards. All contractors hired must sign "Hold Harmless Indemnification" and provide the City with proof of insurance. **(Ord. No. 10-21; 09-07-10)**

9-1-4 DECORATIONS. No floral receptacles may be installed on any space, lot, crypt or niche, unless approved by the City. Fresh cut flowers are allowed in approved vases at any time. Ground decorations and potted plants are not allowed from **March 15 to October 31**, except **five (5) days** before to **five (5) days** after Easter, Mother's Day, Memorial Day and Father's Day. Arrangements in monument vases, or

saddles on monuments or shepherd hooks are permitted anytime. Winter decorations shall be removed from the cemetery on or before **March 15** of each year.

Private plantings of annuals or perennials is not permitted.

The City shall have authority to remove all floral designs, flowers, weeds, trees, shrubs, plants or groundcover of any kind from the cemetery as soon as, in the judgment of the City, they become unsightly (faded, discolored, weather damaged, dislodged, or not in season), dangerous, detrimental, or when it does not conform to the standards maintained. The City shall not be responsible for lost, misplaced or broken flower vases. The City shall not be responsible for any wreath, spray, floral decorations, plants, herbage or plantings of any kind damaged by the elements, thieves, vandals or by other causes beyond the City's control. The City reserves the right to regulate the method of decorating lots so that a uniform beauty may be maintained. The City reserves the right to prevent the placement of any flowers, floral designs, trees, shrubs or plants of any kind unless it gives its consent. **(Ord. No. 10-21; 09-07-10)**

9-1-5 PLANTINGS. No planting of any trees, shrubs, flowers or bulbs will be allowed in the cemetery without the permission of the City, as to the kind and location of such planting. Any placed without permission are subject to removal by the City.

Nursery plantings require experience and oftentimes special equipment. No person, firm or corporation, other than a recognized and approved nursery or the personnel of the City shall be permitted to make nursery plantings in the cemetery.

Any nursery that refuses or fails to comply with the City's Rules and Regulations shall not be given the privilege to enter on the cemetery grounds for nursery purposes until compliance is effected. **(Ord. No. 10-21; 09-07-10)**

CHAPTER 10

CAPITAL DEVELOPMENT FUND

10-1-1 ESTABLISHMENT. A fund is hereby established for the support of community economic development and related capital improvement projects. The fund shall be designated as the City Capital Development Fund. The fund shall be a part of the City's corporate fund.

10-1-2 FUNDING. The City Capital Development Fund shall be funded by the fee in lieu of taxes assessed against the City's electric utility and by any other method designated by the City.

10-1-3 USES. Monies expended from the City Capital Development Fund shall be used only for the following purposes:

- (A) Capital improvement (infrastructure related to economic development except for infrastructure improvements of any of the City utility funds), or
- (B) Economic development, or
- (C) Emergency transfer to the City electric fund.

10-1-4 PROCEDURE FOR EXPENDITURES. Before any expenditure can be made out of the City Capital Development Fund, a written application explaining the proposed use and amount of estimated expenditures shall be submitted to the City Council Finance Committee. The Finance Committee shall consider the application and make, to the City Council, its recommendation on the application.

10-1-5 POLICY STATEMENT, FEE IN LIEU OF TAXES.

(A) The municipally owned and operated electric system is a public utility and should be operated in a businesslike manner. The electric utility shall not be operated for the benefit of other municipal functions and shall not be used directly or indirectly as a general revenue-producing agency for the City, but it may pay to the City an amount in lieu of such taxes as are normally placed upon private business enterprises.

(B) The electric utility shall pay to the City Capital Development Fund a fee in lieu of taxes. Such fee shall be **three percent (3%)** of the gross operating revenues of the utility. Such fee shall be paid monthly when the gross operating revenues for the previous month have been calculated. The fee shall not be due or payable when either (1) the fund balance of the electric fund is less than or equal to **One Million Dollars (\$1,000,000.00)** or (2) the fund balance of the City Capital Development fund is equal to or greater than **Two Hundred Fifty Thousand Dollars (\$250,000.00)**.

"Gross operating revenues" is defined as the retail sales of the fund and does not include penalties, service fees or tap fees. **(Ord. No. 07-07; 06-05-07)**

(Ord. No. 94-38A; 05-17-94)

CHAPTER 11

ELECTRIC SYSTEM

11-1-1 SERVICE CHARGES. There are hereby established rates and charges for the use and service of electric current for light and power based upon electricity consumed as recorded by electric meters based upon the type of premises served as follows:

(A) **Electricity Used For Residential Purposes.** (Available to single-family dwelling units for all domestic use.)

For the first 40 KWH used per month at \$0.152003 per KWH

For the next 80 KWH used per month at \$0.108037 per KWH

For all over 120 KWH used per month at \$0.081028 per KWH

The minimum charge for electric service used for residential purposes shall be **Six Dollars Eight Cents (\$6.08)** per month for the first **forty (40) KWH**.

(B) **Electricity Used For Commercial Purposes.** (Available to commercial and non-residential customers for lighting and all power purposes.)

For the first 100 KWH used per month at \$0.181642 per KWH

For the next 150 KWH used per month at \$0.135837 per KWH

For the next 250 KWH used per month at \$0.113724 per KWH

For the next 500 KWH used per month at \$0.101088 per KWH

For all over 1,000 KWH used per month at \$0.076447 per KWH

The minimum charge for electricity used for commercial purposes shall be **Eighteen Dollars Sixteen Cents (\$18.16)** per month for the first **one hundred (100) KWH**.

(C) **Rates and Charges for Electric System.** Except as established by a Council approved contract, there are established charges and rates for the use of and for the services supplied by the electric system of the City based on the amount of kilowatts consumed by the customer as shown by electric meters. Calculations of charges are made by rate tables.

Commencing with the first billing for each customer after **May 1, 2010** and on **May 1** every year thereafter, there shall be an increase of **five percent (5%)** to the billing rate table; this change to the rate tables will be reviewed and may be adjusted by the Mayor and City Council each year or at any time deemed necessary by them. **(Ord. No. 09-18; 12-15-09)**

(D) **Utility Taxes.** Utility taxes are billed at a rate set by the State of Illinois; collected by the City on the billing and then are paid over to the State of Illinois monthly. **(Ord. No. 09-18; 12-15-09)**

(E) **Power Cost Adjustment Charges.** These charges are billed to the City by Ameren Energy Marketing and Midwest Independent System Operators based on consumption by the City each month. Such charges are then calculated and billed to each customer on the basis of the consumption of that individual customer. **(Ord. No. 09-18; 12-15-09)**

11-1-2 BILLING AND PAYMENT OF CHARGES. Charges for electric services shall be made monthly. All bills for such service shall be rendered as of the **first (1st) day** of each month following the month for which service is rendered and electric meters read. All bills shall be payable by the **fifteenth (15th) day** of the month in which the bill is rendered. All bills not paid shall have a penalty of **five percent (5%)** added on the **sixteenth (16th) day** of said month. When the **fifteenth (15th) day** of any

month shall be a Sunday or legal holiday, then such bills for service shall be paid on the next succeeding secular day without the penalty added. **(Ord. No. 08-1; 02-05-08)**

11-1-3 DISCONNECTION OF SERVICE FOR NONPAYMENT OF BILLS.

In the event charges for electric service are not paid on the **fifteenth (15th) day** of the month in which billed, a notice of disconnection shall be mailed to the customer by the City Collector on or after the **seventeenth (17th) day** of the month in which billed. Such disconnection notice shall advise the customer that service will be disconnected on or after the **fourth (4th) day** of the succeeding month, unless full payment of all delinquent charges for electricity and all penalties are paid in full to the City Collector before **8:00 A.M.** on the **fourth (4th) day** of the succeeding month.

In the event such delinquent charges are not paid in full to the City Collector by **8:00 A.M.** on the **fourth (4th) day** of the succeeding month, a delinquent fee of **Thirty-Five Dollars (\$35.00)** shall be charged to all accounts with a delinquent balance. Also, a City employee shall be sent to the premises to disconnect such delinquent user from the electric utility system without further notice.

Once disconnection has been made, no reconnection shall be made until all delinquent charges for electricity, and all penalties and delinquent fees have been paid in full to the City Collector, except, however, that if such services have been disconnected for a third time within a period of **one (1) year**, a delinquent fee of **Seventy-Five Dollars (\$75.00)** will be charged, and in addition, the delinquent fee within the succeeding year shall be **Seventy-Five Dollars (\$75.00)**.

Disconnections will be made between **8:00 A.M.** and **3:00 P.M.**, Monday through Thursday, only between **8:00 A.M.** and **12:00 Noon** on Friday, and only between **8:00 A.M.** and **12:00 Noon** when the City offices will be closed the following day. These hours provide the customer the opportunity to make payment and have service reconnected.

Reconnections will be made between **8:00 A.M.** and **3:00 P.M.**, Monday through Friday. Reconnections made after **3:00 P.M.** or on holidays or weekends will have an additional charge of **One Hundred Two Dollars Fifteen Cents (\$102.15)** to cover the overtime expense. **(Ord. No. 08-1; 02-05-08)**

11-1-4 SERVICE DEPOSITS FOR RESIDENTIAL AND COMMERCIAL CUSTOMERS, LANDLORDS OF UNOCCUPIED RENTAL PROPERTY, AND INDUSTRIAL CUSTOMERS.

(A) **Residential.** Any person, firm or corporation, whether as owner or as tenant, who applies after **February 5, 2008** for electric service, water and/or sewer service for residential purposes, shall pay to and maintain with the City Collector a service deposit as advance security for the payment of charges for service furnished. The deposit amount shall be **Three Hundred Fifty Dollars (\$350.00)** for a current City customer with a fair payment history or a new customer with a fair credit rating. Upon transfer of a deposit, the deposit amount shall be **Five Hundred Dollars (\$500.00)** for a current

City customer with a poor payment record or a poor credit rating. The deposit amount shall be **Five Hundred Dollars (\$500.00)** for a new customer with a poor credit rating. After **one (1) full year** of service history without a disconnection notice **Two Hundred Dollars (\$200.00)** of the **Three Hundred Fifty Dollars (\$350.00)** or the **Five Hundred Dollar (\$500.00)** original deposit shall be credited to the property owner's current bill as a refund. To receive the **Two Hundred Dollars (\$200.00)** credit, proof of ownership (a copy of the recorded deed) shall be provided to the City Collector. After **two (2) full years** of service history without a disconnection notice **One Hundred Fifty Dollars (\$150.00)** of the original **Five Hundred Dollar (\$500.00)** deposit shall be credited to the property owner's current bill as a refund upon the owner's request to the City Collector. Upon termination of services, the remaining property owner's deposit shall be applied to the property owner's final bill and the excess if any shall be refunded to the property owner. Upon termination of a tenant's services, the tenant's **Three Hundred Fifty Dollars (\$350.00)** or **Five Hundred Dollars (\$500.00)** deposit shall be applied to the tenant's final bill and the excess if any shall be refunded to the tenant.

Notwithstanding the foregoing, a residential customer's total deposit for electricity, water and/or sewer service shall not exceed **Five Hundred Dollars (\$500.00)**.

(B) **Commercial.** Any person, firm or corporation, whether as owner, or as tenant, who applies after **November 20, 2001** for electric service, water and/or sewer service shall pay to and maintain with the City Collector a service deposit of **Three Hundred Fifty Dollars (\$350.00)** or a sum determined to be equal to the average monthly charge for such electricity, water and sewer services, whichever is greater. The average commercial consumption and billing expected to be used shall be determined by proper employees of the electric, water and sewer departments of the City. Such deposit is an advance security for the payment of charges for services furnished. After **one (1) full year** of service history without a disconnection notice any amount of the original owner's deposit exceeding the average monthly charge for electricity, water and sewer services shall be credited to the property owner's current bill as a refund. To receive credit, proof of ownership (a copy of the recorded deed) shall be provided to the City Collector. Upon termination of services, the remainder of the property owner's deposit shall be applied to the property owner's final bill and the excess if any shall be refunded to the property owner. Upon termination of a tenant's services, the tenant's original deposit shall be applied to the tenant's final bill and the excess if any shall be refunded to the tenant.

Notwithstanding the foregoing, a commercial customer's total deposit for electricity, water and/or sewer service shall not exceed **Three Hundred Fifty Dollars (\$350.00)** or a sum determined to be equal to the average monthly charge for electricity, water and sewer service, whichever is greater.

(C) **Landlords of Unoccupied Rental Property.** In lieu of a cash utility deposit of **Three Hundred Fifty Dollars (\$350.00)** or **Five Hundred Dollars (\$500.00)** an owner of an unoccupied rental property/unit, the utilities for which have been placed in owner's name, shall pay to and maintain with the City Collector a service deposit of **Fifty Dollars (\$50.00)**, **One Hundred Seventy-Five Dollars (\$175.00)** or **Three Hundred Fifty Dollars (\$350.00)**, the amount to be determined by the

owner's current payment history or a current credit rating. The deposit for a good credit rating shall be **Fifty Dollars (\$50.00)**, a fair credit rating shall be **One Hundred Seventy-Five Dollars (\$175.00)** and a poor credit rating shall be **Three Hundred Fifty Dollars (\$350.00)**. Upon rental/occupancy of the property/unit a cash deposit shall be required in accordance with present Ordinance, irrespective of whether the utilities remain in the owner's name or are placed in the renter's name.

(D) **Industrial.** Any person, firm or corporation, whether as owner, or as tenant, who applies after **March 18, 2008** for electric service, water and/or sewer service shall pay to and maintain with the City Collector a service deposit of **Three Hundred Fifty Dollars (\$350.00)**. Such deposit is an advance security for the payment of charges for services furnished. Upon termination of service, the original deposit shall be applied to the final bill and the excess if any shall be refunded to the customer. To be eligible for the **Three Hundred Fifty Dollar (\$350.00)** Industrial Rate deposit, the customer must create **ten (10)** or more new jobs within the **first (1st) year** of their doing business in the City and retain those jobs or a minimum of **five (5) years**. The Industrial Rate deposit amount of **Three Hundred Fifty Dollars (\$350.00)** shall terminate automatically if the new employer (1) fails to create **ten (10)** or more full time jobs in the City within the **first (1st) year** or (2) fails to retain those **ten (10)** or more jobs for a minimum of **five (5) years**, at which time the Commercial Deposit policy shall be enforced.

(Ord. 08-8; 03-18-08)

11-1-5 TAMPERING. It shall be unlawful for any person not authorized by the City to tamper with, alter, or injure any transmission conduits or appurtenances thereto utilized to provide electrical service to customers of the City of Newton's electrical distribution system, or to tamper with, alter or injure any meter utilized to record electricity consumed by a customer. Any person found to be in violation of this provision shall be subject to the penalties provided for in this Code **(See Section 1-1-20)** and shall be reported to the Jasper County State's Attorney for prosecution for tampering under the Illinois Criminal Code. Additionally, any service that has been tampered with shall be disconnected and removed without prior notice. Service shall not be reinstalled or activated until all damages to the City's equipment, all consumption charges, including those for estimated lost consumption, the required service deposit and the required reconnection charge have been paid in full.

11-1-6 EXCEPTIONS TO DISCONNECTION OF SERVICE.

(A) No electric service furnished to a residential customer by the City shall be terminated for nonpayment of bills on:

- (1) Any day when the national weather service forecast for the following **twenty-four (24) hours** covering the area in which the residence is located includes a forecast that the temperature will be **twenty (20) degrees** Fahrenheit or below; or
- (2) Any day preceding a holiday or a weekend when such a forecast indicates that the temperature will be **twenty (20) degrees** Fahrenheit or below during the holiday or weekend.

(B) Anyone with a serious illness necessitating the need for continuation of electric service who is living full time at a residence scheduled for disconnection of service may contact a duly licensed physician. If the City Clerk receives, prior to disconnection of service, a written confirmation of the illness from a duly licensed physician, the electric service shall not be disconnected for a period of **thirty (30) days** from the day the written confirmation is received by the City Clerk if the customer complies with both of the following conditions, to-wit:

- (1) The duly licensed physician's statement must include the name, address and telephone number of the ill person; verification that the ill person is a full-time resident of the premises; the nature and duration of the illness verifying that termination of the electric service in question will create a life-threatening situation; and the business name and telephone number of the certifying physician.
- (2) The customer must make full payment of all delinquent electric service charges and all penalties within **thirty (30) days** after the City Clerk's receipt of the said physician's written confirmation otherwise, the electric service shall be disconnected on or after the **thirty-first (31st) day** after the Clerk's receipt of the said written physician's confirmation.
- (3) The City reserves the right to verify any and all information concerning a customer's illness.

(C) Any person receiving a disconnection notice who believes there has been an error in billing, malfunction of metering equipment or other just cause, may request a hearing before the City Council. A request for hearing by the customer must be submitted in writing to the City Clerk before disconnection has occurred. The hearing will take place within **fifteen (15) days** of the receipt of the customer's request for hearing. A decision will be rendered following the hearing. A decision will be rendered following the hearing. Until the hearing has been held and decision rendered, the customer's service will not be disconnected. Should the City Council's decision after the hearing be to disconnect the electric service, the customer will be so notified by written notice not less than **seven (7) days** prior to disconnection of service.

(Unless Otherwise Noted; Ord. No. 01-24; 11-20-01)

ARTICLE II – ECONOMIC INCENTIVES

11-2-1 INCENTIVE ESTABLISHED. The Mayor or other authorized office of the City is hereby authorized to negotiate with and offer to any individual, association, corporation or other legal entity proposing to come to the City and create **ten (10)** or more new jobs a **five (5) year** contract which contains the following terms:

(A) An employer creating **ten (10)** or more full-time jobs within the **first (1st) year** of their doing business in the City and retaining those jobs for a minimum of **five (5) years** will be eligible for electric rate discounts as follows:

- (1) Years 1-5 – Industrial Rate which shall be a rate equal to the City's cost from the City's supplier of electricity.
- (2) Year 6 – Graduated Industrial Rate as defined in the following billing rate table:

For the first 100 KWH used per month at	.125362
For the next 150 KWH used per month at	.101315
For the next 250 KWH used per month at	.089705
For the next 500 KWH used per month at	.083071
For all over 1000 KWH used per month at	.070135

The minimum charge for electricity used for commercial purposes shall be **Twelve Dollars Fifty-Four Cents (\$12.54)** per month for the first **one hundred (100) KWH**. **Rates and Charges for Electric System, Utility Taxes and Power Cost Adjustment Charges** apply as defined in the Newton City Code.

(Ord. No. 11-3; 04-19-11)

- (3) Year 7 – Commercial Rate as defined in the City Code.

(B) The foregoing rates would not change during the term of the contract unless the City's cost from its supplier, currently Ameren CIPS, changes then any increases would be passed on to the customer.

(C) The foregoing discounted rates shall terminate automatically if the new employer (1) fails to create **ten (10)** or more full-time jobs in the City within the **first (1st) year**; (2) fails to retain those **ten (10)** or more jobs for a minimum of **five (5) years** or (3) fails to meet any other of its obligations to the City. In the event of said termination, the new employer must agree to reimburse the City the difference between the discounted electric rate and the normal electric rate that would have been charged to the new employer, said difference to be paid to the City within **sixty (60) days** from the date of said termination.

(Ord. No. 05-28; 10-04-05)

ARTICLE III - NET METERING POLICY

11-3-1 NET METERING POLICY.

(A) **Amendment.** The City hereby adopts the net metering policy shown on Exhibit A, and the application shown on Exhibit B, which is attached hereto and incorporated herein.

(B) Miscellaneous.

- (1) If any provision or clause of this Article or the applications thereof to any person or entity or circumstances is held to be unconstitutional otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other sections, provisions, clauses, or applications hereof which can be implemented without the invalid provision(s), clause(s), or application(s) hereof, and to this end the provisions and clauses of this Article are declared to be severable.
- (2) If the minimum consumption of kwh is not met, the minimum consumption charge will still apply.

(Ord. No. 09-10; 07-21-09)

EXHIBIT A

CITY OF NEWTON NET METERING POLICY

EFFECTIVE DATE: JULY 21, 2009

Availability:

The City of Newton ("City") desires to encourage the use of Renewable Resources by supplying a meter to provide the necessary accounting to allow a customer to displace electric energy otherwise purchased from the City or to provide electric energy to the City ("Net Metering"). The Net Meter will be available to any electric customer connected to Newton's electric distribution system provided that the customer installs a solar, wind, or other city-approved renewable generation resource on the customer's side of the meter, subject to the Application Provisions.

Application Provisions:

A customer must submit the Net Metering Application to the City and receive approval from the City before installing an interconnected Renewable Resource on their property. Newton may withhold approval if for any reason the requested interconnection would result in a negative monetary or physical impact on the City's electrical system.

By accepting a Net Meter, the customer hereby agrees to the following provisions:

1. A Renewable Resource shall be manufactured and installed to interconnection standards that meet or exceed the Institute of Electrical and Electronics Engineers, Inc. (IEEE) standard 1547 for Interconnecting Distributed Resources with Electric Power Systems and Underwriters Laboratories Inc. (UL) standard 1741, Inverters, Converters, and Controllers for use in Independent Power Systems.
2. Newton shall have the right to inspect a customer's generator facility during reasonable hours and with reasonable prior notice to the customer. If the City finds that the customer's generator facility is not in compliance with the requirements of the City's interconnection rules and the standards set forth in this Policy, and noncompliance adversely affects the safety or reliability of the City's facilities or other customers' facilities, the City may require the customer to disconnect the facility until compliance is achieved.
3. If the City disconnects the Renewable Resources, the customer shall receive in a timely manner, a written explanation of the disconnection. The customer shall have the right to correct the situation and petition the City to reestablish an interconnection.
4. Newton shall install and maintain a revenue meter for the customer, at the City's expense. Any subsequent revenue meter change necessitated by the customer,

whether because of a decision to stop Net Metering or for any other reason, shall be pursuant to the City policy.

5. The customer will comply with all Newton service and billing requirements.
6. The customer will comply with all installation, building, and electric codes of the City.
7. The City shall provide Net Metering to eligible customers on a first-come, first-serve basis until the load of the City's Net Metering customers equals 1% of the total peak demand supplied by the City during the previous year. The City may in its sole discretion offer Net Metering beyond the 1% level.
8. A customer facility used for Net Metering shall be equipped with metering equipment that can measure flow of electricity in both directions at the same rate. For customer facilities less than 40 kilowatts (kW) in rated capacity, this shall be accomplished through the use of a single, bi-directional electric revenue meter that has only a single register for billing purposes.
9. Customer shall be solely responsible for all work, and the cost incurred, for installation and maintenance of the Renewable Resources.

Inspection:

Upon approval and installation of a Renewable Resource but before interconnection to the Net Meter, the City shall inspect the Renewable Resource, installation, and inter connection and approve or disapprove the interconnection. The City may disapprove any final interconnection for any reason.

Energy Rates and Payments:

The customer shall be subject to the following provisions for service under this Policy:

1. For all kWh delivered by the City the customer shall pay the normal City rate for customers service as if the customer had not installed a Renewable Resource.
2. The City will apply a 1:1 kWh credit to a subsequent bill for service to the customer for the net electricity supplied to the City. The City shall continue to carry over any excess kWh credits earned and apply those credits to a subsequent billing period until all credits are used or the end of the fiscal year. Any remaining credits in the customer's account shall expire at the end of the fiscal year.
3. Newton reserves the right to interpret, amend or rescind this policy. Any modification of the policy shall become effective the date of its issuance unless otherwise noted. Nothing herein is intended to or should be construed as a contractual offer or creating any contractual obligation on the part of the City. (60 days)

Force Majeure:

Neither the City nor the customer shall be subject to any liability or damages due to the liability of Newton to serve the customer's load due to lack of energy from either the City or the Renewable Resource.

EXHIBIT B

City of Newton - Electric Department Net Metering Application For Installation of Customer-Owned, Grid Connected Net Metering Systems of 40 kW or Less

A. Applicant Information

Customer-Generator (Name): _____
Account No. _____
Mailing Address: _____ Zip Code _____
Installation Address (*if different*) _____ Zip Code _____
Daytime Phone: _____ Fax _____
Email: _____

B. Electric System Information

1. Identify type of system: ☐ Solar ☐ Wind ☐ Other _____
2. Vender Name: _____
3. Site Location of system on _____
4. System _____
Manufacturer & Model #: _____ Type/Style _____
5. Synchronous _____
Manufacturer & Model #: _____
Serial Number: _____
Location: ☐ Indoor ☐ Outdoor Location of property: _____
Nameplate Data: _____
Voltage and Frequency: _____
Operating Power Factor: _____

C. System Designer & Installation Contractor Information

1. Design _____
Address: _____ Zip Code _____
Phone: _____ Fax _____
2. Installation Contractor: _____
Address: _____ Zip Code _____
Phone: _____ Fax _____

D. Installation

1. Proposed installation date: _____
2. Proposed interconnect date: _____
3. **Submit/Attach a one-line electrical diagram for proposed Net Metering System,** including the location of the Renewable Resource, the inverter, lockable disconnect switch, metering points in relation to the City's Electric System, and the Net Metering Location.

E. Interconnection Compliance & Owner Acknowledgement

- Customer-generator shall be solely responsible for obtaining and complying with any and all necessary easements, licenses, and permits, or exemptions, as may be required by any federal, state, local statutes, regulations, ordinances, or other legal mandates.
- The Customer-generator shall submit documentation to the City that verifies the Net Metering System has been inspected and approved by the local permitting agency regarding electrical code requirements.
- Customer-generator shall not commence parallel operations of the Net Metering System until written approval of the interconnection has been provided by the City.
- The Renewable Resource must be IEEE 1547 compliant, UL 1741 listed, and contain an interconnection disconnect device that is manual, lockable, visible, and accessible.

Signed (Owner): _____

Date: _____

CHAPTER 12

EMPLOYEE CODE

12-1-1 PREAMBLE. The Illinois State Statutes dictate that the City Council performs the legislative function of the City. The City Council assigns responsibilities and delegates appropriate authority to provide necessary services to the residents of the City. The people we are serving make the final evaluation of our effectiveness in the election of the Corporate Authorities.

It is the intention of this Code to establish and preserve harmonious relations between the City and its employees for the mutual benefit of both. The fullest cooperation between the City and its employees is necessary in order that the City may secure and sustain maximum productivity by each employee. It is the City's objective to achieve the highest level of employee performance and efficiency consistent with safety, good health and sustained effort. The City recognizes that prompt and effective service to the citizens of the City in a courteous manner is essential to the continued success of the City and that true job security can only be found in the City's continued ability to satisfy its citizens' demands.

Should there exist or become a conflict between any provision of this Employee Code and a union contract that has been entered into by the City, the union contract shall govern the employees covered by that union contract.

12-1-2 DEFINITIONS.

(A) **Full-Time Appointed Officials** shall mean salaried personnel who are appointed annually to supervise the activities of City Departments, but shall not include personnel on disability, personal, special or sick leaves, except eligibility of personnel to participate in and receive benefits from City Insurance Plans and the Illinois Municipal Retirement Fund. **(Ord. No. 87-1; 01-06-87)**

(B) **Full-Time Hourly Employees** shall mean personnel employed **one thousand (1,000) hours** or more per year and scheduled to work a **forty (40) hour** week, but shall not include personnel on disability, personal, or special or sick leaves, except eligibility of personnel to participate in and receive benefits from City Insurance Plans and the Illinois Municipal Retirement Fund. **(Ord. No. 87-1; 01-06-87)**

(C) **Full-Time Salaried Employees** shall mean personnel employed on an annual rather than hourly basis, but shall not include personnel on disability, personal, special or sick leaves, except eligibility of personnel to participate in and receive benefits from City Insurance Plans and the Illinois Municipal Retirement Fund. **(Ord. No. 87-1; 01-06-87)**

(D) **Part-Time Employees** shall mean personnel employed less than **one thousand (1,000) hours** per year for a limited time for a specific project.

(E) **Personnel Officer** shall mean Payroll Supervisor at City Hall, and City Agent for IMRF. They shall be responsible for maintaining the Official Personnel Files on all employees. These files contain the complete history of each employee during employment by the City. The files shall consist of, but not be limited to: dates and records of sick leave, injuries, vacation, commendations, reprimands, accidents or damage involving City property, marital status, education, and special training received at City expense.

12-1-3 HIRING PROCEDURE.

(A) Applications for employment shall be obtained at City Hall and should be returned to City Hall for review by the City Council and the Department Heads.

(B) If possible, all vacancies may be filled with individuals presently employed by the City, who are qualified and willing to accept the vacant position. Only after determining that the vacancy cannot be filled from within, will outside hire be authorized.

(C) Established employment procedures will be used in recruiting and hiring qualified personnel. Employees will be hired without regard to race, sex, age, religion, national origin, or handicap. The City's Personnel Committee and Department Heads will be responsible for screening, interviewing and recommending to the City Council candidates to fill vacant positions that occur in their department.

(D) Applicants shall furnish information requested on employment forms provided by the Personnel Officer.

(E) Part of the pre-employment procedure shall be to contact all previous employers, supervisors, and references provided by the applicants. Reference contacts made in person or by telephone shall be documented and all contacts shall be completed prior to an offer of employment. Records of oral and written interviews and all reference responses shall become a part of the applicant's file.

(F) If applicable, tests may be used to determine qualifications of candidates for various jobs at the discretion of the Department Head or the City Council.

(G) Acceptance of an application for full-time employment is subject to a physical examination of the applicant by a local physician at the expense of the City. All employees of the City Swimming Pool shall be exempt from the physical examination requirement for employment, except for life guards.

(H) Immediately upon notification of full-time employment, the employee shall contact City Hall concerning Group Insurance and Retirement Benefits.

This Section shall be applicable to part-time employees.

(I) Notwithstanding the foregoing paragraphs of this Section, the procedures for hiring new police officers for the City shall include the following:

- (1) A physical agility test as recommended by the Illinois Law Enforcement Training and Standards Board. This requirement shall be waived in the event the applicant possesses a current certification by the Illinois Law Enforcement Training and Standard Board.

- (2) Written examination in the format sanctioned by the Illinois Chief's of Police Association.
- (3) Background check through appropriate and customary state and/or federal agencies.
- (4) An interview with the City's Police Committee and Chief of Police.
- (5) Certification of qualification by the Illinois Law Enforcement Training and Standards Boards.

(Ord. No. 02-02; 06-18-02)

12-1-4 RESIDENCY POLICY.

(A) Local residency is a condition for employment. An employee shall become a local resident within **six (6) months** after being hired, and shall remain a local resident while employed by the City. Violation of this policy shall result in termination of employment.

(B) Local residency shall be defined as residing in an area within a **nine (9) mile radius** from the center of the Court House Square in the City of Newton, Jasper County, Illinois. A map of Jasper County, Illinois showing the area located within said **nine (9) mile radius** of the center of the Court House Square in the City is attached hereto and incorporated herein by this reference.

(C) No City-owned vehicle shall be permitted outside the City limits unless it is being used for official City business. **(Ord. No. 04-4; 06-01-04)**

12-1-5 EMPLOYMENT OF RELATIVES.

(A) The City considers it improper for a Department Head to have serving under his direction, anyone whose relationship to him is that of a spouse, parent, child, brother, sister, grandparent, grandchild, uncle, aunt, first cousin, nephew, niece, father-in-law, mother-in-law, daughter-in-law, brother-in-law, sister-in-law, or son-in-law.

(B) Employees who are related in any of the categories listed shall not hold a position which involves the review or approval of the work of the other family member.

(C) This Section shall be applicable to part-time employees.

12-1-6 PROBATION PERIOD.

(A) The first **six (6) months** of service after appointment or promotion to a position shall be considered the period of probation. In the event the probationary period is not completed satisfactorily, the employee shall be discharged. In the case of promotion from a lower position, the employee shall revert to a lower position, with a rate of pay equal to that which the employee would have been entitled to, without promotion.

(B) Every new or promoted employee will have a progress/evaluation report by the Department Head over that employee a minimum of every **three (3) months** during the probationary period and annually after the end of the probation period. Such report shall be submitted to the City Council, with copies placed in the employee's Personnel File, and/or other files as may be required. **(Ord. No. 05-18; 07-05-05)**

12-1-7 SECONDARY EMPLOYMENT (MOONLIGHTING). No City employee shall work on any other job for any other employer, including self-employment, if such work interferes with the employee's performance of the City's work. Violation of this provision may subject such employee to discipline, up to and including discharge, due to interference with the employee's performance of the City's work.

12-1-8 LAYOFFS AND RECALL. If the City determines that it is necessary to lay off employee, regular, full-time employees will be given preference in accordance with their seniority subject to their relatively equal skill and ability to perform the work without additional training. Only when skill and ability are relatively equal in the opinion of the City and the senior employee is immediately capable of efficiently performing the work expected to be available shall seniority govern. Part-time, seasonal employees from temporary employment services and probationary employees shall be laid off before applying seniority standards; provided, however, that if employees on layoff have been called and are not available or have not yet reported for work, probationary employees will be the first of these types of employees to be used.

When an employee who would otherwise be laid off has greater seniority as well as relatively equal skill and ability as an employee in any classification and that senior employee is immediately capable of efficiently performing the work expected to be available in such classification, then such employee shall be offered the opportunity to replace the lower seniority employee in such classification and perform his work at the rate for such job classification. There shall be no upgrading in a layoff or recall. Employees shall be recalled in accordance with their seniority subject to their relatively equal skill and ability to perform the work without additional training.

12-1-9 RESIGNATION. Voluntary resignation by employees shall be submitted in writing to the Department Head at least **two (2) weeks** prior to the date of termination.

12-1-10 SUSPENSION. An employee may be suspended without pay for a period not to exceed **five (5) days** by the Department Head, with the concurrence of the City Council, or by the City Council, for reasons of misconduct, negligence, inefficiency, insubordination, disloyalty, unauthorized absences, or other justifiable reasons, when other disciplinary actions are not considered appropriate. Employees shall be furnished written notice of all disciplinary action, indicating the effective dates of the action taken and the reason for the action taken. The recipient of the disciplinary action shall endorse a copy of the notice and that copy shall be placed in the employee's file. This Section shall be applicable to part-time employees.

12-1-11 NORMAL WORK WEEK. The normal work week for regular full-time employees shall consist of **forty (40) hours**; provided, that this shall not be construed as a guarantee of any work or earnings per day or per week. The Department Head shall have the authority to establish the hours of the day and the days of the week on a pre-arranged schedule that the employee shall work. Employees shall receive at least **one (1) week's** notice of a permanent shift change. The City will not make such changes for the purpose of avoiding overtime. Employees may be scheduled for staggered starting times. Employees will be given as much notice of changes in their regular starting time as is reasonably practicable under the circumstances, except in unusual circumstances not less than **one (1) week**.

12-1-12 CALL-OUTS. On call-outs, employees shall be paid a minimum of **one (1) hour** and if they work over **one (1) hour** but less than **two (2) hours**, they shall be paid for **two (2) hours**, and any work over **two (2) hours** shall be paid for the time actually worked, with the rate of pay being time and one-half. **(Ord. No. 96-15; 08-06-96)**

12-1-13 HOURS OF WORK. All departments shall observe regular office or working hours necessary for the efficient transaction of services as determined by the City Council. Working hours for appointed officials and full-time salaried employees shall be those necessary to assure acceptable job performance. This Section shall be applicable to part-time employees.

12-1-14 TARDINESS. Employees are expected to be present and ready to start work at the appointed starting time. Excessive tardiness may be cause for disciplinary action.

To permit a **six (6) minute** leeway for clocking in after the starting work time. If any employee punches in **ten (10) minutes** after the starting time, they shall be considered late. **(3-19-91)**

Punch-in-time for time clocks shall be **7:00 A.M.** and any portion of the first **fifteen (15) minutes** time shall be docked **fifteen (15) minutes**, the second **fifteen (15) minutes** time shall be docked **thirty (30) minutes** and etc. Employees may punch in when they please, but will not get paid until the starting time of **7:00 A.M.** Punch-out time shall be treated the same, but docked time shall be in reverse. Employees shall not be allowed to punch out early without being docked in pay. Employees are not allowed to use compensatory time to compensate for loss of pay due to being late or punching out early. Anyone who abuses punch-in time or punch-out time shall be brought before the City Council to discuss the problem. **(5-7-91)**

12-1-15 REST BREAKS. There shall be a paid rest break of **fifteen (15) minutes** in the first **four (4) hours** and in the second **four (4) hours** whenever employees are scheduled to be employed for **eight (8)** or more hours during the morning or the afternoon. Breaks must be taken on the jobsite or at the shop. The **fifteen (15) minute** break time includes any and all travel time. The break periods are not cumulative and work shall come first. Breaks shall be staggered within a department.

12-1-16 HOLIDAYS.

(A) Each regular, full-time employee who has been in the continuous service of the City for at least **thirty (30) days** prior to any of the holidays hereinafter listed, irrespective of what day of the week on which the holiday may fall, shall receive **eight (8) hours** of pay at his or her regular basic straight-time hourly rate of pay for each such holiday, provided, however, that such employee shall have worked all hours required on the last scheduled work day before and on the first scheduled work day after the holiday or holidays (in the case of two holidays on successive days) or the day or days celebrated by the City as such. The holidays shall be:

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

(B) Eligible employees who have been scheduled to work on a holiday and fail to do so shall not receive pay for the holiday. An employee absent or not receiving pay for that day for any reason, including but not limited to, leave of absence, shall not be eligible for holiday pay. Employees who may be laid off for lack of work in a work week containing a holiday or the week before or after such holiday shall not thereby be rendered ineligible for holiday pay.

(C) Employees who work on a holiday shall be paid for such work at time and one-half their regular basic hourly straight-time rate of pay for all hours of work performed on the holiday together with, if eligible, the holiday pay provided for above.

(D) If a holiday designated above falls on a Saturday or a Sunday, the City may designate when such holiday will be observed.

(E) If a holiday falls within an employee's scheduled vacation period, the employee shall receive holiday pay.

12-1-17 VACATIONS.

Full-time employees will be granted paid vacations as follows:

After one (1) year of service	5 days
After two (2) years of service	10 days
After ten (10) years of service	15 days
After twenty (20) years of service	20 days
After twenty-five (25) years of service	25 days

Employees hired prior to **November 1, 2004** will be granted paid vacations as follows for service beyond **fifteen (15) years**.

After 15 years	21 days
After 20 years	22 days

Unless mutually agreed to by the supervisor and the employee, employees must give the City at least **ten (10) day's** written notice of their intention to take vacation and such requests must be approved in writing. The City will notify the employee at least **seven (7) days** prior to the requested vacations as to the status of their request.

All vacation must be used in the year earned.

All vacation must be used in a minimum of **one-fourth (1/4) hour** increments.

12-1-18 PERSONAL DAYS. Upon application in writing, leave from employment for personal reasons may be granted without pay to an employee upon written approval. Such unpaid personal leave may not be for a period in excess of **seven (7) calendar days**. During such personal leave, an employee may continue health and life insurance benefits, if available, provided he pays the full cost of such coverage. However, no other benefits shall accrue during a leave for personal reasons.

Each employee shall receive **one (1) paid personal day** per year after **one (1) year** of employment; **two (2)** paid personal days per year after **five (5) years** of employment; and **three (3)** paid personal days per year after **ten (10) years** of employment. Notification of the employees' intent to use a personal day must be made at least **two (2) days** prior to the beginning of that shift, except in case of an emergency, and must be approved. Approval for use of a personal leave day will not be unreasonably denied.

Employees can take personal leave in increments of **one-fourth (1/4) hours** or more.

Personal days shall be used during the calendar year of the entitlement and cannot be turned in for money.

Blood Donations. An employee will be allowed to use sick time off with pay to donate blood at any Blood Drive within the City limits.

12-1-19 PAID JURY LEAVE. When regular, full-time employees are required to perform jury service, they shall immediately notify their supervisor upon receipt of notice of call to such service. Employees whose jury duty does not require them to be absent an entire day shall immediately report their availability for work that day to their supervisor. Employees will receive their normal pay for the day, but the employee must submit their pay for jury service to the City whenever they receive it. The employee may retain any payment for mileage. Whenever considered necessary by the City because of operational needs, an employee shall cooperate with the City in requesting a postponement of jury service.

12-1-20 SCHOOLING: APPROVAL.

(A) No employee shall attend any schooling program for which they wish to be reimbursed in any manner without prior approval of the Council.

(B) No employee shall be paid his regular salary for attending school on his off-time. Off-time shall be construed to mean anytime the employee is not on a regular scheduled work shift. **(12-4-84)**

(C) Mileage reimbursement for City Employees attending training, seminars, or other similar schooling shall be reimbursed following Internal Revenue Service guidelines in force at the time of the request for reimbursement. Meal allowance for Employees engaged in said training and/or schooling programs shall be for a total of **Thirty Dollars (\$30.00)** per day. An employee requesting meal allowance must submit receipts to get reimbursement. No overtime will be paid for travel over **eight (8) hours** in attending such training and/or schooling if it occurs on a regular work day. **(Ord. No. 09-4; 05-19-09)**

12-1-21 SICK LEAVE. City employees, including probationary employees shall accumulate sick leave at the rate of **four (4) hour** per pay period, which may accumulate to a maximum of **one hundred twenty (120) days**.

Sick leave may be used for personal illness of employee, or the employee's spouse, parents or children.

The Employer may require a physician's certificate after an absence of **three (3)** consecutive working days or as may be deemed necessary in other cases.

Sick leave may be used in **one-fourth (1/4) hour** increments. The City reserves the right to request proof of actual attendance at medical appointments during working hours.

12-1-22 RETURN TO WORK FROM SICK OR DISABILITY LEAVE. No employee shall be eligible to return to work from sick leave, or sick leave whereby the employee is receiving disability benefits, unless the employee is able to return to and perform all of his or her existing assigned duties. When an employee is under treatment by a licensed physician, the employee shall, prior to returning to work, present to the City Treasurer a release from his physician certifying that the employee is able, unconditionally, to return to and perform all of his or her existing assigned duties. **(Ord. No. 87-1)**

12-1-23 MATERNITY. Pregnancy, childbirth, and related conditions are considered the same as any other medical condition. Accrued sick leave shall be used during Maternity Leave.

12-1-24 FUNERAL LEAVE.

(A) An employee may use up to **three (3) days** with pay following the date of death in the Employee's immediate family which shall be interpreted to include: the employee's spouse, children (including step-children and foster children), grandchildren, parents (including step-mother and step-father), grandparents, brother-in-law, sister-in-law, son-in-law, daughter-in-law, siblings and the same relatives of the employee's spouse. Employees may use **one (1) day** with pay for bereavement leave in the event of an aunt or uncle.

(B) The employee shall notify the City giving as much notice as possible of the hours of necessary absence. Proof of death, relationship, and attendance at the funeral may be required by the City.

(C) Funeral leave pay shall not be due when the employee is on layoff or non-paid leave. Employees who are on vacation or holiday status on a day where they are also eligible for funeral leave will receive additional vacation/holiday(s) for the day(s) in issue.

12-1-25 ABSENCE WITHOUT LEAVE. An employee and Department Heads shall inform his immediate supervisor (Department Head or City Clerk) of the reason for any absence by **8:30 A.M.** on the **first (1st) day** of absence, and on each succeeding day of absence unless specific arrangements are made during initial notification. Additionally, each employee with the exception of second and third shift personnel in the Police Department and Water Plant, shall call the City Clerk's Office by **8:30 A.M.** daily as to his/her working status. Reasons for absences must be noted daily to City Clerk's office and recorded on the time sheet by the employee. All City employees shall complete a City Leave Request Form and submit it to the City Treasurer's Office. Failure to do all of the above will subject the employee to disciplinary action from the City Council. If an employee does not report the reason for being absent by the **second (2nd) day** of absence from duty, deduction of pay will be made. **Three (3)** consecutive days of

absence without notice shall be considered a resignation from City employment. **(Ord. No. 01-04; 02-20-01)**

12-1-26 INJURIES.

(A) The City is now using a form for reporting injuries as follows: Record of First Aid Treatment for Occupational Injuries to be Completed by Employee. Name of injured, date of injury and time of day. Was first aid treatment given? Date and time, type of treatment.

(B) Type of injury specified, part of body injured, be specific. How did injury occur?

The statement shall be signed and dated by the employee and signed and dated by the Department Head. In the event medical treatment by a doctor is required, this form is to be turned into the Treasurer's office within **twenty-four (24) hours**. All reports are to be kept in the employee's personnel file in the Treasurer's office. **(Ord. No. 96-6; 02-20-96)**

12-1-27 COMPENSATION.

(A) Payroll for City employees shall be set up on a bi-weekly system, with the pay periods beginning at **7:00 A.M.** on Tuesday and ending **two (2) weeks** later at **7:00 A.M.** on Tuesday.

(B) Each employee is to keep a daily time sheet -- overtime and other hours to be kept separately and indicated as such.

(C) Time sheets are to be reviewed and approved by the Department Head by signature, and presented in the City Treasurer's office before **9:00 A.M.** on the day ending each pay period, for payroll approval and employee records.

All time should be reported on time card with start and quitting and number of hours worked including compensation time and explanation of compensation time. If these hours are not properly reported on time cards, the employee will be asked to fill out card correctly. If this cannot be done at the Treasurer's option, the employee may not be compensated for his unreported time. **(2-19-85)**

12-1-28 OVERTIME.

(A) Overtime may be required when, in the City's judgment it is necessary. Daily overtime assignments required to finish work assigned for that day may be performed by the employee(s) assigned such work during regular shift time. Overtime assignments on jobs commencing after regular work hours, Saturdays, Sundays or holidays shall be rotated as equally as feasible over a reasonable period of time among the employees who are immediately qualified to perform such work within the job classification.

(B) All hourly employees are eligible for overtime compensation when required to work more than a normal work week. All hours worked in excess of **forty**

(40) hours per week shall be considered overtime and shall be paid for at the rate of time and one-half (1 ½) the employee's regular, basic straight-time rate. All paid time off shall count as time worked for the purpose of overtime computation.

(C) To permit any employee to be paid for **one (1) hour** of overtime if the employee is called out and the time worked is less than an hour. After **two (2) hours** of outage, the employee will be paid for time worked. **(3-19-91)**

(D) Notwithstanding the foregoing, all pool employees shall be paid overtime only after working more than **forty (40) hours** a week. **(Ord. No. 96-10; 06-04-96)**

(E) Employees may elect to receive compensatory time for overtime hours earned up to a maximum of **forty (40) hours** in a fiscal year. The said maximum **forty (40) hours** compensatory time may be carried over into subsequent fiscal years. At no time shall an employee be able to earn, use or accumulate more than **forty (40) hours** in any year.

12-1-29 GRIEVANCES. A grievance is defined as any dispute which reasonably concerns the application, interpretation or violation of any express or specific provision of this Employee Code.

An employee must present and appeal any grievance within the time limits set out in the respective steps of the grievance procedure, unless a mutual extension of time limits is agreed to.

The City will meet with an employee and that employee's union representative and subsequently respond within the time limits set out in the respected steps of the grievance procedure.

Grievances which affect all or a large group of employees, or which have general application, may be presented directly for handling at Step 2.

Any grievance arising over the application or interpretation of the provisions of this Employee Code shall be settled as soon as possible in the following manner:

Step 1. An employee having a grievance shall present it to his/her Department Head within **three (3) days** of knowledge of the occurrence of the incident.

Step 2. If satisfactory settlement is not reached in **twenty-four (24) hours**, the grievant may reduce the grievance to writing and present it to the Chairman of the applicable committee within **four (4) working days** of the occurrence of the incident.

Step 3. The grievance may be processed further by notifying the City Council, within **seven (7) working days** of the decision of the Chairman of the applicable committee, of the Union's desire to discuss the matter further with the City Council. The Business Representative of the Union and the City Council then shall meet and attempt to resolve the dispute.

Step 4. Either party shall have the right to submit the grievance to arbitration. Notification in writing of a desire to submit a grievance

to arbitration must be given within **fifteen (15) working days** after completing Step 3.

Nothing contained herein shall be construed to circumvent the right of an employee to take grievance up with the Employer and have the same settled without the intervention of the Union; provided settlement is not inconsistent with any of the provisions of the applicable union contract, and further provided the union has been given the opportunity to have a representative present at the time of the settlement.

12-1-30 WORKER'S COMPENSATION INSURANCE.

(A) Any job related injury must be reported by the employee within a maximum of **twenty-four (24) hours** to the insurance administrator at City Hall.

(B) In Workman's Compensation the first **three (3) days** waiting period required before workman's compensation payment commence shall be charged against the employee sick leave. Further, the City shall not reimburse the employee for the difference between the **two-thirds (2/3)** salary paid by Workman's Compensation and the employee regular salary unless employee desires to use accumulated sick leave for the purpose. If Workman's Compensation period extends to **fourteen (14) days** the method of reimbursement for said first **three (3) days** shall be negotiated with the City Treasurer. **(2-19-85)**

(C) All time spent receiving medical attention on the date of injury, related to the injury, shall be paid as time worked at the appropriate hourly rate of pay.

12-1-31 GROUP HEALTH AND LIFE INSURANCE.

(A) The City bears the expense of the Group Insurance Premium for full-time employees. If insurance for dependents is desired by the employee, this expense will be deducted from the payroll check of the employee each month.

(B) Any City employee who has **fifteen (15) years** of service with the City and who retires at or after age **sixty-two (62)**, may, if so desired, stay with the City's Group Health and Medical Insurance Plan with the retiree paying the cost of the premiums. These premiums to be in the City Treasurer's office **one (1) work week** in advance of the company invoice due date.

(C) The City Council reserves the right to withdraw participation of retirees coverage, but will honor those retirees already enrolled in the program until age **sixty-five (65)**.

12-1-32 LIABILITY INSURANCE. Any accident claims pertaining to City vehicles and property must be reported to City Hall within a maximum of **twenty-four (24) hours**, or the employee or employee's involved will be held responsible for payment of the insurance deductible and subject to possible disciplinary action; such as suspension without pay for an indefinite period.

12-1-33 RETIREMENT. All employees who work more than **six hundred (600) hours** per year shall participate in the Illinois Municipal Retirement Fund. This pension program is established and controlled by the Illinois State Statutes which require this participation. Some employees may fall under the **six hundred (600) hour** rule and others under the **one thousand (1,000) hour** rule.

All IMRF participants are encouraged to retire at the age of **sixty-five (65)**. Earlier retirement is permitted at the employee's option.

12-1-34 SUBSTANCE ABUSE POLICY. The City does hereby incorporate and repeat verbatim the Substance Abuse Policy for the City of Newton's DOT-All C.D.L. Driver's and Substance Abuse Policies for the City's non-D.O.T., as found in Addendum "A" at the conclusion of this Chapter. **(Ord. No. 98-12; 09-01-98)**

12-1-35 REIMBURSEMENT FOR TRAINING COSTS. Any City employee who ends their employment with the City within **three (3) years** of their date of hire shall reimburse the City for all costs incurred by the City in training that individual to obtain any certification necessary for the performance of that employee's job with the City. Insofar as a City Police employee is involved, such reimbursable costs shall be the cost of the police academy training for that employee. The employee shall receive credit on a monthly prorated basis for the number of months the employee was in the actual employment of the City within the said **three (3) year** time frame. **(Ord. No. 02-09; 06-18-02)**

12-1-36 SEXUAL HARASSMENT POLICY. There is hereby adopted a Sexual Harassment Policy and Complaint Procedure as set forth in Addendum "B" attached hereto and incorporated herein by this reference. **(Ord. No. 02-03; 02-05-02)**

12-1-37 NEW DEPARTMENT HEADS. Except as provided hereinafter, all new Department Heads' starting salary shall be at a rate of **One Dollar (\$1.00)** less than the then lowest paid Department Head, unless certain state certifications are required of the new Department Head, in which case the starting salary of the Department Head shall be determined by the City Council. A person hired as a new Department Head who has been acting in that capacity for a period of **one (1) year** or longer, shall start at a salary equivalent to the lowest paid Department Head of the City. **(Ord. No. 05-24; 08-16-05)**

12-1-38 EMPLOYEE BENEFITS/INJURY.

(A) **Police Employee.** Pursuant to Illinois Statute **5 ILCS 345/1**, whenever a police officer suffers an injury in the line of duty which causes the police officer to be unable to perform the police officer's duties, the police officer shall continue to be paid by the City on the same basis as the police officer was paid before the injury, with no deductions from the police officer's sick leave credits, compensatory time for overtime accumulations or vacation or service credits with IMRF during the time the police officer is unable to perform the police officer's duties due to the result of the injury, but not longer than **one (1) year** in relation to the same injury.

(B) **Full-Time Regular Employees Who Are Not Police Officers.**

(1) A full-time City of Newton employee (excluding police officers) who is receiving worker's compensation benefits and who is

unable to work will not accrue sick time while receiving worker's compensation benefits. If a full-time employee receiving worker's compensation benefits can return to work part-time, that employee's sick time accrual will be based accordingly upon the hours worked in a normal pay period.

- (2) Vacation and personal time are governed by the City and the Union agreement. Vacation days shall be used in the year earned. Personal days shall be used during the calendar year of entitlement and cannot be turned in for money.
- (3) An employee on worker's compensation who is unable to use vacation or personal hours in the year they are accrued will not be able to carry those benefits over into the next year and the vacation hours and/or personal hours cannot be turned in for monetary compensation.
- (4) On **January 1** each employee will accrue vacation and personal time based on number of years of service, or on their anniversary date of employment if additional benefits are earned due to years of service, the said benefits would be for the year accrued, would also be subject to the above rules and cannot be turned in for monetary compensation.
- (5) When an employee, excluding police officers, is off work due to a work related injury, and is receiving worker's compensation benefits, the City will pay the injured employee's share of health insurance costs, but the employee shall be responsible for dependent care insurance costs and for any other type of withholdings the employee is having taken out of the employee's paychecks.

(Ord. No. 11-1; 02-15-11)

(Ord. No. 07-16; 12-18-07)

CHAPTER 13

EMPLOYEE AGREEMENTS

ARTICLE I – POLICE DEPARTMENT CONTRACT

13-1-1 POLICE DEPARTMENT CONTRACT. The collective bargaining agreement between the City of Newton and the Newton Police Department is hereby included as **Appendix "A"**.

(Ord. No. 12-6; 05-01-12)

APPENDIX "A"

COLLECTIVE BARGAINING AGREEMENT BETWEEN CITY OF NEWTON POLICE DEPARTMENT AND LABORERS' INTERNATIONAL UNION OF NORTH AMERICA, SOUTHERN & CENTRAL ILLINOIS LABORER'S DISTRICT COUNCIL LABORER'S LOCAL UNION 1197

Effective May 1, 2012 through April 30, 2016

The Collective Bargaining Agreement is entered into by and between the City of Newton, Illinois, (herein referred to as the "Employer") and the Laborers' International Union of North America, the Southern and Central Illinois Laborer's District Council, and Laborers' Local Union 1197 (herein referred to as the "Union"), acting pursuant to the law as the exclusive bargaining agency for the employees covered by this Agreement.

Article 1 – Preamble

It is the purpose of this Agreement and the intent of the parties hereto to establish and promote mutual harmonious understandings and relationships between the Employer and the Union, to promote departmental efficiency and effectiveness, to establish wages, hours and other terms and conditions of employment of Employees covered by this Agreement, and to provide for the equitable and peaceful adjustment and resolution of differences which may arise from time to time over the interpretation and application of this Agreement.

In consideration of the mutual promises, covenants and understandings contained herein, the parties hereby, by their duly authorized representatives and/or agents, mutually covenant and agree as follows.

Article 2 – Recognition

The Employer hereby recognizes the Laborers' International Union of North America as the sole and exclusive collective bargaining representative for the purpose of collective bargaining on any and all matters relating to wages, hours, and all other terms and conditions of employment of all Employees in the bargaining unit. The bargaining unit shall include: all Employees of the City of Newton Police Department, excluding the Chief of Police.

Article 3 – Non-Discrimination

Section 1. Prohibition Against Discrimination. Neither the Employer nor the Union shall discriminate against any Employee covered by this Agreement on account of race, creed, color, religion, national origin, political affiliation, sex, age, physical or mental handicap or marital status.

Section 2. Union Activity. Neither the Employer nor the Union shall interfere with the rights of Employees covered by this Agreement to become or not become members of the Union and there shall be no discrimination against any such Employee because of the Union membership or non-membership.

Section 3. Equal Employment/Affirmative Action. The parties recognize and agree to cooperate in fulfilling the Employer's obligations under State and Federal Equal Employment and Affirmative Action Acts, laws and regulations.

Section 4. Use of Masculine Pronoun. The use of the masculine pronoun herein is understood to be for clerical convenience only and it is further understood that the masculine pronoun applies to both genders.

Article 4 – Dues Deductions/Maintenance of Membership

Section 1. It shall be a condition of employment that all present Employees become members of the Union and shall remain members of the Union or if an Employee chooses not to be a member of the Union, then that Employee shall contribute his fair share for representation.

All present Employees who are not members of the Union shall become and remain members of the union or if an Employee chooses not to be a member of the Union, then that Employee shall contribute his fair share for representation within **six (6) months** of the effective date of this Agreement and all Employees who are hired hereinafter shall become and remain members of the Union or if an Employee chooses not to be a member of the Union, then that Employee shall contribute their fair share for representation within **six (6) months** following date of first employment.

This period is to serve as a probationary period and Employees will be subject to all the benefits of this Agreement, excluding only holiday pay for the first **thirty (30) calendar days** of employment.

Section 2. All dues, initiation fees and assessments levied by the Union on the Employees covered by this Agreement shall be checked off from the wages of such Employees once each month, except delinquent dues and initiation fees shall be checked off weekly and remitted by the City to the Secretary of said Union. The check off, however, is to apply only to such Employees covered by this Agreement who authorize the City in writing to so check off. If an Employee or Employees should any time content that the City acted wrongfully or illegally in making a check off for dues, initiation fees or assessments, the Union will defend and protect the City against expenses, repayments or losses on account of such contention.

Article 5 – Management Rights

Section 1. It is recognized that the Employer retains the right and responsibility to direct its affairs in all various aspects. Among the rights retained by the Employer is the right to plan, direct and control all the operations and services of the Employer; to determine its policies, budget and operations; to determine the manner in which its functions shall be performed and the

directions of its working forces, including, but not limited to: the right to hire, promote, demote, transfer and assign Employees; to discipline; suspend and discharge for just cause; to relieve Employees from duty because of lack of work or other legitimate reasons; to determine the size and composition of the work force; to make and enforce reasonable rules and regulations; to change or eliminate existing methods, equipment or facilities; to determine the number of hours and shifts per work week; to establish and change work schedules and assignments; to introduce new methods of operation; to eliminate, contract and relocate or transfer work and maintain efficiency.

Section 2. The Union and Employer agree that during the life of this Agreement representatives of each party shall meet semi-monthly, or more frequently if mutually agreed, at a mutual satisfactory time and place. The purpose of such meetings shall be to appraise the problems, if any, which have arisen in the application, administration and interpretation of this Agreement and which may be interfering with the attainment of the parties' objectives as set forth above.

Such meetings shall not be for the purpose of conducting continuing collective bargaining, nor in any way, modify, add to, or detract from the provisions of this Agreement.

Prior to any meeting held pursuant to the foregoing paragraphs, the parties shall provide each other with such advance notice as is reasonable under the circumstances concerning matters intended to be discussed.

Article 6 - No Strike/No Lockout

Section 1. No Strike. Neither the Union nor any officers, agents or Employees will instigate, promote, sponsor, engage in, or condone any strike, sympathy strike, secondary boycott, residential picketing, slow down, sit down, concerted stoppage of work, concerted refusal to perform overtime, or any other intentional interruption or disruption of the operations of Employer at any location, regardless of the reason for so doing. Any or all Employees who violate any of the provisions of this Article may be discharged or otherwise disciplined by the Employer. The failure to confer a penalty in any instance is not a waiver of such right in any other instance nor is it a precedent. The Union and its Employees and representatives will cooperate with the Employer in taking whatever affirmative action is necessary to direct and urge any Employee who violates this Article to return to work and to achieve a prompt resumption of normal operations.

Section 2. No Lockout. The Employer will not lock out any Employee during the term of this Agreement as a result of a labor dispute with the Union so long as there is good faith compliance by the Union with this Article, unless the Employer cannot efficiently operate in whole or in part due to a breach of this Article.

Article 7 – Impasse Resolution

The resolution of a bargaining impasse shall be in accordance with the Illinois Public Labor Relations Act, Chapter 48, Paragraph 1614, as amended.

Article 8 - Grievance Procedure

Section 1. Grievance. It is mutually desirable and hereby agreed that all grievances shall be handled in accordance with the procedure outlined in this Article.

A grievance is defined as any unresolved difference between the Employer and any Employee or group of Employees regarding the application, meaning or interpretation of this Agreement.

Section 2. Dispute Resolution. In the interest of resolving disputes at the earliest possible time, it is agreed that an attempt to resolve a dispute shall be made between the Employee and his immediate supervisor.

In the event of a complaint, the Employee shall first complete his assigned work task and complain later, unless the Employee reasonably believes that the assignment endangers his safety.

Section 3. Representation. Grievances may be processed by the Union on behalf of an Employee or on behalf of a group of Employees. Either party may have the grievant or one grievant representing a group of grievants present at any step of the grievance procedure, and the Employee is entitled to Union representation at each and every step of the grievance procedure upon his request.

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

Section 4. Subject Matter. Only one subject matter shall be covered in any one grievance. A grievance shall obtain a statement of the grievant's position, the Article, and Section of the Agreement allegedly violated, the date of the alleged violation, the relief sought, and the signature of the grieving Employee(s) and the date.

Section 5. Time Limitations. Grievances may be withdrawn at any step of the grievance procedure without precedent. Grievances not appealed within the designated time limit will be treated as settled grievances.

The Employer's failure to respond within the time limits shall not result in a finding in favor of the grievant, but shall automatically advance the grievance to the next step, except Step 4. Time limits may be extended by mutual agreement.

Section 6. Grievance Processing. No Employee or Union representative shall leave his work assignment to investigate, file or process grievances without first making mutual arrangements with his supervisor, and such mutual arrangements shall not be denied unreasonably. In the event of a grievance, the Employee shall always perform his assigned work task and grieve his complaint later, unless the Employee reasonably believes that the assignment endangers his safety.

Section 7. Grievance Meetings. A maximum of **two (2)** Employees (the grievant and/or Union Rep) per work shift shall be excused from work with pay to participate in a Step 1 or 2 grievance meeting. The Employees shall only be excused for the amount of time reasonably required to present the grievance. The Employees shall not be paid for any time during which a

grievance meeting occurs outside of the Employee's work shift. In the event of a grievance, the Employee shall first perform his assigned work task and file his grievance later.

Section 8. Step in Procedure. Disputes arising under this Agreement shall be resolved as follows:

Step 1. The Employees shall make his (their) complaint in writing to the Chief of Police. The Chief will notify the Employees in writing of the decision within **two (2) working days** following the day when the complaint was made. Settlements or withdrawals at this step shall not constitute a precedent in the handling of other grievances.

Step 2. If no agreement is reached between the Employee and the Chief, as provided for in Section 8, Step 1 above, the Union shall prepare a written grievance on a form mutually agreed to and present it to the Police Department Committee of the Newton City Council, or such designee, no later than **ten (10) working days** after the Employee was notified of the written response by the Chief.

Within **ten (10) working days** after the grievance has been submitted, the Police Department Committee shall meet with the grievant and the Union Representative to discuss the grievance and make a good faith effort to resolve the grievance.

The Police Department Committee shall respond in writing to the grievance and Union Representative within **ten (10) working days** following the meeting.

Step 3. If the dispute is not settled at Step 2, the matter may be submitted to the Newton City Council, or their designee, no later than **ten (10) working days** after the Employee was notified of the written response of the Police Department Committee.

Within **ten (10) working days** after the grievance has been submitted, the City Council, or their designee, shall meet with the grievant and the Union Representative to discuss the grievance and make a good faith effort to resolve the grievance.

The City Council, or the designee, shall respond in writing to the grievant and the Union Representative within **ten (10) working days** following the meeting.

Both parties agree to make a good faith attempt to arrive at a joint statement of facts and issues to be submitted to the arbitrator.

The Employer or Union shall have the right to request the arbitrator to require the presence of witnesses and/or documents. Each party shall bear the expense of its own witnesses. The expenses and fees of arbitration and the cost of the hearing shall be shared equally by the parties. Cost of arbitration shall include the arbitrator's fees, room costs and transcriptions costs. Nothing in this Article shall preclude the parties from agreeing to use expedited arbitration procedures. The decision and award of the arbitrator shall be made within **forty-five (45) days** following the close of the hearing and shall be final and binding on the Employer, the Union, and the Employee or Employees involved. The arbitrator shall be limited to interpreting the Agreement before him and

shall have no power to amend, modify, nullify, ignore, add to or subtract from the provisions of the Agreement.

For purposes of this Article, working days shall be defined as Monday through Friday, excluding holidays.

Article 9 – Labor-Management Conferences

Section 1. Setting Meetings and Agendas. The Union and the Employer mutually agree that in the interest of efficient management and harmonious Employee relations, it is desirable that meetings be held between Union representatives and responsible administrative representatives of the Employer. Such meetings may be requested at least **seven (7) days** in advance by either party in writing to the other for a “labor-management conference” and expressly providing the agenda for such meetings. Such notice may be waived by mutual consent of both parties. Such meetings and locations shall be limited to:

- (A) Discussion on the implementation and general administration of this Agreement.
- (B) A sharing of general information of interest to the parties.
- (C) Notifying the Union of changes in non-bargaining conditions of employment contemplated by the Employer which may affect Employees.
- (D) Discussion of pending grievance on a non-binding basis to attempt to adjust such grievance and to discuss procedures for avoiding future grievances.
- (E) Items concerning safety issues.

The Employer and the Union agree to cooperate with each other in matters of the administration of this Agreement, and to the degree that standards of law enforcement can be effectuated for the maximum protection of the citizens of the State of Illinois.

To effectuate the purposes and intent of the parties, both parties agree to meet as necessary.

Section 2. Exclusion of Grievances. It is expressly understood and agreed that such meetings shall be exclusive of the grievance procedure. Grievances being processing under the grievance procedure shall not be discussed in detail at labor-management conferences, and any such discussions of a pending grievance shall be non-binding on either party and solely for the purpose of exploring alternatives to settle such grievances and such grievance discussion shall only be held by mutual agreement of the Employer and the Union, nor shall negotiations for the purpose of altering any or all of the terms of this Agreement be carried on at such meetings.

Section 3. Notification of Absence. When absence from work is required to attend “labor-management conferences”, Union members shall, before leaving their work stations give reasonable notice to and receive approval from their supervisor in order to remain in pay status. Supervisors shall approve the absence except in emergency situations. Union members attending such conferences shall be limited to **two (2)**. Travel expenses associated with any “labor-management conferences” shall be the responsibility of the Employee.

Section 4. Safety Issues. Any report or recommendation which may be prepared by the Union or the Employer as a direct result of a labor-management conference discussion will be in writing and copies shall be submitted to the Employer and the Union.

(A) The Chief or his designee shall meet periodically with the Labor Council Safety Committee to discuss safety issues and concerns which shall be submitted by the Union in advance in writing.

Any report or recommendation which may be prepared by the Union Safety Committee and the Chief or his designee as a direct result of these meetings shall be reduced to writing with copies being submitted to the Chief and to the Union representative.

(B) When an assigned department vehicle is believed to be in an unsafe condition, the Employee will notify the Chief, complete required reports and follow the Chief's direction relative to requesting repair, replacement or continued operation of said vehicle. No Employee shall be required to use any vehicle which the Chief or his designee has designated as unsafe until the safety condition has been corrected.

Article 10 – Layoff

In the event of a layoff of Employees in the bargaining unit, the Employer shall inform the Union in writing no later than **ten (10) calendar days** prior to such layoff and provide the Union with the names of the Employees to be laid off. Probationary employees, temporary and part-time employees shall be laid off first, then Employees shall be laid off in accordance with their seniority. The Employees with the least amount of seniority shall be laid off first. All Employees shall receive notice in writing of the layoff at least **ten (10) calendar days** in advance of the effective date of such layoffs.

No employee will be hired to perform the duties normally performed by an Employee who is on layoff.

Any Employee who has been laid off shall be placed on the appropriate reinstatement list and shall be recalled on the basis of seniority in the Police Department.

Article 11 – Discipline

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

- (A) Oral Warning or Written Warning
- (B) Suspension without pay
- (C) Discharge

Section 2. Just Cause. The Employer agrees that disciplinary action shall be imposed only for just cause and shall be imposed as soon as practical after the Employer learns of the occurrence giving rise to the need for disciplinary action and after the Employer has had a reasonable opportunity to investigate the facts. In no case may the Employer make a temporary assignment for the purpose of disciplining or discriminating against an Employee.

Section 3. Limitation. Agreement with the tenets of corrective and progressive disciplinary action does not prohibit the Employer from using a severe measure including discharge, when

the offense indicates that a substantial shortcoming or action of a Police Officer rendered the continuation of employment of the Employee in some way detrimental to the Employer or the public. Such actions shall include but are not limited to: possession of a controlled substance or alcohol; gross insubordination; intentional destruction or theft of property; fighting on the job; appearing for work under the influence of drugs or alcohol or other substance that may impair an Employee's ability to perform any of the duties required.

Section 4. Pre-Disciplinary Meeting. For discipline other than oral and written reprimands, prior to notifying the Employee of the contemplated discipline to be imposed, the Chief of Police shall notify the Union of the meeting and then shall meet with the Employee involved and inform the Employee of the reason for such contemplated discipline, including the names of potential witnesses and copies of pertinent documents. The Employee shall be informed of his/her contractual right to Union representation and shall be entitled to such, if so requested by the Employee. The Union representative shall be made available with **twenty-four (24) hours** of notification. If the Employee does not request Union representation, a Union representative shall nevertheless be entitled to be present as a non-active participant at any and all such meeting.

Section 5. Investigatory Interviews. Anytime an investigatory interview is conducted by the Employer and the results of the interview may lead to disciplinary action against the Employee, the Employee must be informed of his/her right to Union representation, no interview shall take place without the presence of a Union Representative or receipt of a waiver of same by the Employee. The role of the Union Representative is limited to assisting the Employee, clarifying the facts and suggesting other Employees who may have knowledge of the facts.

Section 6. Written Notice. The Employee shall be notified in writing of disciplinary action imposed, be advised of the specific nature of the offense and be given direction as to future behavior.

Section 7. Disciplinary Action Subject to Grievance Procedure. Disciplinary action by the Employer as provided for in this Article shall be subject to the provisions of Article 8, Grievance Procedure.

Section 8. Time Limits on Disciplinary Records. Any discipline invoked under this Article is subject to the following time limits:

Oral reprimand, written reprimand and suspensions shall remain in an Employee's employment record for no longer than **eighteen (18) months**.

Once an Employee has completed the probationary period and has not committed any infraction for which he had been reprimanded or disciplined, the Employees' record will be cleared of the disciplinary action and no reference or mention of the discipline will be allowed in any future disciplinary action which may be taken against the Employee.

Article 12 – Personnel Files

Section 1. Personnel File. An official personnel file for each employee shall be maintained by the Employer at a central location. Each employee shall provide the Employer with his current telephone number and address.

Section 2. Right of Inspection. Employees shall have the right to review the contents of their official personnel files as provided in the Illinois Personnel Records Review Act, 820 ILCS 40.

It is agreed that any material and/or matter not available for inspection, such as provided in this Section 2, shall not be used in any manner against an employee's interest.

Section 3. Prohibition. The Employer agrees that it shall not gather nor record those categories of information about an employee prohibited by the above referenced Act, unless the employee has submitted such information in writing or has given the Employer written authorization to gather and record such information.

Any information of an adverse employment nature found to be necessary to the decision of another proceeding against the employee and which was found to be unfounded in that other proceeding shall not be used against that employee in any future proceeding under this Agreement.

Article 13 – Indemnification

Section 1. Employer Responsibility. As provided for in 745 ILCS 10, and so long as the employee has acted within the scope of his employment and cooperates with the Employer during the course of the investigation, administration, litigation or defense of any claim arising under this Article, the Employer shall be responsible for, hold employees harmless from and pay any damages or monies which may be adjusted, assessed or otherwise levied against any employee covered by this Agreement.

This Article shall not waive any responsibilities or limitations placed upon the employee by 65 ILCS 5/1-4-6 nor waive any of the liability limitations of the Employer set forth in that section.

Section 2. Legal Representation. Employees shall have legal representation by the Employer in any civil case brought against an employee resulting from or arising out of the performance of duties including separate representation by an attorney of the employee's choosing in the event that the legal representative of the City Council believes there may be a conflict of interest between the legal interest of the Council and the employee involved.

Section 3. Willful Misconduct. The protections accorded to employees under Sections 1 and 2 hereof shall not extend to any act of willful misconduct on the part of any employee.

Article 14 – Seniority

Section 1. Definition. As used herein the term "seniority" shall refer to and be defined as the continuous length of service or employment from date of last hire of employees covered by this Agreement.

Section 2. Promotion or Layoff. Any decision regarding promotion or layoff will be made based on the employee's demonstrated skill and ability. When in the City's opinion skill and ability

are equal then the length of continuous service will govern. Such decision of the City will be reviewable under the provisions of Article 8.

Section 3. Seniority List. The Employer shall prepare a list setting forth the present seniority dates of all employees covered by this Agreement. Any dispute as to the seniority listing prepared by the Employer shall be raised not more than **twenty-one (21) calendar days** after the list is first posted and be resolved in the grievance procedure.

Section 4. Termination of Seniority. All seniority shall be lost by an employee who:

- (A) Quits, by written resignation; or
- (B) is discharged for just cause; or
- (C) accepts gainful employment while on approved leave of absence or other leave from the Police Department; or
- (D) is absent for **three (3)** consecutive scheduled work days without proper notification or authorization; or
- (E) fails to report to work at the termination of a leave of absence; or
- (F) does not return to work from layoff within **seven (7) calendar days** after being notified to return; or
- (G) is laid off for a period of **twelve (12) consecutive months**; or
- (H) retires.

Section 5. Probationary Period. The probationary period shall be **one (1) year** in length. This period shall be for all new hires, part-time and full-time employees who have been promoted to a higher rank.

New hires, part-time and employees who have been promoted to a higher rank will be evaluated every **ninety (90) days** during the length of the probationary period.

The probationary period may be extended on request of the Chief of Police and with approval of the Mayor and the City Council.

The Chief shall review evaluations with the employee(s). Evaluations shall be forwarded to the Police Committee for review, if necessary.

Every full-time employee shall be subject to a yearly written evaluation. These evaluations may be subject to review by the Mayor and the Police Committee.

All evaluations are subject to the provisions of Article 8, "Grievance Procedures" of the collective bargaining agreement.

Article 15 – Union Representative

Section 1. Attendance of Union Meetings. Subject to the needs of the Employer to maintain adequate and orderly scheduling and to meet emergencies, the Employer agrees:

- (A) A maximum of **two (2)** of the elected officials of Laborers' Local 1197 shall be permitted reasonable time off without pay to attend general or special meetings of Local 1197 provided that at least **fourteen (14) calendar days'** notice of such meeting shall be given in

writing to the Employer and provided further that the names of all such officials and employees shall be certified in writing to the Employer.

(B) A maximum of **two (2) employees** chosen as delegates to a LUINA State or National Conference will, upon written application, approved by the Chief or his designee at least **fourteen (14) calendar days** in advance of the anticipated departure date, be given an unpaid leave of absence for a period of time not to exceed **one (1) week** required to attend such convention or conference.

Section 2. Negotiating. When necessary, **one (1) employee** Union Representative shall be permitted reasonable time off, without pay, for the purpose of representing employees in negotiating successor agreements, so long as it does not interfere with the performance of his or any other Employees' job duties.

Article 16 – Bulletin Boards

The Employer shall provide the Union with designated space on available bulletin boards or provide a separate bulletin board on a reasonable basis upon which the Union may post its notices. No such posting may be defamatory or partisan political in character.

Article 17 – Leaves of Absence

Section 1. Sick Leave.

(A) Full-time Employees shall accumulate paid sick leave at the rate of **four (4) hours** per period, which may be accumulated to a maximum of **ninety (90) working days**. Probationary employees are allowed to accrue sick leave at the same rate as non-probationary employees. The Chief of Police's refusal to approve any use of sick leave may be grieved by the Employee through the grievance procedure. Sick leave may be utilized for personal illness, quarantine at home or for serious illness within the Employee's immediate family or household. The Employee may require a physician's certificate, at the expense of the Employer, after an absence of **three (3) consecutive working days** or as may be deemed necessary in other cases.

(B) Sick leave may be used in **one (1) hour** increments. The City reserves the right to request proof of actual attendance at medical appointments during working hours.

(C) An Employee whose employment terminated other than just cause will be paid for accumulated sick leave at his or her regular rate of pay. An Employee hired after **May 1, 2003**, who is terminated other than for just cause will be paid for **one-half (1/2)** of accumulated sick leave at his or her regular rate of pay.

Upon resignation or retirement an employee may apply his accrued sick leave toward his IMRF pension according to the rules and regulations of the plan. Unused sick leave days are not eligible for payment if used for IMRF retirement purposes. Sick leave will not accrue during any leave of absence.

Section 2. Personal Leave.

(A) Upon application in writing, leave from employment for personal reasons may be granted without pay to an Employee upon approval of the Chief of Police. Such unpaid personal leave may not be for a period in excess of **ninety (90) calendar days**. During such personal leave, an Employee may continue health and life insurance benefits, if available,

provided he pays the full cost of such coverage. However, no other benefits shall accrue during a leave for personal reasons.

(B) All officers hired before **May 1, 2002** will be grandfathered at their current personal leave level up to a maximum of **ten (10) days**, or **one hundred (100) hours**. This grandfathered rate will only apply to those employees hired BEFORE **May 1, 2002**.

All officers hired after **May 1, 2002**, each officer shall receive **ten (10) hours** paid personal leave after **one (1) year** of employment, and **twenty (20) hours** paid personal leave after **three (3) years** of employment and **thirty (30) hours** after **five (5) years** of employment. The personal leave must be used during the calendar year of entitlement, cannot be carried over from year to year and cannot be turned in for money.

The current Secretary will receive personal leave in **eight (8) hour** increments or up to a maximum of **ten (10) days** or **eighty (80) hours**. Any future Secretary will receive **eight (8)** paid personal leave hours after **one (1) year** of employment, and **sixteen (16) hours** paid personal leave hours after **three (3) years** of employment. The personal leave must be used during the calendar year of entitlement, cannot be carried over from year to year and cannot be turned in for money.

Notification of the Employees' intent to use personal leave must be made at least **two (2) days** prior to the beginning of that shift, except in cases of emergency, and must be approved by the Chief of Police or his designee. Approval for the use of personal time will not be unreasonably denied. Personal leave can be used in **one (1) hour** increments and will be earned on the anniversary date of hire.

Section 3. Short-Term Military Leave. Any Employee covered by the terms of this Agreement who is a member of reserve unit of the Armed Forces of the United States or the State of Illinois and who is called up for **two (2) weeks** active duty training or is ordered by the appropriated authorities to attend training programs or perform assigned duty shall suffer no loss of seniority rights and shall be granted a leave of absence without pay or may use vacation or accumulated compensatory time for the period of such activity.

Section 4. Educational Leave. Employees covered by the terms of this Agreement may be granted upon written request an educational leave of absence without pay for a period of up to **one (1) year**, upon written authorization from the City Council. An Employee may submit such a request for educational leave each calendar year of this Agreement. During such educational leave, an Employee may continue health and life insurance benefits, if available, provided he/she pays the full cost of such coverage. However, no other benefits shall accrue during a leave for educational reasons.

Section 5. Bereavement Leave. An Employee may use up to **three (3) days** with pay following the date of a death in the Employee's immediate family which shall be interpreted to include: the Employee's spouse, children (including step-children and foster children), grandchildren, parents (including step-mother and step-father), grandparents, brother-in-law, sister-in-law, siblings and the same relatives of the Employee's spouse. Employees may use **one (1) day** with pay for bereavement leave in the event of a death of an aunt or uncle.

Section 6. On the Job Injury Leave. An Employee who sustains an injury or disease arising out of and in the course of his/her employment shall be accorded such benefits and status as is currently provided for in 5 ILCS 345/1.

Article 18 – Hours and Overtime

Section 1. Regular Hours. The regular hours of work each day shall be consecutive except that they may be interrupted by a **thirty (30) minute** lunch period and shall be considered on duty time since the Employee is subject to call during such period.

Section 2. Work Period and Duty Shifts. A work period is defined as a regularly recurring period of **twenty-eight (28) consecutive days**. The normal work shifts are:

(A)	Patrolman:	7 a.m. 5 p.m.	3 p.m. 1 a.m.
		5 p.m. 3 a.m.	9 p.m. 7 a.m.
		8 a.m. 4 p.m.	

Shifts are subject to change if new officer hired

(B)	Secretary:	7 a.m. – 4 p.m. (with a one (1) hour unpaid lunch)
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This Section shall not be construed as a guarantee of work for any particular number of hours or a limitation of the scheduling of work.

The secretary is authorized a rest period or “coffee break” of **fifteen (15) minutes** each morning and afternoon.

Section 3. Work Schedules. The Chief of Police or his designee shall post on all department bulletin boards the work days and hours for each Employee for the upcoming **six (6) months**. The Chief, or his designee, shall be allowed to fix the hours of work of each Employee for those scheduled work days and to change such hours upon **ten (10) days’** notice, except that no such changes will be made due to Employee absences or any other emergency situation unless the absence or emergency was known of, or should have been known of at least **ten (10) days** in advance.

Section 4. Work Shift Changes. Any Employee covered by this Agreement shall have the opportunity to change his scheduled work shift by switching such shift with another Employee. Said change shall be made with the mutual consent of both Employees affected and shall not interfere with the working schedule of the Department or impede the operational need of the Department. Furthermore, any such change shall be subject to the approval of the Chief of Police, or his designee, which shall not be unreasonably denied. No such shift change shall result in overtime compensation for any Employee.

Section 5. Assignment of Overtime. There shall be posted and kept current a rotating overtime assignment list by which any Employee interested may elect to sign up for overtime assignments. When it becomes necessary to call back an Employee to work overtime, the first name on the list (in descending order of seniority) shall be called. In the event that an Employee declines the overtime offered, or is otherwise unavailable, his name shall go to the bottom of the

list and the next name on the list shall be called, repeating the procedure until the necessary manpower is achieved. In the event that an Employee accepts the overtime offered, his name shall also go to the bottom of the list. Should an Employee not be at home or only an answering machine reached, his name shall not be placed at the bottom of the list. Should the entire list be called and no Employee to voluntarily work such overtime assignment, then the Chief of Police, or his designee, may then order the least senior non-probationary Employee not scheduled to work to report for the designated overtime assignment.

Section 6. Overtime. Employees shall be compensated for all hours worked in excess of **forty (40)** in the workweek at the rate of **time and one-half (1 ½)** for those hours.

Employees may elect to receive compensatory time for overtime hours earned up to a maximum of **forty (40) hours** in a fiscal year. The said maximum **forty (40) hours** compensatory time may be carried over into subsequent fiscal years. At no time shall an employee be able to earn, use or accumulate more than **forty (40) hours** in any year.

Compensatory time may be used in **one (1) hour** increments.

Section 7. Court Time. Employees covered by this Agreement, who are required to make court appearances during normal off-duty hours, shall receive overtime for a minimum of **two (2) hours** or the actual time worked, whichever is greater.

Section 8. On-Call. Employees placed on call who are required to be compensated under the provisions of the Fair Labor Standards Act, shall be compensated at the rate of **two (2) hours** compensatory time at the regular rate for each **seven (7) day** period they are on call.

Section 9. Call Back. Any Employee required to report to a location directed by the Employer during hours immediately before or after the regularly scheduled work hours for such Employee, shall be paid at **one and one-half (1 ½) rate** for minimum of **two (2) hours** pay, or for the hours actually worked if greater than **two (2) hours**.

Section 10. Squads. All Employees will be picked up for duty and returned at the end of tour of duty as long as the officer lives within the City limits. Squad cars will be used for all training and schooling.

In the event an Employee utilizes his personal vehicle, he shall be compensated mileage at the IRS maximum allowable rate for mileage. The City's insurance covers Employee's vehicle for any damage.

Article 19 – Wage Rates and Allowances

Section 1. Wages. Wage rates for the classifications covered by the terms of this Agreement appear in **Exhibit "A"**.

Section 2. Clothing and Equipment Allowances. All police officers covered by this Agreement, shall receive a yearly equipment allowance in the sum of up to **Five Hundred Fifty Dollars (\$550.00)**. All officers will receive reimbursement of all covered expenses. This is to be effective at the beginning of the first fiscal year, following date of entry of the Employee.

Section 3. Itemized List. New officers shall be issued all clothing and equipment necessary to perform their duties. The cost of the clothing and equipment shall be paid by the Employer. Items to be purchased shall be limited to:

1. Two ties
2. Three pairs of pants
3. Three long sleeve shirts with patches
4. Three short sleeve shirts with patches
5. One pair of boots
6. One pair of dress shoes
7. One winter hat with rain cover
8. One summer hat with cords and strap
9. One coat
10. One pair of gloves
11. One bullet proof vest with cover
12. Twelve brass button covers
13. One tie bar
14. Two name tags
15. Two uniform badges
16. One pocket badge
17. Two sets of NPB collar brass
18. One whistle chain
19. One rain coat
20. One inner belt
21. One duty belt
22. One key holder
23. One handcuff holder
24. One set of handcuffs
25. One gun holster
26. One service weapon (issued) with 3 magazines
27. One pepper spray holder
28. One can of pepper spray
29. One ASP holder
30. One ASP (expandable baton)
31. One radio holder
32. One radio with microphone
33. One dual magazine holder
34. One flashlight holder
35. One flashlight
36. One rubber glove holder
37. Six belt keepers
38. One off duty holster
39. One off duty badge holder
40. One radio battery charger
41. Two radio batteries
42. One radio earpiece

Officers are responsible for uniform and equipment maintenance and cleaning.

Mandatory Changes. Any mandatory uniform or equipment changes will be purchased by the Employer and will not be deducted from an Employee's clothing allowance.

Section 4. If during the course of an Employee's duties the Employee is required to exert physical force or is attacked by another person or personal property of the Employee is lost or damaged then the City shall replace, in kind, said item upon written notification citing the date, time and circumstances of the incident leading to the property's damage or loss. Employees shall be required to keep the City furnished with a current list of their personal property worn/used during the performance of their duties.

Article 20 – Insurance and Pension

Section 1. Insurance. The Employer shall provide the same health insurance coverage for the Newton Police Department Employees it provides for all Employees of the City of Newton. The Employer shall provide the entire cost for Employee coverage.

Section 2. Pension. The Employer and Employees shall continue to participate in the IMRF according to State Statute.

LIUNA NATIONAL INDUSTRIAL PENSION

Section 1. The Employer agrees to contribute to the Laborers' National (Industrial) Pension Fund (the "Pension Fund") for all employees covered by this Agreement in accordance with this Article.

Section 1.1. Whereas, the Pension Fund's Board of Trustees has adopted a Funding Rehabilitation Plan ("Plan"), dated July 26th, 2010, to improve the Fund's funding status over a period of years as required by the Pension Protection Act of 2006 ("PPA"); and

Whereas, the Plan, in accordance with the PPA, requires that the signatories to every collective bargaining agreement providing for contributions to the Pension Fund adopt one of the Schedules included in the Plan; and

Whereas, the Union and the Employer have agreed to adopt the Plan's Preferred Schedule and wish to document that agreement,
It is hereby agreed by the undersigned Union and Employer as follows;

Section 1.2. With regards to benefits under the Pension Fund, the Plan's Preferred Schedule provides that the Pension Fund's current plan of benefits for the group will remain unchanged with the following exceptions:

- (A) Benefit accruals for periods after adoption of the Preferred Schedule will be based on the contribution rate in effect immediately before the Preferred Schedule goes into effect for the group, not on the increased rates required by this Schedule.
- (B) Effective April 30th, 2010 and until the Rehabilitation Plan succeeds, the Pension Fund is not permitted by the PPA to pay any lump sum benefits or pay any other benefit in excess

of the monthly amount that would be payable to the pensioner under a single life annuity. This means that the Fund must suspend its Partial Lump Sum option, Social Security Level Income option, and Widow/Widower Lump Sum option. Exceptions are made for a lump sum cash-out of a participant or beneficiary whose entire benefit entitlement has an actuarial value of **Five Thousand Dollars (\$5,000.00)** or less and for the Fund's **Five Thousand Dollars (\$5,000.00)** death benefit.

- (C) The Board of Trustees continues to have discretionary authority to amend the Rules & Regulations of the Pension Fund, including the Rehabilitation Plan, within the bounds of applicable law.

Section 1.3. The Plan as a whole is deemed to be a part of the Preferred Schedule.

Section 1.4. The current contribution rate to the Pension Fund of **Seventy-One Cents (\$0.71)** for each and every hour or portion of an hour for which an employee covered by this Agreement is paid by the Employer (including hours or portions of hours of paid holidays, vacation, sick leave, personal leave, other paid leave, and overtime) shall be increased by **ten percent (10%)** to the rate of **Seventy-Nine Cents (\$0.79)** effective January 1, 2011. On each anniversary of that effective date for the term of the collective bargaining agreement, the contribution rate then in effect shall be increased by another **ten percent (10%)** (rounded to the highest penny).

Section 2. Contributions shall be due and paid on a monthly basis. Specifically, contributions earned during a calendar month shall be due and paid by the **twentieth (20th) day** of the immediately following calendar month.

Section 3. Unless otherwise agreed by the Pension Fund, contributions shall be paid by check made payable to the "Laborers' National (Industrial) Pension Fund" and delivered to the Pension Fund at 905 16th Street, N.W., Washington, DC 20006 by U.S. Mail or commercial carrier.

Section 4. Together with each contribution payment, the Employer shall deliver to the Pension Fund such written reports as the Pension Fund may require to verify and properly credit the contributions. If acceptable to the Pension fund, the Employer may submit its contribution reports electronically.

Section 5. The Employer shall retain the payroll records on which its contribution reports are base. The Pension fund shall be entitled to have an independent certified public accountant audit the Employer's records from time to time to reasonably verify the accuracy and completeness of the Employer's contributions.

Section 6. Contributions to the Pension Fund are part of the compensation package that the Employer has agreed to pay the employees covered by this Agreement for their labor. In the event that the Employer fails to submit contributions and/or contribution reports as required by this Agreement, the Pension Fund shall be entitled to pursue all available legal or equitable recourse to enforce the Employer's obligations under this Agreement, without regard to any grievance or arbitration procedure under this Agreement.

Section 7. The Union and the Employer hereby adopt by reference the Pension Fund's Agreement and Declaration of Trust which governs the operations of the Pension Fund as a trust fund established for the purpose of providing retirement income to eligible participants and

beneficiaries. A copy of the Agreement and Declaration of Trust has been provided to the Employer.

Article 21 – Holidays

Section 1. Observed Holidays. The following days shall be recognized and observed as paid holidays:

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

Section 2. Holiday Pay. Employees covered by this Agreement, when their regularly scheduled day off falls on the actual day of a holiday, shall be paid at regular day's pay. Probationary employees will be eligible for holiday pay after the first **thirty (30) calendar days** of employment.

When his/her regular work day falls on the actual day of a holiday, or any hours worked on that holiday, he/she shall be paid **one and one-half (1 ½) times** above their base pay. When an Employee is called in from his/her regular day off on the actual day of a holiday, he/she shall be paid at their overtime rate for all hours worked in addition to their holiday pay. An Employee may elect to receive compensatory time in lieu of payment for working on a holiday, the election shall be made at the time the hours are worked.

Article 22 – Vacations

All Employees shall be credited the following vacation time based upon calendar year.

After 1 year of service	5 days
After 3 years of service	10 days
After 7 years of service	15 days
After 15 years of service	20 days
After 20 years of service	25 days

Vacation days may be taken in **four (4) hour** increments and must be approved in writing by the Police Chief or his designee a minimum of **ten (10) days** prior to taking vacation.

Vacation days shall be used during the calendar year of entitlement, with no more than **five (5) days** carried over to the following year. All carried over vacation days must be used before the last pay period in April of the year they are carried forward, unless due to the request of the Chief an employee cannot take a scheduled vacation.

Article 23 – General Provisions

Section 1. Representatives. Authorized representatives of Laborers' International Union of North America shall be permitted to visit the department during working hours to talk with officers of the Local and/or representatives of the Employer concerning matters covered by this Agreement, so long as such visits do not interfere with the work of the Department.

Section 2. Access to Records. The Union or a representative shall have the right to examine time sheets and other records pertaining to the computation of compensation of any Employee whose pay is in dispute or any other records of the Employee pertaining to a specific grievance, at reasonable times with the Employee's consent.

Section 3. Schooling. If a squad car is not available for schooling, Employee will be compensated for using their personal vehicle at the IRS maximum allowable rate for mileage. During schooling or training, the City shall pay for housing and meals as needed. Food allowance is as follows:

Breakfast:	\$5.00
Lunch:	\$7.00
Supper:	\$11.00

All Employees, regardless of their hire date, shall be paid for attending mandatory and/or approved schooling or training at their then current hourly rate of pay, mandatory and/or approved schooling or training on an employee's day off, and is over **forty (40) hours**, shall be paid at **one and one-half (1 ½) times** their regular rate of pay. All schooling and/or training is at the sole discretion of the Chief of Police.

Section 4. New Hire Testing. All new hires will be subject to all required testing, including but not limited to appropriate psychological testing.

Section 5. New Hire Agreement. As of May 1, 2008, all new hires will be subject to an agreement of length of service between the City of Newton and the employee in regards to repayment of training costs. The agreement will be in writing and signed by the employee and the Chief of Police. The agreement will outline the City of Newton's obligations and the obligation of service of the employee to the City of Newton. The new hire will have an obligation of service of **thirty-six (36) months** and will be subject to repayment of training costs for any separation prior to **thirty-six (36) months** of service using the formula set forth in the agreement. In the event a new hire has met the minimum qualifications and credentials required by the City of Newton, per the Illinois Law Enforcement Training and Standards Board, said **thirty-six (36) months** obligation of service agreement will not apply.

Section 6. Secretary Position in Union. The Secretary for the Police Department will be included in this agreement and the bargaining unit.

Article 24 – Savings Provision – Partial Invalidity

Section 1. Savings Provisions. None of the foregoing shall be construed as requiring either party to do anything inconsistent with Federal or State Law, or Local Ordinance or the final order or judgment of any court having jurisdiction over the parties.

Section 2. Partial Invalidity. If any provision of this Agreement should be rendered or declared invalid and unenforceable by any court of competent jurisdiction or by reason of any existing or subsequently enacted legislation, the remaining parts or portions of this Agreement shall remain in full force and effect and the parties agree immediately to negotiate alternative language to substitute for the invalidated provision.

Section 25 – Substance Abuse Testing

Section 1. Purpose. The purpose of this Article is to provide all Police Department Employees with notice of the provisions of the department drug and alcohol-testing program.

Section 2. Discussion. It is the policy of the department that the critical mission of law enforcement justifies maintenance of a drug and alcohol free work environment through the use of a reasonable Employee substance abuse testing program.

The law enforcement profession has several uniquely compelling interests that justify the use of employee drug and alcohol testing. The public has a right to expect that those who are sworn to protect them are at all times both physically and mentally prepared to assume these duties. There is sufficient evidence to conclude that the use of controlled substances and other forms of substance abuse will seriously impair an employee's physical and mental health and, thus, job performance.

Where law enforcement employees participate in illegal drug and alcohol use and activity, the integrity of the law enforcement profession and public confidence in that integrity are destroyed. This confidence is further eroded by the potential for corruption created by drug and alcohol use.

Therefore, in order to ensure the integrity of the department and to preserve public trust and confidence in a fit and drug and alcohol free law enforcement profession, this department shall implement a substance abuse testing program to detect prohibited drug and alcohol use by department employees.

Section 3. Definitions.

(A) **Police Department Employee.** The Employees included in the bargaining unit.

(B) **Supervisor.** The Chief of Police or his designee.

(C) **Substance Abuse Test.** The compulsory production and submission of urine or blood by an employee in accordance with departmental procedures, for chemical analysis to detect prohibited drug and alcohol usage.

(D) **Reasonable Suspicion.** The quantity of proof or evidence that is more than a hunch, but less than probable cause. Reasonable suspicion must be based on specific, objective facts and any rationally derived inferences from those facts about the conduct of an individual that would lead the reasonable person to suspect that the individual is or has been using drugs or alcohol while on or off duty.

(E) **Probationary Employee.** For the purpose of the Substance Abuse Testing Article, a probationary employee is an employee with less than **six (6) months** of work in the Police Department.

Section 4. Procedures/Rules.

(A) **Prohibited Activity.** The following rules shall apply to all Police Department employees while on and off duty:

- (1) No employee shall illegally possess any controlled substance.
- (2) No employee shall ingest any controlled or other dangerous substance, unless as prescribed by a licensed medical practitioner.
 - (a) Employees shall notify their supervisor when required to use prescription medicine that they have been informed has the potential to impair job performance. The employee shall advise the supervisor of the known side effects of such medication, as well as the prescribed period of use.
 - (b) The supervisor shall document this information through the use of an internal memorandum and maintain this memorandum in a secured file.
- (3) No employee shall ingest any prescribed or over-the-counter medication in amounts beyond the recommended dosage.
- (4) Any employee who intentionally ingests, or is made to ingest, a controlled substance shall immediately report the incident to his supervisor so that appropriate medical steps may be taken to ensure the officer's health and safety.
- (5) Any employee having a reasonable basis to believe that another employee is illegally using, or is in possession of any controlled substance, shall immediately report the facts and circumstances to his supervisor.
- (6) Termination of Police Department employees for violation of this policy shall be in accordance with the due process rights provided in the department's discipline and grievance procedures.

(B) **Probationary Employee Drug and Alcohol Testing.**

- (1) All probationary employees shall be required to participate in any unannounced mass/mandatory drug and alcohol testing scheduled for the probationary period. The frequency and timing of such tests shall be determined by the Chief of Police or the Police Department Committee of the Newton City Council.
- (2) In addition, where the probationary employee has a past history of alcohol abuse or drug use, he shall be required to submit to random testing until the probationary period is successfully completed. The frequency and timing of such testing shall be determined by the Chief or the Police Department Committee of the Newton City Council.

(C) **Employee Drug and Alcohol Testing.** Department employees will be required to take drug and alcohol tests in order to ascertain prohibited drug or alcohol use, as provided below:

- (1) The Chief of Police may order an employee to take drug and alcohol tests upon documented reasonable suspicion that the employee is

or has been using a drug or alcohol. A summary of the facts supporting the order shall be made available to the employee prior to the actual tests.

- (2) Drug and alcohol tests will be administered as part of any physical examination required by this department.
- (3) All department employees shall be uniformly tested during any unannounced, mass/mandatory testing required by the department.
 - (a) The Chief of Police or the Police Department Committee shall determine the frequency and timing of such tests.

(D)

Drug and Alcohol Testing Procedures.

- (1) The testing procedures and safeguards provided in this Article to ensure the integrity of department substance abuse testing shall be adhered to by any personnel administering drug tests.
- (2) Personnel authorized to administer substance abuse tests shall require positive identification from each employee to be tested before they enter the testing area.
- (3) A pre-test interview shall be conducted by testing personnel with each employee in order to ascertain and document the recent use of any prescription or non-prescription drugs, or any indirect exposure to drugs or alcohol that may result in a false positive test result.
- (4) The bathroom facility of the testing area shall be private and secure.
 - (a) Authorized testing personnel shall search the facility before an employee enters it to produce a urine sample, and document that it is free of any foreign substance.
 - (b) The employee to be tested shall disrobe before entering the bathroom facility and be provided a light robe.
 - (c) Testing personnel of the same sex as the employee shall observe production of the urine sample.
- (5) Where the employee appears unable or unwilling to give a specimen at the time of the tests, testing personnel shall document the circumstances on the test report form. The employee shall be permitted no more than **four (4) hours** to give a sample, during which time he shall remain in the testing area, under observation. Reasonable amounts of water may be given to the employee to encourage urination. Failure to submit a sample shall be considered a refusal to submit to a drug or alcohol test.
- (6) Employees shall have the right to request that their urine or blood sample be split and stored in case of legal disputes. The samples must be provided at the same time and marked and placed in identical specimen containers by authorized testing personnel. One sample shall be submitted for immediate drug and alcohol testing. The other shall remain at the facility in frozen storage. This sample shall be made available to the employee or his attorney should the original sample result in a legal dispute or the chain of custody is broken.

- (7) Specimen samples shall be sealed, labeled and checked against the identity of the employee to ensure the results match the tested specimen. Samples shall be stored in a secured and refrigerated atmosphere until testing or delivery to the testing lab representative.
- (8) Whenever there is a reason to believe that the employee may have altered or substituted the specimen to be provided, a second specimen shall be obtained immediately, under direct observation of the testing personnel.

(E)

Drug and Alcohol Testing Methodology.

- (1) The testing or processing phase shall consist of a two-step procedure:
 - (a) Initial Screening Test.
 - (b) Confirmation Test.
- (2) The urine or blood sample is first tested using the initial drug and alcohol screening procedure. An initial positive test result will not be considered conclusive, rather, it will be classified as "Confirmation Pending.". Notification of test result to the Chief of Police or the Police Department Committee shall be held until the confirmation test results are obtained.
- (3) A specimen testing positive will undergo an additional confirmatory test. The confirmation procedure shall be technically different and more sensitive than the initial screening test.
- (4) The drug and alcohol screening tests selected shall be capable of identifying marijuana, cocaine and every major drug of abuse including heroin, amphetamines and barbiturates, as well as alcohol. Personnel utilized for testing will be certified as qualified to collect urine or blood samples, whichever applies, or adequately trained in collection procedures.
- (5) Concentrations of a drug at or above the following levels shall be considered a positive test result when using the initial immunoassay drug screening test:

<u>Initial Test</u>	<u>Level NG/ml</u>
Marijuana metabolite	100
Cocaine metabolite	300
Opiate metabolite	300*
Phencyclidine	25
Amphetamines	1000
Barbiturates	200
Benzodiazepine	300
Methaqualone	750

*25 NG/ml is immunoassay-specific for free morphine.

Concentrations of a drug at or above the following levels shall be considered a positive test result when performing a confirmatory Gas Chromatography/Mass Spectrophotometry Test on a urine

specimen that tested positive using a technologically different initial screening method:

<u>Confirmatory Test</u>	<u>Level NG/ml</u>
Marijuana metabolite	15*
Cocaine metabolite	150**
Opiates	
Morphine	300+
Codine	300+
Phencyclidine	25
Amphetamines:	
Amphetamines	500
Methamphetamine	500
Barbiturates	200
Benzodiazefine	300
Methaqualone	750

*Delta-9--tetrahydrocannabinol-9-carboxylic acid

**Benzoyl ecgonine

25 NG/ml is immunoassay-specific for free morphine.

- (6) The listing of specific categories of drugs in subparagraph five (5) above shall not be deemed to prevent testing for other drugs of abuse nor be deemed to prevent discipline up to and including termination for a confirmatory positive test for such other drugs of abuse.
- (7) Concentrations of alcohol at or above 0.03% of alcohol in the blood stream shall be considered a positive test result, for both the initial screening and the confirmation test.
- (8) Employees who test positive in a confirmatory test at or above any one of the levels set forth in subparagraph five (5) and seven (7) above shall be terminated. This provision shall not be interpreted so as to prevent disciplinary actions, up to and including termination, for any other violations of this Article or abuse of other substances.
- (9) The laboratory selected to conduct the analysis shall be experienced and capable of quality control, documentation, chain-of-custody, technical expertise and demonstrated proficiency in urinalysis.
- (10) Employees having negative drug and alcohol test results shall receive a memorandum stating that neither illegal drugs nor alcohol were found. If the employee requests such, a copy of the letter will be placed in the employee's personnel file.
- (11) Any employee who breaches the confidentiality of testing information shall be subject to discipline.

(F)

Chain of Evidenced – Storage.

- (1) Each step in the collecting and processing of the urine and blood specimens shall be documented to establish procedural integrity and the chain of custody.

- (2) Where a positive result is confirmed, urine and blood specimens shall be maintained in secured, refrigerated storage for an indefinite period.
- (G) **Substance Abuse Test Results.**
- (1) All records pertaining to department-required substance abuse tests shall remain confidential, and shall not be provided to other employers or agencies without the written permission of the person whose records are sought.
- (2) Substance abuse test results and records shall be stored and retained in compliance with state laws, or for an indefinite period in a secured area where there is no applicable state law.

Article 26 – Beginning and Duration

This Agreement shall be in full force and effect from **May 1, 2012** through **April 30, 2016**, and shall automatically continue year to year thereafter. Either party desiring change or modification in the same shall notify the other party in writing at least **sixty (60) days** prior to **April 30, 2016**. Such other party must grant a meeting to the other party desiring the change within **thirty (30) days** after such notification.

Article 27 – Changes and Amendments

The parties agree that this Agreement is the complete Agreement between the parties: That there are no understandings, oral or written side agreements or interpretations and that no oral modification of this Agreement shall be permitted during its life, and that no written modification, amendment, change or agreement as to interpretation shall be made except by mutual, written agreement of the parties.

FOR THE CITY OF NEWTON

/s/ Mark Bolander
Mark Bolander, Mayor

Date: May 2, 2012

Date: _____

FOR THE UNION

/s/ Flint Taylor
Flint Taylor, Business Manager
Laborers' Local 1197

Date: May 7, 2012

Clint Taylor, Business Manager
Southern & Central Illinois
Laborers' District Council

Date: May 7, 2012

EXHIBIT "A"

SALARY SCHEDULE

Officers/Secretary

Each officer shall receive Thirty-Five Cents (\$0.35) per hour increase effective May 1, 2012. Each officer shall receive a Thirty-Five Cents (\$0.35) per hour increase in each remaining year of the Agreement.

The Secretary shall receive a Thirty-Five Cents (\$0.35) per hour increase effective May 1, 2012. The Secretary shall receive a Thirty-Five Cents (\$0.35) per hour increase in each remaining year of the Agreement.

The current Sergeant shall receive Seventy-Five Dollars (\$75.00) per month additional for duties and responsibilities of the Sergeant's position.

The current Corporal shall receive Twenty-Five Dollars (\$25.00) per month additional for duties and responsibilities of the Corporal's position.

Secretary's Salary Schedule (Sherry Hollinsworth)

1 st Year Base Pay Including Pension	2 nd Year Base Pay Including Pension	3 rd Year Base Pay Including Pension	4 th Year Base Pay Including Pension
\$17.80	\$18.15	\$18.50	\$18.85

Part-time employee wages shall not be set by this Agreement. The Chief of Police and the Newton City Council will determine part-time employee wages.

Effective upon ratification, employees who have been employed for one (1) year or more as of May 1st, 2012, will be issued a bonus check in the amount of Forty Dollars (\$40.00) for each year of employment. The bonus benefit will be capped at a maximum of five (5) years of employment which is Two Hundred Dollars (\$200.00).

EXHIBIT "A"

POLICE SALARY SCHEDULE May 1, 2012 through April 30, 2016

Months	1 st Year	Base Pay Including Pension 2012	2 nd Year	Base pay Including Pension 2013	3 rd Year	Base pay Including Pension 2014	4 th Year	Base Pay Including Pension 2015
0-6 mo	May-Dec 2012 \$18.38 Jan-Apr 2013 \$18.29	\$19.25	May-Dec 2013 \$18.64 Jan-Apr 2014 \$18.54	\$19.60	May-Dec 2014 \$18.89 Jan-Apr 2015 \$18.78	\$19.95	May-Dec 2015 \$19.13 Jan-Apr 2016 \$19.01	\$20.30
7-12 mo	May-Dec 2012 \$18.63 Jan-Apr 2013 \$18.54	\$19.50	May-Dec 2013 \$18.89 Jan-Apr 2014 \$18.79	\$19.85	May-Dec 2014 \$19.14 Jan-Apr 2015 \$19.03	\$20.20	May-Dec 2015 \$19.38 Jan-Apr 2016 \$19.26	\$20.55
13-18 mo		\$19.75	May-Dec 2013 \$19.14 Jan-Apr 2014 \$19.04	\$20.10	May-Dec 2014 \$19.39 Jan-Apr 2015 \$19.28	\$20.45	May-Dec 2015 \$19.63 Jan-Apr 2016 \$19.51	\$20.80
19-24 mo		\$20.00	May-Dec 2013 \$19.39 Jan-Apr 2014 \$19.29	\$20.35	May-Dec 2014 \$19.64 Jan-Apr 2015 \$19.53	\$20.70	May-Dec 2015 \$19.88 Jan-Apr 2016 \$19.76	\$21.05
25-30 mo		\$20.25		\$20.60	May-Dec 2014 \$19.89 Jan-Apr 2015 \$19.78	\$20.95	May-Dec 2015 \$20.13 Jan-Apr 2016 \$20.01	\$21.30
31-36 mo		\$20.50		\$20.85	May-Dec 2014 \$20.14 Jan-Apr 2015 \$20.03	\$21.20	May-Dec 2015 \$20.38 Jan-Apr 2016 \$20.26	\$21.55
37 mo		\$20.75		\$21.10		\$21.45	May-Dec 2015 \$20.63 Jan-Apr 2016 \$20.51	\$21.80

Twenty-Five Cents (\$0.25) progressive raise per hour every six (6) months of employment ending at the thirty-seventh (37th) month.

Thirty-Five Cents (\$0.35) per hour increase every year of the Agreement.

EXHIBIT "B"

**DUES AUTHORIZATION FORM
CITY OF NEWTON**

You are hereby authorized and requested to deduct from wages hereafter due me, and payable on the first and second pay due in each calendar month, such sums for Union fees, assessments and dues as may be certified due from me to Laborers' Local 1197 by the Secretary-Treasurer of said Union. You are hereby authorized and directed to pay the amount deducted to the Secretary-Treasurer of Laborers' Local 1197 for my account on or before the thirtieth (30th) day of the calendar month, for which said deductions are made.

You are further authorized and requested to continue monthly deduction unless a thirty (30) day written notice is given to you, from me, advising the discontinuation of such deduction.

Dues, fees, contributions or gifts to Laborers' Local #1197 are not deductible as charitable contributions. However, they may be tax deductible as ordinary business expenses.

Print Name

Address

Social Security Number

City

State

Zip

Telephone number

email address

Signature

Date

CHAPTER 14

FAIR HOUSING CODE

14-1-1 SHORT TITLE. This Code shall be known and may be cited as the Fair Housing Code of the City.

14-1-2 PURPOSE AND DECLARATION OF POLICY. It is hereby declared to be the policy of the City and the purpose of this Code, in the exercise by the City of its police and regulatory powers for the protection of the public safety for the health, morals, safety, and welfare of the persons in and residing in the City, and for the maintenance and promotion of commerce, industry and good government in the City, to secure to all persons living or desiring to live in the City a fair opportunity to purchase, lease, rent, or occupy housing without discrimination based on race, color, religion or national origin.

14-1-3 CONSTRUCTION. This Code shall be construed according to the fair import of its terms and shall be liberally construed to further the purposes and policy stated in Section 14-1-2 and the special purposes of the particular provision involved.

14-1-4 DEFINITIONS. For the purposes of this Code:

(A) **“Dwelling”** means any building or structure, or portion thereof, within the City which is arranged, designed or used as a home, residence or living quarters of one or more individuals.

(B) **“Housing”** includes any building or structure, or portion thereof, within the City, which is used or occupied or is intended, arranged or designed to be used or occupied as the home, residence or living quarters of one or more individuals, groups or families, and includes any vacant land within the City which is zoned and intended to be used for the construction of any such building or structure.

(C) **“Lease”** includes sublease, assignment, and rent (or rental), and includes any contract to do any of the foregoing.

(D) **“Lending institution”** means any bank, insurance company, savings and loan association, other person in the business of lending money or guaranteeing loans, any person in the business of obtaining, arranging or negotiating loans or guarantees as agent or broker, and any person in the business of buying or selling loans or instruments for the payment of money which are secured by title to a security interest in real estate, but shall not include any religious institution or organization nor any charitable or educational organization operated, supervised or controlled by a religious institution or organization.

(E) **“National origin”** includes the national origin of an ancestor.

(F) **“Owner”** means any person who holds legal or equitable title to, or owns any beneficial interest in, any Dwelling or Housing, or who holds legal or equitable title to shares of, or holds any beneficial interest in, any real estate cooperative which owns any Dwelling or Housing.

(G) **“Person”** includes one or more individuals, corporations, partnerships, associations, legal representatives, mutual companies, unincorporated organizations, trusts, trustees, trustees in bankruptcy, receivers and fiduciaries.

(H) **“Purchase”** includes any contract to purchase.

(I) **“Real estate agent”** means any real estate broker, and real estate salesman, and any other person who, as employee or agent or otherwise, engages in the management or operation of any Dwelling or Housing.

(J) **“Real estate broker”** means any person licensed as a real estate broker in accordance with the provisions of the Illinois Compiled Statutes, or required thereby to be so licensed. (See 225 ILCS Sec. 455/1 et seq.)

(K) **“Real estate salesman”** means any person licensed as a real estate salesman in accordance with the provisions of the Illinois Compiled Statutes, or required thereby to be so licensed.

(L) **“Real estate transaction”** means the purchase, sale, exchange, or lease of any Dwelling or Housing, and an option to do any of the foregoing.

(M) **“Sale”** includes any contract to sell, exchange, or to convey, transfer or assign legal or equitable title to or a beneficial interest in real estate.

14-1-5 DISCRIMINATORY TERMS. It shall be an unlawful housing practice and a violation of this Code for any owner or other person to sell or lease a dwelling or housing on terms, conditions or privileges that discriminate between persons because of race, color, religion or national origin.

14-1-6 REFUSALS TO DEAL. It shall be an unlawful housing practice and a violation of this Code for any owner or other person to refuse to negotiate for, enter into, or perform any sale or lease of any dwelling or housing, because of the race, color, religion or national origin of any party, to such sale or lease, or of any member of the family of any such party, or of any person using or occupying or intending to use or occupy such dwelling or housing, or of any person using or occupying any dwelling or housing in the area in which such dwelling or housing is located.

14-1-7 WITHHOLDING HOUSING. It shall be an unlawful housing practice and a violation of this Code for any owner or other person to represent to any person that any dwelling or housing is not available for inspection, purchase, sale, lease, or occupancy when in fact it is so available, or otherwise to withhold housing from any person because of race, color, religion or national origin.

14-1-8 ADVERTISEMENTS. It shall be an unlawful housing practice and a violation of this Code for any owner or other person to publish or circulate a statement, advertisement or notice of an intention to sell or lease any dwelling or housing in a manner that is unlawful under this Code.

14-1-9 ADVERTISEMENTS, CAUSING OR PERMITTING. It shall be an unlawful housing practice and a violation of this Code for any owner or other person to cause any person to circulate or publish a statement, advertisement or notice that such owner or other person intends to sell or lease any dwelling or housing in a manner that is unlawful under this Chapter, or to consent thereto.

14-1-10 SIGNS AND NOTICES. It shall be an unlawful housing practice and a violation of this Code for any owner or other person to post or erect, or cause any person to post or erect, any sign or notice upon any dwelling or housing, indicating an intent to sell or lease any dwelling or housing in a manner that is unlawful under this Chapter.

14-1-11 EXEMPTIONS. This Code shall not apply to the rental of any room or dwelling unit in any owner-occupied dwelling which consists of more than one (1) but less than five (5) dwelling units. As used herein, the term “dwelling unit” means one (1) or more rooms which are arranged, designed, or used as living quarters for one (1) family or one (1) individual. The term owner includes the spouse or any lineal descendant or ancestor of the owner.

14-1-12 LIMITATIONS. Nothing in this Code shall require an owner to offer property to the public at large before selling or renting it, providing he complies with all other provisions of this Code. Nor shall this Code be deemed to prohibit owners from giving preference to prospective tenants or buyers for any reason other than religion, race, color or national origin. Nothing in this Code shall require an owner to offer property for sale or lease or to show his property to any person if such person is not negotiating for the purchase or lease of such property in good faith.

14-1-13 WITHHOLDING HOUSING. It shall be an unlawful housing practice and a violation of this Code for any real estate agent or other person to represent to any person that any dwelling or housing is not available for inspection, sale, lease or occupancy when in fact it is so available or otherwise to withhold housing from any person because of race, color, religion or national origin.

14-1-14 REFUSALS OF OFFERS. It shall be an unlawful housing practice and a violation of this Code for any real estate agent or other person to refuse to receive or to fail to transmit a bonafide offer for the purchase, sale, exchange or lease of any dwelling or housing because of the race, color, religion or national origin of the person making such offer.

14-1-15 ADVERTISEMENTS. It shall be an unlawful housing practice and a violation of this Code for any real estate agent or other person to publish or circulate a statement, advertisement or notice of an intention to sell or lease any dwelling or housing in a manner that is unlawful under this Code.

14-1-16 SIGNS AND NOTICES. It shall be an unlawful housing practice and a violation of this Code for any real estate agent or other person to post or erect, or cause or permit any person to post or erect, any sign or notice upon any dwelling or housing, other person, indicating an intent to sell or lease any dwelling or housing in a manner that is unlawful under this Code.

14-1-17 RESERVED.

14-1-18 DISCRIMINATION IN LENDING. It shall be an unlawful housing practice and a violation of this Code for any lending institution, in making, agreeing to make, arranging, or negotiating any loan or guarantee of funds for the purpose of financing the purchase or sale, construction, lease, rehabilitation, improvement, renovation or repair of any dwelling or housing, to offer, seek or agree to terms, conditions or privileges that discriminate between persons because of race, color, religion or national origin.

14-1-19 REFUSALS TO DEAL IN LENDING. It shall be an unlawful housing practice and a violation of this Code for any lending institution to refuse to negotiate for, enter into or perform any agreement to lend or guarantee the loan of funds for the purchase, sale, construction, lease, rehabilitation, improvement, renovation or repair of any dwelling or housing because of the race, color, religion or national origin of any party to such agreement or of any member of the family of any such party, or of the residents of the area in which such dwelling or housing is located.

14-1-20 COVERAGE. This Code shall apply, respectively, to every real estate agent who, within the City, performs any function as such real estate agent but does not maintain an office or place of doing business within the City, and this Code applies to every real estate agent and lending institution who maintains an office or place of doing business within the City; provided, however, that the provisions of this Code shall not be so construed as to prohibit a real estate broker or real estate agent on behalf of the owner, from inquiring into and reporting upon qualifications of any prospective buyer or tenant with respect to limitations or exclusions other than those of race, color, religion or national origin.

14-1-21 REPRESENTATION. It shall be an unlawful housing practice and a violation of this Code for any person, for the purpose of inducing any other person to enter into a real estate transaction with such person, his principal or his agent.

(A) To represent that a change has occurred, will occur or may occur with respect to the race, color, religion or national origin in composition of the owners or occupants in any block, neighborhood or area in which the dwelling or housing (which is the subject of the real estate transaction) is located, or

(B) To represent that a change with respect to the race, color, religion or national origin in the composition of the owners or occupants in any block, neighborhood or area will result

in lowering of property values, or in an increase in criminal or anti-social behavior, or in a decline in the quality of schools, in such block, neighborhood or area.

14-1-22 OTHER VIOLATIONS. It shall be an unlawful housing practice and a violation of this Code for any person:

- (A) To aid, abet, incite, or coerce a person to engage in unlawful housing practice,
- (B) Willfully to interfere with the performance of a duty or the exercise of a power by the City Council or one of its members or representatives, or
- (C) Willfully to obstruct or prevent a person from complying with the provisions of this Code or an order issued thereunder.

14-1-23 COMPLAINTS.
(A) Any person aggrieved in any manner by a violation of any provisions of this Code may file with the City Council a written verified complaint setting forth his grievance. The complaint shall state:

- (1) the name and address of the complaint;
 - (2) the name and address of the person against whom the complaint is brought, if known to the complainant; and
 - (3) the alleged facts surrounding the alleged violation of this Code; and such complaint shall state the name and address of all persons believed to have knowledge concerning the alleged facts.
- (B) After the filing of any complaint, the City Council shall serve a copy of the complaint on the party or parties charged.

14-1-24 HEARINGS BY CITY COUNCIL.
(A) Such hearing shall be conducted by the City Council upon due and reasonable notice to all parties. The City Council shall have power to administer oaths and to take sworn testimony. Any party alleged to have violated this Code shall be entitled to be represented by counsel and shall have the right to call witnesses in his own behalf and to cross-examine witnesses.

(B) At the conclusion of such hearing, the City Council shall render the complainant a decision.

14-1-25 ENFORCEMENT.
(A) The City Council shall be empowered to order any person found to be engaging in an unfair housing practice to cease and desist from such practice, upon such terms as shall be necessary and proper for the enforcement of this Code.

- (B) The City Council shall be empowered at the conclusion of proceedings held under Section 14-1-24, to direct the City Attorney to do any one or more of the following:
- (1) To institute and prosecute proceedings to enforce, against any person found in violation of this Code, the fine provided for in Section 14-1-27 below;
 - (2) To apply to any court of competent jurisdiction;

- (a) for an order restraining any person from violating any provision of this Code.
- (b) for such other or further relief as may seem to the court appropriate for the enforcement of this Code and the elimination of violations hereof.
- (3) To petition or institute proceedings with the Department of Registration and Education for the purpose of causing the Department to revoke, suspend or refuse to renew the license granted by such Department to any real estate broker or real estate salesman found to have violated any provision of this Code.
- (4) In the case of any unlawful housing practice or violation of this Code by any person in the course of performing under a contract or subcontract with the State or any political subdivision or agency thereof, or with the United States of America or any agency or instrumentality thereof, to petition or institute proceedings with such contracting agency for the purpose of causing it to terminate such contract or any portion thereof, either absolutely or on condition of compliance with the provisions of this Code.

(C) The City Council may issue such cease and desist orders and may direct such action by the City Attorney, as shall be necessary for the enforcement of this Code.

14-1-26 REMEDIES. Any person aggrieved in any manner by the violation of any provision of this Code who has exhausted the remedies provided in Section 14-1-24 of this Code may apply to any court of competent jurisdiction for appropriate relief from such violation, including:

- (A) An order compelling compliance with this Code;
- (B) An order to prohibit any person found by the court to have violated any provision of this Code from the sale, lease, exchange, transfer, conveyance or assignment of any dwelling or housing which is the subject of such violation;
- (C) An order requiring specific performance of any contract for the sale, lease, exchange, transfer, conveyance or assignment of any dwelling or housing or any person who, in violation of this Code, refuses or fails to perform such contract;
- (D) Compensatory damages; and
- (E) Such other and further relief as may seem to the court appropriate for the enforcement of this Code and the elimination of violations hereof.

14-1-27 FINES. Any person who violates any provision of this Code, upon conviction, shall be subject to a fine not to exceed **Seven Hundred Fifty Dollars (\$750.00)**.

(See ILCS Sec. 5/11-11.1-1)

CHAPTER 15

FLOOD PLAIN CODE

15-1-1 PURPOSE. This Code is enacted pursuant to the police powers granted to this City by the Illinois Compiled Statutes, Chapter 65, Sections 5/1-2-1, 5/11-12-12, 5/11-30-2, 5/11-30-8, and 5/11-31-2) in order to accomplish the following purposes:

- (A) To prevent unwise developments from increasing flood or drainage hazards to others;
- (B) To protect new buildings and major improvements to buildings from flood damage;
- (C) To promote and protect health, safety and general welfare of the citizens from the hazards of flooding;
- (D) To lessen the burden on the taxpayer for flood control, repairs to public facilities and utilities, and flood rescue and relief operations;
- (E) To maintain property values and a stable tax base by minimizing the potential for creating blight areas;
- (F) To make federally subsidized flood insurance available; and
- (G) To recognize the environmental sensitivity of floodplains and to encourage their protection from inappropriate growth and development.

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

ADMINISTRATOR: The Mayor or some person appointed by him to execute this Code.

BASE FLOOD: The flood having a **one percent (1%)** probability of being equaled or exceeded in any given year. The base flood is also known as the 100-year flood. The base flood elevation at any location is as defined in Section 15-1-3 of this Code.

BASE FLOOD ELEVATION (BFE): The elevation in relation to mean sea level of the crest of the base flood.

BUILDING: A structure that is principally above ground and is enclosed by walls and a roof including manufactured homes and prefabricated buildings. The term also includes recreational vehicles and travel trailers to be installed on a site for more than **one hundred eighty (180) days**.

[NOTE: The NFIP requires that references be made to “manufactured homes” rather than “mobile homes”.]

DEVELOPMENT: Any man-made change to real estate including:

- (A) Construction, reconstruction, or placement of a building, or any addition to a building, exceeding **seventy (70) square feet** in floor area;
- (B) Substantial improvement of an existing building;

(C) Installation of a manufactured home on a site, preparing a site for a manufactured home, or installing a travel trailer on a site for more than **one hundred eighty (180) days**;

(D) Installation of utilities, construction of roads, bridges, culverts or similar projects;

(E) Construction or erection of levees, dams, walls, or fences;

(F) Drilling, mining, filling, dredging, grading, excavating, paving, or other alterations of the ground surface;

(G) Storage of materials including the placement of gas and liquid storage tanks; and

(H) Channel modifications or any other activity that might change the direction, height, or velocity of flood or surface waters.

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

FEMA: Federal Emergency Management Agency.

[NOTE: FEMA regulations can be found at 44 CFR 59-79 effective October 1, 1986 (revised 10/01/90).]

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

FLOOD FRINGE: That portion of the floodplain outside of the regulatory floodway.

FLOOD INSURANCE RATE MAP: A map prepared by the Federal Emergency Management Agency that depicts the floodplain or special flood hazard area (SFHA) within a community.

FLOODPLAIN AND SPECIAL FLOOD HAZARD AREA (SFHA): They are synonymous. Those lands within the jurisdiction of the City that are subject to inundation by the base flood. The floodplains of the City are generally identified as such on the Flood Insurance Rate Map of the City prepared by the Federal Emergency Management Agency and dated **September 24, 1984**. The floodplains of those parts of unincorporated **Jasper County** that are within the extraterritorial jurisdiction of the City or that may be annexed into the City are generally identified as such on the Flood Insurance Rate Map prepared for **Jasper County** by the Federal Emergency Management Agency and dated **July 27, 1979**.

FLOODPROOFING: Any combination of structural or nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate, property and their contents.

FLOODPROOFING CERTIFICATE: A form published by the Federal Emergency Management Agency that is used to certify that a building has been designed and constructed to be structurally dry floodproofed to the flood protection elevation.

FLOOD PROTECTION ELEVATION OR FPE: The elevation of the base flood plus **one (1) foot** of freeboard at any given location in the floodplain.

[ED. NOTE: NFIP Regulations require protection to or above the base flood elevation. One (1) foot of freeboard is recommended by IDOT/DWR. A municipality may use higher freeboard requirements if it desires.]

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

IDOT/DWR: Illinois Department of Transportation/Division of Water Resources.

MANUFACTURED HOME: A structure transportable in **one (1)** or more sections, that is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities.

NFIP: National Flood Insurance Program.

SFHA: See definition of floodplain.

SUBSTANTIAL IMPROVEMENT: Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds **fifty percent (50%)** of the market value of the structure either, (a) before the improvement or repair is started, or (b) if the structure has been damaged, and is being restored, before the damage occurred.

SUBSTANTIAL IMPROVEMENT: is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or (2) any alteration of a structure listed on the National Register of Historic Places or the Illinois Register of Historic Places.

15-1-3 BASE FLOOD ELEVATION. This Code's protection standard is the base flood. The best available base flood elevation data are listed below. **Whenever a party disagrees with the best available data, the party may finance the detailed engineering study needed to replace the existing data with better data and submit it to the Federal Emergency Management Agency for approval.**

[See: NFIP Requirement: 44 CFR 60.3(b).]

(A) The base flood elevation for each of the floodplains delineated as an "A Zone" on the Flood Insurance Rate Map of the City shall be according to the best data available from Federal, State or other sources. Should no other data exist, an engineering study must be financed to determine base flood elevations.

(B) The base flood elevation for the floodplains of those parts of unincorporated **Jasper County** that are within the extraterritorial jurisdiction of the City, or that may be annexed

into the City, shall be as delineated on the 100-year flood profiles of the Flood Insurance Study of **Jasper County** prepared by the Federal Emergency Management Agency.

15-1-4 DUTIES OF THE BUILDING OFFICIAL. The Administrator shall be responsible for the general administration of this Code and ensure that all development activities within the floodplains under the jurisdiction of the City meet the requirements of this Code. Specifically, the Administrator shall:

- (A) Process development permits in accordance with Section 15-1-5;
- (B) Ensure that all development in a floodway (or a floodplain with no delineated floodway) meets the damage prevention requirements of Section 15-1-6.
- (C) Ensure that the building protection requirements for all buildings subject to Section 15-1-7 are met and maintain a record of the “as-built” elevation of the lowest floor (including basement) or floodproof certificate;

[See: NFIP Requirements: 44 CFR 60.3(b)(5)(iii) and 59.22(a)(9)(iii).]

- (D) Assure that all subdivisions and annexations meet the requirements of Section 15-1-8;
- (E) If a variance is requested, ensure that the requirements of Section 15-1-9 are met and maintain documentation of any variances granted;
- (F) Inspect all development projects and take any and all actions outlined in Section 15-1-11 as necessary to ensure compliance with this Code;
- (G) Assure that applicants are aware of and obtain any and all other required local, state and federal permits;
- (H) Provide information and assistance to citizens upon request about permit procedures and floodplain construction techniques;
- (I) Cooperate with State and Federal floodplain management agencies to coordinate base flood data and to improve the administration of this Code; and
- (J) Maintain for public inspection base flood data, floodplain maps, copies of state and federal permits, and documentation of compliance for development activities subject to this Code.

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

(A) **Application Documents.** The application for development permit shall be accompanied by:

- (1) drawings of the site, drawn to scale showing property line dimensions;
- (2) existing grade elevations and all changes in grade resulting from excavation or filling;
- (3) the location and dimensions of all buildings and additions to buildings, and
- (4) the elevation of the lowest floor (including basements) of all proposed buildings subject to the requirements of Section 15-1-7 of this Code.

(B) **Elevation Comparisons.** Upon receipt of an application for development permit, the Administrator shall compare the elevation of the site to the base flood elevation. Any development located on land that can be shown by survey data to have been higher than the base flood elevation as of the date of the site's first Flood Insurance Rate Map identification is not in the floodplain and therefore not subject to the requirements of this Code.

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

[ED. NOTE: Although survey data may show the development site to be entirely above the base flood elevation, a Letter of Map Amendment (LOMA) will still be required to remove the site from the mapped floodplain for insurance requirements.]

15-1-6 PREVENTING INCREASED FLOOD HEIGHTS AND RESULTING DAMAGES. Within the City's floodplains, the following standards shall apply:

[NFIP Requirements: 44 CFR 60.3(a)(4)(1), 60.3(c)(10), and 60.3(d)(3).]

(A) Except as provided in Section 15-1-6(B), no development shall be allowed which, acting in combination with existing and anticipated development, will cause any increase in flood heights or velocities or threat to public health and safety. The following specific development activities shall be considered as meeting this requirement:

- (1) Barge fleeting facilities meeting the conditions of IDOT/DWR Statewide Permit No. 3;
- (2) Aerial utility crossings meeting the conditions of IDOT/DWR Statewide Permit No. 4;
- (3) Minor boat docks meeting the conditions of IDOT/DWR Statewide Permit No. 5;
- (4) Minor, non-obstructive activities meeting the conditions of IDOT/DWR Statewide Permit No. 6;
- (5) Outfall structures and drainage ditch outlets meeting the conditions of IDOT/DWR Statewide Permit No. 7;
- (6) Underground pipeline and utility crossings meeting the conditions of IDOT/DWR Statewide Permit No. 8;
- (7) Bank stabilization projects meeting the conditions of IDOT/DWR Statewide Permit No. 9;
- (8) Accessory structures and additions to existing residential buildings meeting the conditions of IDOT/DWR Statewide Permit No. 10;
- (9) Minor maintenance dredging activities meeting the conditions of IDOT/DWR Statewide Permit No. 11; and
- (10) Any development determined by IDOT/DWR to be located entirely in a flood fringe area.

(B) Other development activities not listed in (A) may be permitted only if:

- (1) A permit has been issued for the work by IDOT/DWR (or written documentation is provided that an IDOT/DWR permit is not required); and

- (2) Sufficient data has been provided to FEMA when necessary to approve a revision of the regulatory map and base flood elevation.

(See 615 ILCS Sec. 5/5 through 29A)

15-1-7 PROTECTING BUILDINGS.

(A) **Requirements.** In addition to the damage prevention requirements of Section 15-1-6, all buildings to be located in the floodplain shall be protected from flood damage below the flood protection elevation. This building protection requirement applies to the following situations:

- (1) Construction or placement of a new building valued at more than **One Thousand Dollars (\$1,000.00)**;
- (2) Substantial improvements made to an existing building;
- (3) Structural alterations made to an existing building that increase the floor area by more than **twenty percent (20%)**;
- (4) Installing a manufactured home on a new site or a new manufactured home on an existing site (the building protection requirements do not apply to returning a manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage); and
- (5) Installing a travel trailer on a site for more than **one hundred eighty (180) days**.

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

[See NFIP Requirements: 44 CFR 60.3(c)(2).]

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

[See: NFIP Requirements: 44 CFR 60.3(a)(3) and 60.3(c)(5).]

 - (a) The building or improvements shall be elevated on stilts, piles, walls, or other foundation that is permanently open to flood waters;

- (b) The lowest floor and all electrical, heating, ventilating, plumbing, and air conditioning equipment and utility meters shall be located at or above the flood protection elevation;
- (c) If walls are used, all fully enclosed areas below the base flood elevation shall address hydrostatic pressures by having a minimum of **two (2)** permanent openings no more than **one (1) foot** above grade and providing a total net area of not less than **one (1) square inch** for every **one (1) square foot** of enclosed area subject to flooding below the base flood elevation;
- (d) the foundation and supporting members shall be anchored and aligned in relation to flood flows and adjoining structures so as to minimize exposure to hydrodynamic forces such as current, waves, ice and floating debris;
- (e) all structural components below the flood protection elevation shall be constructed of materials resistant to flood damage;
- (f) water and sewer pipes, electrical and telephone lines, submersible pumps, and other service facilities may be located below the flood protection elevation provided they are waterproofed; and
- (g) no area below the flood protection elevation shall be used for storage of items or materials.

(C) Manufactured homes and travel trailers to be installed on site for more than **one hundred eighty (180)** days shall be:

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

(D) **Non-Residential** buildings may be structurally floodproofed (in lieu of elevation) provided a registered professional engineer certifies that:

- (1) below the flood protection elevation, the structure and attendant utility facilities are watertight and capable of resisting the effects of the base flood;
- (2) the building design accounts for flood velocities, duration, rate of rise, hydrostatic and hydrodynamic forces, the effects of buoyancy, and impact from debris and ice; and
- (3) floodproofing measures will be operable without human intervention and without an outside source of electricity.

Levees, berms, floodwalls and similar works are not considered floodproofing for the purpose of this subsection.

[See NFIP Requirements: 44 CFR 60.3(c)(4).]

15-1-8 SUBDIVISION AND OTHER DEVELOPMENT REQUIREMENTS. The City Council shall take into account flood hazards, to the extent that they are known, in all official actions related to land management use and development.

(A) **Data Required.** New subdivisions, manufactured home parks, annexation agreements, planned unit developments, and additions to manufactured home parks and subdivisions shall meet the damage prevention and building protection standards of Sections 15-1-6 and 15-1-7 of this Code. Any proposal for such development shall include the following data:

- (1) The base flood elevation and the boundary of the floodplain (where the base flood elevation is not available from an existing study, the applicant shall be responsible for calculating the base flood elevation);
- (2) The boundary of the floodway when available; and
- (3) A signed statement by a Registered Professional Engineer that the proposed plat or plan accounts for changes in the drainage of surface waters in accordance with the Plat Act (**See 765 Illinois Compiled Statutes, Sec. 205/2**).

(B) **Health Standards.** Public health standards must be met for all floodplain development. In addition to the requirements of Sections 15-1-6 and 15-1-7, the following standards apply:

- (1) No development in the floodplain shall include locating or storing chemicals, explosives, buoyant materials, flammable liquids, pollutants, or other hazardous or toxic materials below the flood protection elevation unless such materials are stored in a storage tank or floodproofed building constructed according to the requirements of Section 15-1-7 of this Code.
- (2) New and replacement sanitary sewer lines and on-site waste disposal systems may be permitted providing all manholes or other above ground openings located below the flood protection elevation are watertight.

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

[ED. NOTE: This section sets minimum subdivision design review and recording standards when subdivisions are located within a floodplain. It also provides guidance for other activities defined as “development” which may occur in a floodplain. NFIP Requirement: 44 CFR 60.2(c)]

NFIP Requirement: 44 CFR 60.3(b)(3) only applies to subdivisions greater than five (5) acres or fifty (50) lots.

All new plats recorded must show the location of any floodplains and must be signed, sealed, and certified by an Illinois Registered Land Surveyor as per the requirements of Public Act 85-267.]

15-1-9 VARIANCES. Whenever the standards of this Code place undue hardship on a specific development proposal, the applicant may apply to the Appeals Board for a variance. The Appeals Board shall review the applicant's request for a variance and shall submit its

recommendation to the City Council. The City Council may attach such conditions to granting of a variance as it deems necessary to further the intent of this Code.

(A) **Requirements for Variance.** No variance shall be granted unless the applicant demonstrates that:

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

[65 ILCS Sec. 5/11-13-4 and 5/11-13-5 establishes specific municipal zoning variance criteria.]

(B) **Notification of Applicant.** The Administrator shall notify an applicant in writing that a variance from the requirements of the building protection standards of Section 15-1-7 would lessen the degree of protection to a building will:

- (1) Result in increased premium rates for flood insurance up to **Twenty-Five Dollars (\$25.00)** for **One Hundred Dollars (\$100.00)** of insurance coverage;
- (2) Increase the risks to life and property; and
- (3) Require that the applicant proceed with knowledge of these risks and that the applicant acknowledge in writing the assumption of the risk and liability.

[NOTE: The Standard Flood Insurance Policy permits an insurance adjuster to not pay for damage that was caused by something the owner did which increased the hazard to the property. Section 1316 of the National Flood Insurance Act authorizes local officials to request denial of flood insurance for buildings in violation of local floodplain codes.]

(C) Variances to the building protection requirements of Section 15-1-7 of this Code requested in connection with the reconstruction, repair or alteration of a site or building included on the National Register of Historic Places or the Illinois Register of Historic Places may be granted using criteria more permissive than the requirements of Section 15-1-19 (A)(1-5).

[NOTE: Communities in the NFIP are required to maintain a record of all variance actions, including justification for their issuance, and report them to FEMA. FEMA may review variances and suspend a community from the NFIP if the review “indicates a pattern inconsistent with the objectives of sound floodplain management...”]

15-1-10 DISCLAIMER OF LIABILITY. The degree of protection required by this Code is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods may occur or flood heights may be increased by man-made or natural causes. This Code does not imply that development either inside or outside of the floodplain will be free from flooding or damage. This Code does not create liability on the part of the City or any officer or employee thereof for any flood damage that results from reliance on this Code or any administrative decision made lawfully thereunder.

15-1-11 PENALTY. Failure to obtain a permit for development in the floodplain or failure to comply with the conditions of a permit or a variance shall be deemed to be a violation of this Code. Upon due investigation, the Administrator may determine that a violation of the minimum standards of this Code exist. The Administrator shall notify the owner in writing of such violation.

(A) If such owner fails, after **ten (10) days'** notice, to correct the violation:

- (1) The City may make application to the Circuit Court for an injunction requiring conformance with this Code or make such other order as the court deems necessary to secure compliance with this Code.
- (2) Any person who violates this Code shall, upon conviction thereof, be fined not less than **Seventy-Five Dollars (\$75.00)** nor more than **Seven Hundred Fifty Dollars (\$750.00)**.
- (3) A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

(B) The City Attorney shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a Standard Flood Insurance Policy to be suspended.

(C) Nothing herein shall prevent the City from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

15-1-12 ABROGATION AND GREATER RESTRICTIONS. This Code repeals and replaces other ordinances adopted by the City Council to fulfill the requirements of the National Flood Insurance Program including: _____. However, this Code does not repeal the original ordinance adopted to achieve eligibility in the Program. Nor does this Code repeal, abrogate, or impair any existing easements, covenants or deed restrictions. Where this Code and other ordinance easements, covenants or deed restrictions conflict or overlap, whichever imposes the more stringent restrictions shall prevail. [See: **NFIP Requirement: 44 CFR 60.2(B).**]

(See 65 ILCS 5/1-2-1; 5/11-12-12; 5/11-30-2; 5/11-30-8 and 5/11-31-2)

CHAPTER 16

FRANCHISES

ARTICLE I - GAS UTILITY SYSTEM

16-1-1 **FRANCHISE CONTRACT.** The existing contract with Ameren Illinois Company d/b/a Ameren Illinois is attached hereto as Exhibit "A". (**Ord. No. 11-4; 05-17-11**)

EXHIBIT "A"

AN ORDINANCE RENEWING AN EXISTING FRANCHISE AND GRANTING FOR A PERIOD OF 20 YEARS TO AMEREN ILLINOIS, A CORPORATION, ITS SUCCESSORS AND ASSIGNS, THE FRANCHISE, RIGHT, PERMISSION AND AUTHORITY TO CONSTRUCT, RECONSTRUCT, EXCAVATE FOR, PLACE, REMOVE, EXTEND, MAINTAIN, AND OPERATE A GAS UTILITY SYSTEM IN THE CITY OF NEWTON, COUNTY OF JASPER AND STATE OF ILLINOIS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEWTON, COUNTY OF JASPER, AND THE STATE OF ILLINOIS, AS FOLLOWS:

Section 1. It is the intent of the parties by this Ordinance to extend for an additional term, subject to the terms and conditions here stated, the authorization to Ameren Illinois, its successors and assigns, to construct, operate and maintain a gas utility system within the City as originally authorized by an Ordinance No. 334 approved on **July 18, 1961**. The parties acknowledge that by so doing they are continuing an existing relationship authorizing the services of a utility for the provision of gas energy and other purposes within the City for the benefit of its citizens and residents as well as other consumers of gas energy located within its corporate limits.

Section 2. There is hereby given and granted to Ameren Illinois, its successors and assigns (hereinafter referred to as the "Company"), the right, privilege and authority to construct, operate, maintain and/or extend within the corporate limits, as the same now exists or may hereafter be extended, of the City of Newton (hereinafter referred to as "Municipality"), a gas utility system for the transmission, distribution and/or sale of gas energy or other purposes (the "System"), together with the right, privilege and authority to lay, erect, construct, install, operate and/or maintain all necessary mains, pipes, valves, equipment and/or other apparatus as may be necessary or convenient for the System, in, upon, along, over, under, through and/or across each and all of the streets, avenues, alleys, bridges, easements, rights of way and/or other public places as agreed upon by both parties.

Section 3. All mains, pipes, valves and apparatus shall, so far as practicable, be placed underground and shall be so located and laid as not to interfere with any pipes, conduits, sewers, drains, pavements or other public improvements existing at the time of such location, and said Company shall forthwith repair any damage caused to such improvements to the satisfaction of the official or officials of said Municipality having charge of the supervision thereof. There shall be no unnecessary obstruction to the streets, avenues, alleys and public places of said

Municipality in the laying, installation, operation or maintenance of any of said mains, pipes, valves or apparatus. All facilities of Company in said Municipality shall be installed and maintained in accordance with the applicable rules and regulations of the Illinois Commerce Commission.

When any street, avenue, or other public place shall be graded, curbed, paved or otherwise changed so as to make the resetting or relocation of any pipes or other equipment placed or installed under this Ordinance necessary, the Company shall make such resetting or relocation, at the Company's cost and expense. Municipality shall provide the Company with a suitable location for the resetting or relocation of such pipes or other equipment, and the Company's obligation shall be limited to resetting or relocating pipes or other equipment of the same type and configuration as the displaced pipes or other equipment. Company shall make such resetting or relocation within a reasonable time after receiving written notice of the need for the same from the authorized representative of the Municipality, and the establishment by the Municipality of the permanent grade at the new location.

Section 4. When any street, avenue, alley, bridge, easement, right of way and/or other public place, upon which or in which any facilities of Company have been placed, shall be graded, curbed, paved or otherwise changed by the Municipality so as to make the resetting or reconstruction of such facilities necessary, Company shall make such necessary change in construction at no cost to Municipality. Should it become necessary or should the Company desire to use conduits or other similar fixtures, Company shall make application to the Municipality for the establishment of permanent grades and such conduits or other similar fixtures shall not be installed until such permanent grades have been established. The Municipality agrees to establish promptly such permanent grades upon such application.

Section 5. The rates to be charged by the Company for gas service rendered under this Ordinance shall be such as are approved from time to time by the Illinois Commerce Commission of the State of Illinois and/or such other duly constituted governmental authority as shall have jurisdiction thereof. All Rules and Regulations of the Illinois Commerce Commission of the State of Illinois applicable to the rights, privileges and authority granted by this Ordinance, in the event of conflict herewith, shall govern.

Section 6. As a further consideration for the rights, privileges and authorities granted by this Ordinance, the Company shall, throughout the period in which Company shall exercise the rights, privileges and authority granted by this Ordinance furnish to the said Municipality compensation in the amount of **Eight Thousand Fifty-Five Dollars (\$8,055.00)** payable annually, within **thirty (30) days** of the anniversary date. Municipality may request a revision to the compensation amount after **five (5) years** from the date of passage of this Ordinance if Municipality has a reasonable belief that its population has increased or decreased by **three percent (3%)** or more. Municipality must request the revision at least **sixty (60) days** prior to the next anniversary date. If Company confirms that the number of customers served by the System within Municipality's corporate limits has increased or decreased by **three percent (3%)** or more, the compensation amount will be revised by that percentage for the next and succeeding payments. Municipality may request similar revisions to compensation amounts under these criteria in additional **five (5) year** periods throughout the term of this Ordinance.

Section 7. The rights, privileges and authority hereby granted shall inure to and be vested in Company, its successors and assigns, successively, subject to all of the terms, provisions and conditions herein contained, and each of the obligations hereby imposed upon Company shall devolve and be binding upon its successors and assigns, successively, in the same manner.

Section 8. This Ordinance shall confer no right, privilege or authority on Company, its successors or assigns, unless Company shall within **ninety (90) days** after due notice to the Company of the enactment of this Ordinance, file with the City Clerk an acceptance of the terms and provisions hereof; provided, however, that if such acceptance be not so filed within said period of **ninety (90) days**, all rights, privileges, and authority herein granted shall become null and void.

Section 9. All rights, privileges and authority given and granted by this Ordinance are granted for a term of **twenty (20) years** from and after the acceptance of this Ordinance as hereinafter provided (the "Initial Term"), and thereafter on a year-to-year basis (each a "Subsequent Term") unless either the Company or Municipality notifies the other in writing of its desire to terminate this Ordinance at least **six (6) months** prior to the expiration of the Initial Term or any Subsequent Term.

Section 10. The Municipality acknowledges that Company is vested in rights, permissions and authority independent of this Ordinance. Neither acceptance of this Ordinance nor compliance with its provisions shall impair in any way or waive any right, permission or authority which Company may have independent of this Ordinance. In addition, neither use by Company of public property or places as authorized by this Ordinance nor service rendered by Company in said Municipality shall be treated as use solely of the rights, permission and authority provided for by this Ordinance and in no way shall indicate non-use of any right, permission or authority vested in the Company independent of this Ordinance. In the event the Municipality vacates any streets, avenues, alleys, easements, rights of way, bridges or other public places during the term of this Ordinance, Municipality agrees to reserve unto Company the rights, privileges and authority herein given and granted to the Company in upon, under, along, over and across each and all of such vacated premises which are at that time in use by the Company.

Section 11. All ordinances and parts of ordinances in conflict with this Ordinance or with any of its provisions are, to the extent of such conflict, hereby repealed.

Section 12. This Ordinance shall not relieve Company of the obligation to comply with any ordinance now existing in the Municipality or enacted in the future requiring Company to obtain written permits or other approval from the Municipality prior to commencement of construction of facilities within the streets thereof, except Company shall not be required to obtain permits or other approval from the Municipality for the maintenance, upgrading and repair of its facilities. Except in cases of emergency, prior to engaging in any excavation activity that is expected to create an obstruction or other hazardous condition in any street avenue, alley or public place, the Company shall notify Municipality of the location and extent of the planned excavation. In cases of emergency, Company shall notify Municipality of the location and extent of any such activity as soon as practicable after the emergency has been abated.

Section 13. If any provision of this Ordinance, or the application of such provision to particular circumstances, shall be held invalid, the remainder of this Ordinance, or the application of such provision to circumstances other than those as to which it is held invalid, shall not be affected thereby.

Section 14. If, at any time, during the term of this contract, Municipality permits another entity or person to provide gas distribution or similar services, and Company reasonably believes the other entity or person is granted more favorable treatment, terms, or conditions, then

Company shall notify Municipality of such treatment, terms, or conditions. Alternatively, if Municipality reasonably believes the other entity or person grants Municipality more favorable treatment, terms, or conditions, then Municipality shall notify Company of such treatment, terms, or conditions. Upon receipt of such notice, Municipality and Company shall negotiate in good faith to amend this ordinance to provide Company or Municipality such more favorable treatment, terms or conditions on an equivalent basis. Such amendment shall take into consideration all circumstances that distinguish between Company and the entity or person receiving the more favorable or less favorable treatment, terms, or conditions.

Section 15. The Company shall be exempt from any special tax, assessment, license, rental or other charge during the term of this Ordinance, on all mains, pipes, valves, equipment and other apparatus placed under the streets, alleys, avenues, bridges, easements, rights of way or other public places within the corporate limits of Municipality.

Section 16. This Ordinance shall take effect and the rights, privileges and authority hereby granted and renewed shall vest in Company upon its filing of an acceptance with the City Clerk according to the terms prescribed herein. This Ordinance shall be in full force from and after its passage, approval and **ten (10) day** period of publication in the manner provided by law.

(Ord. No. 11-4; 05-17-11)

CHAPTER 17

GARBAGE REGULATIONS

17-1-1 ACCEPT WASTE. Grantee shall accept all non-hazardous general municipal waste created within the City and from all property within the City limits of the City. Grantee shall accept only such waste as is designated in operating permits issued by the IEPA. It is currently unlawful to accept yard waste at any landfill and whole tires are banned from landfills effective **January 1, 1994**. Automobiles, lead acid batteries, and large appliances are prohibited at landfills. The City will be notified when and if other waste items are banned from landfill disposal.

17-1-2 OPERATON OF SERVICE. Grantee shall operate the sanitary hauling service in compliance with all State, Federal, and local laws and regulations including the Illinois Refuse Disposal Law and other rules and regulations promulgated by the Illinois Environmental Protection Agency.

17-1-3 PROVIDING SERVICES. Grantee shall provide the following sanitary hauling services to the residents of the City, and from all property within the City limits of the City at rates not to exceed the following:

(A) **Residential.** Sanitary hauling service, one time per week, curbside collection, for a private dwelling or apartment -- **\$8.55** per month. Additional charge may be made by Grantee for unusual items not normally considered to be household refuse.

(B) **Non-Residential.** Grantee shall make collections for commercial and other non-residential customers at rates to be negotiated between Grantee and the customer based upon the volume, type and number of collections made, in accordance with Schedule A, attached hereto.

17-1-4 SERVICE RATES. The service rates for the sanitary hauling as provided herein shall be effective on **April 1, 2010**. The City and Grantee reserve the right to adjust the service rates set forth in this franchise in the following manner:

(A) Beginning **April 1, 2011** and annually thereafter during the term of this franchise, residential rates and commercial rates may increase each year equivalent to the general increase in the Consumer Price Index (CPI). The rate may be adjusted by a multiple equal to **one hundred percent (100%)** of the change in CPI factor known as the transportation component of the revised CPI (Urban Wage Earners), over the previous **twelve (12) months**, up to a maximum of **three percent (3%)**.

17-1-5 FREE SERVICE TO CITY. In consideration for the granting of this franchise from the City, Grantee agrees to provide the following sanitary hauling services to the City at no charge to the City while this franchise is in effect:

- (A) City Hall
- (B) Senior Citizens Center
- (C) Peterson Park
- (D) Water Plant
- (E) Grantee shall at no additional cost provide **one (1)** spring (last week of April) and **one (1)** fall (last week of October) clean up for residential curbside pickup of all large or small items not prohibited at landfills.

17-1-6 INDEMNIFICATION AND INSURANCE. Grantee shall indemnify and defend the City, its Boards, Council members, officers, agents, and employees, against any and all liabilities for injury to or death of any person or any damage to any property caused by Grantee, his officers, agents, or employees in the construction, operation, or maintenance of its property or arising out of the exercise of any right or privilege under this franchise. Grantee shall carry the following insurance coverages:

(A) **Workmen's Compensation.** Grantee shall carry workmen's compensation and occupational disease insurance as required by the statutes of the State of Illinois.

(B) **Comprehensive Liability.** At all times during the term of the franchise, Grantee will, at his own expense, maintain in force general comprehensive liability insurance with a reputable insurance company licensed to do business in Illinois. The coverage represented by such policies shall be for the protection of the City, its boards, Council members, officers, agents and employees against liability for loss or damages for bodily injury, death, and property damage occasioned by the activities of Grantee under the franchise. Minimum liability limits under the policy or policies are to be **Five Hundred Thousand Dollars (\$500,000.00)** for personal injury or death of any one person and **One Million Dollars (\$1,000,000.00)** for personal injury or death of **two (2)** or more persons in any one occurrence and **Five Hundred Thousand Dollars (\$500,000.00)** for damage to property resulting from any new occurrence.

The policies mentioned in the foregoing paragraphs shall each contain a provision that a written notice of any cancellation or reduction in coverage of the policies shall be delivered to the City **thirty (30) days** in advance of the effective date thereof. Grantee shall not perform any services for customers for any compensation other than the rates stated herein. Proof of such insurance shall be furnished annually by Grantee to the City Clerk by a certificate of insurance.

17-1-7 INDEPENDENT CONTRACTOR. Grantee shall operate the sanitary hauling service as an independent contractor rendering and performing the services required hereunder in a satisfactory and workmanlike manner. The City retains the right to forfeit the franchise granted herein for the failure or refusal of Grantee to comply with the terms and conditions of this franchise. The City shall not have the right

to forfeit this franchise if the inability to provide the proper service required hereunder is due to an act of God, fire, explosion or civil disturbance.

17-1-8 FRANCHISE SUBCONTRACTED. This franchise shall not be assigned or subcontracted in whole or in part except to an entity judged capable of fulfilling the terms herein and approved in writing by the City. Such approval shall not be unreasonably withheld.

17-1-9 TRAFFIC COORDINATION. Grantee will endeavor to work with the Street Department to coordinate traffic.

17-1-10 FAILURE TO PROVIDE SERVICE. Grantee will be considered to be in default of this franchise if he fails to provide general service for any **two (2) week** period. Grantee has the right to terminate service to any customer for non-payment if customer is more than **ninety (90) days** in arrears. Grantee shall notify the customer and City Clerk of any terminated service for non-payment by customer.

17-1-11 GRANT OF FRANCHISE. This franchise is granted pursuant to the laws of the State of Illinois relating to the granting of such rights and privileges by a municipal corporation. If any article, section, sentence, clause or phrase of this Article is for any reason held illegal, invalid, or unconstitutional, such invalidity shall not affect the validity of the Article or any of the remaining portions. The invalidity of any portion of this Article shall not abate, reduce, or otherwise affect any consideration or other obligation required of Grantee.

17-1-12 LICENSE REQUIRED. Grantee shall have the non-exclusive license from the City to provide non-residential/commercial roll-off containers of **twenty (20) cubic yards** capacity or larger hauling service and may negotiate with individual customers as to the rates charged therefore. It is agreed between the parties that the City may issue permit(s) to other sanitary hauling services to provide non-residential/commercial roll-off containers having a capacity of **twenty (20) cubic yards** or larger service to individual customers located within the City.

17-1-13 FAILURE TO PERFORM. The failure of the City at any time to require performance by Grantee of any provisions hereof, shall in no way affect the right of the City hereafter to enforce same. Waiver of any breach of any of the provisions hereof by the City shall not be held to be a waiver of any succeeding breach.

17-1-14 VIOLATION. It shall be a violation of this Article for any person, firm, or corporation, other than Grantee herein, to operate a sanitary hauling service within the City.

17-1-15 PRECEDENCE. This Article shall take precedence over all prior ordinances which may be in conflict with it.

17-1-16 PENALTIES. Any person, firm, or corporation, other than Grantee herein, who violates any provisions of this Article shall, upon conviction thereof, be subject to a fine of not less than **Seventy-Five Dollars (\$75.00)** or more than **Seven Hundred Fifty Dollars (\$750.00)** for each such offense. A separate offense shall be deemed committed on each day on which a violation occurs or continues.

(Ord. No. 10-9; 05-18-10)

SCHEDULE "A"

FRANCHISE FOR THE OPERATION OF A SANITARY HAULING SERVICE

Container Rental

Size of Container	Monthly Charge				
	<u>Pickups per Week</u>				
	1X	2X	3X	4X	5X
1 ½ cubic yards	19.26	38.52	57.78	77.04	
2 cubic yards	25.70	51.40	77.10	102.80	
4 cubic yards	51.40	102.80	154.20	205.60	
6 cubic yards	77.10	154.20	231.30	308.42	
8 cubic yards	102.80	205.60	308.40	411.26	

The Grantee will provide 12 to 15 90-gallon toters for the Newton Strawberry Festival and the Jasper County Fall Festival at no charge. Grantee will also provide a yard waste dumpster as needed at the City's yard waste facility.

ACCEPTANCE OF FRANCHISE

The undersigned, Grantee, hereby accepts all of the terms and conditions of the above and foregoing franchise for the operation of a sanitary hauling service granted by the City of Newton effective for the period commencing on **April 1, 2010** and ending **March 31, 2015**. The undersigned, Grantee agrees that Grantee will be bound by, comply with, and carry out the terms and conditions of the franchise as set forth in the above and foregoing Chapter.

Dated this **26th** day of **May, 2010**.

VEOLIA SOLID WASTE MID-WEST, LLC,
d/b/a VEOLIA ENVIRONMENTAL SERVICES

/s/ Ronald Sendmeyer

Authorized Signatory

CHAPTER 18

HEALTH REGULATIONS

ARTICLE I – HAZARDOUS SUBSTANCE POLICY

18-1-1 DEFINITIONS. The following terms are defined as follows:

"Costs" shall mean all expenses incurred by the City or any public agency assisting the City, as a result of any removal of remedial action.

"Facility" shall mean any building, structure, installation, equipment, pipe or pipeline, including, but not limited to, any pipe into a sewer or publicly-owned treatment works, well, pond, lagoon, impoundment, ditch, landfill, storage container, tank, motor vehicle.

"Hazardous Materials" shall have that meaning set forth in **430 ILCS 55/3(f)**.

"Mutual Aid" shall mean any action taken by the City or any other public agency, pursuant to an Intergovernmental Agreement.

"Person" shall mean any individual, business, firm, partnership, corporation, association, trust, estate, joint venture, or other legal entity, or their legal representative, each of their assign.

"Release" shall mean any spill, leaking, pumping, pouring, emitting, escaping, emptying, discharging, injecting, leaching, dumping or disposing of hazardous material into or on any land, air, water, well, stream, sewer or pipe so that such hazardous material or any constituent thereof may enter the environment.

"Remedial Action" shall have that meaning set forth in **430 ILCS 55/3(a)** and shall further mean any action consistent with permanent remedy taken instead or, in addition to, removal actions in the event of a release or threatened release of a hazardous material into the environment, to prevent or minimize the releases of hazardous materials so that they do not migrate to cause a substantial present or potential hazard to human health, property, or environment. The term includes, but is not limited to, such actions at the location of the release as storage, isolation, confinement, perimeter protection using dikes, trenches or ditches, clay cover, neutralization, cleanup of released diversion, destruction, segregation of reactive wastes, repair or replacement of leaking containers collection of leachate and runoff, on-site treatment or incineration, provisions or alternate water supplies and any monitoring reasonably required to assure that such actions protect the public health and welfare and the environment.

"Removal" shall mean any cleanup or removal of released hazardous materials from the environment, such actions as may be necessary or appropriate to monitor, assess and evaluate the release or threat of release of hazardous materials, the disposal of removed material or the taking of such action as may be necessary to prevent, minimize or mitigate damage to the public health or welfare of an environment. The term includes, but is not limited to, security, fencing, provision of alternative water supplies and temporary evacuation of threatened individuals.

"City Unit" shall mean any one or more vehicle, dump truck, loader, backhoe or other piece of equipment of the City and/or one City employee.

"Response" shall have that meaning set forth in **430 ILCS 55/3(a)** and shall further mean any removal or medial action.

18-1-2 PROHIBITED ACTS. No person shall cause, threaten, or allow the release of hazardous materials into the environment unless such release is in accordance with an appropriate permit granted by the Illinois Environmental Protection Agency or other Illinois or federal agency having primary jurisdiction over the release and such release is in such place and manner as will not create a substantial present or potential hazard to human health, property or the environment.

18-1-3 RESPONSE AUTHORITY. The Chief of Police and any other Department Head of the City or their authorized representative(s) are authorized to respond to any release or threatened release of hazardous materials within the territory of the City affecting the public streets, water supply, wells or sewage treatment works located or servicing the City or pursuant to any lawful Intergovernmental Agreement or which the City is a party. This authority includes, but is not limited to, remedial action or removal.

The Police Chief and the other City Department Heads shall have the authority to respond to any release or threatened release of hazardous materials as described above. Their primary responsibility shall be to respond to all releases, and shall cooperate with the Wade Fire Protection District and the County of Jasper in connection with all such releases or threatened releases. The City shall have authority for those properly permitted discharges into the sanitary or storm sewer systems of the City, and they shall report any release or threat of release of hazardous materials to the Wade Fire Protection District and to all appropriate federal, state and local public health, safety and emergency agencies as required by applicable law.

The Police Chief and Department Heads during such time as response authority is vested in them, shall be authorized to utilize all necessary personnel and equipment and to take such remedial or removal action as may be necessary or appropriate to respond to the release or threatened release of hazardous material, in conjunction with the efforts of Wade Fire Protection District, the County of Jasper and any other governmental entity.

All responding personnel of the City shall cooperate with and operate under the direction of the Police Chief or other person then exercising response authority under this Chapter until such time as the person exercising such response authority has determined that the response is complete or responsibility for response is assumed by the proper federal or state public health, safety or emergency agency primary jurisdiction over the release or threatened release. The person exercising response authority under this Chapter shall coordinate and/or cooperate with other federal, state or local public health, safety or emergency agencies involved in response to the release or threatened release of hazardous materials.

18-1-4 LIABILITY FOR COSTS. Notwithstanding any other provision or rule of law, and subject only to the defenses set forth in **Section 18-1-5**, hereinafter, the following persons shall be jointly and severally liable for all costs of removal or remedial action incurred by City as a result of a release or threatened release of hazardous material.

(A) Any person who, at the time of disposal, transport, storage or treatment of a hazardous material, owned or operated the facility or vessel used for such disposal, transport, treatment or storage from which there was a release or substantial threat or a release of any such hazardous material.

(B) Any person who by contract, agreement or otherwise has arranged with another person, party or entity for transport, storage, disposal or treatment of hazardous materials owned, controlled or possessed by such person at a facility owned or operated by another person, party or entity from which facility there is a release or substantial threat of release of such hazardous materials.

(C) Any person who accepts or accepted any hazardous material for transport, disposal, storage or treatment facility from which there is a release or a substantial threat of release of such hazardous materials.

18-1-5 DEFENSES. There shall be no liability under **Section 18-1-4** hereof for a person who can establish by a preponderance of the evidence that the release or substantial threat of release of a hazardous material and the damages resulting in accordance with any of the permitted defenses enumerated in **415 ILCS 5/22.2**.

18-1-6 COSTS AND PENALTIES. Any person who is responsible for or liable for any remedial action, removal, release or threatened releases of hazardous materials shall reimburse the City in accordance with **430 ILCS 55/5** for all costs and charges incurred in connection with any such remedial action, removal, release or threatened release of hazardous material emergency action for removal or remedial action with **thirty (30) days** after such action is rendered by the City or any other agency rendering mutual aid. Minimum charges for such remedial action, removal, release or threatened release of hazardous material shall be as follows:

(A) **Five Hundred Dollars (\$500.00)** per hour per each "City Unit" responding.

(B) The cost of all materials and equipment used, expended, depleted, destroyed or removed from service in accordance with federal, state or local law, regulations or ordinance as a result of the remedial action, removal, release or threatened release of hazardous material, or any mitigation or containment operations.

Any person who is liable for the release or threatened release of a hazardous material who fails without sufficient cause to pay for or provide removal or remedial action upon or in accordance with a notice and request of the City or in accordance with any order of any court having jurisdiction on the matter, shall be liable to the City for any costs incurred by City as a result of such failure to provide or take such removal or

remedial action, together with the costs of any removal or remedial action taken by the City in accordance with this Chapter, and all attorney's fees and related legal costs incurred in connection therewith.

(Ord. No. 06-03; 04-04-06)

CHAPTER 20

LIBRARY

ARTICLE I - LIBRARY BOARD

20-1-1 **ESTABLISHED.** There is hereby established a Public Library for the use and benefit of the inhabitants of the City. (See 75 ILCS Sec. 5/1-2)

20-1-2 **APPOINTMENT - COMPENSATION.** The Mayor shall, with the approval of the City Council, proceed to appoint a board of **nine (9) trustees** for the Public Library, chosen from the citizens at large with reference to their fitness for such office. **Not more than one (1) member of the City Council shall be (at any one time) a member of the Library Board.** (See 75 ILCS Sec. 5/4-1)

Trustees of the Library Board shall serve without compensation, but shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties from library funds. (See 75 ILCS Sec. 5/4-5)

20-1-3 **TERM.** The Mayor shall, before the **July 1st of each year**, appoint **three (3) trustees** to take the place of the retiring trustees who shall hold office for **three (3) years** and until their successors are appointed. By and with the advice and consent of the City Council, the Mayor may remove any trustee as provided in **Chapter 1, Article III of this Code.** (See 75 ILCS Sec. 5/4-1.1)

20-1-4 **VACANCIES.** Vacancies shall be declared in the office of a trustee by the board when the trustee declines or is unable to serve, or is absent without cause from all regular board meetings for a period of **one (1) year**, or is convicted of a misdemeanor for failing, neglecting, or refusing to discharge any duty imposed upon a trustee or becomes a nonresident of the City, or who fails to pay the library taxes levied by the corporate authorities. (See 75 ILCS Sec. 5/4-4)

20-1-5 **OATH OF OFFICE; ORGANIZATION; MEETINGS.**

(A) Within **sixty (60) days** after their appointment, the new trustees shall take their oath of office and meet to organize the board. The oath shall consist of the following:

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

(B) The first action taken at the organizational meeting of the board shall be the election of a president and a secretary and such other officers as the board may deem necessary, and the board shall further provide in the bylaws of the board as to the length of the terms in office. The trustees shall determine the time and place of all official meetings of the board at which any

legal action may be taken and shall post notice thereof at the public library maintained by the board and at not less than one public place within the corporate confines of the area of library service one day in advance thereof. (See 75 ILCS Sec. 5/4-6)

20-1-6 CUSTODIAN OF FUNDS. The City Treasurer shall be the custodian of all funds of the Library Board of Trustees. The cost of any bond necessary to satisfy the requirements of **Chapter 75, Section 5/4-9 of the Illinois Compiled Statutes** shall be borne by the library.

20-1-7 POWERS AND DUTIES. The Board of Library Trustees shall carry out the spirit and intent of this Chapter in establishing, supporting and maintaining a public library or libraries for providing library service and, in addition to, but without limiting other powers conferred by this Chapter shall have the following powers:

(A) To make and adopt such bylaws, rules and regulations for their own guidance and for the government of the library as may be expedient, not inconsistent with this Chapter.

(B) To have the exclusive control of the expenditure of all moneys collected for the library and deposited to the credit of the library fund;

(C) To have the exclusive control of the construction of any library building and of the supervision, care and custody of the grounds, rooms or buildings constructed, leased or set apart for that purpose;

(D) To purchase or lease real or personal property, and to construct an appropriate building or buildings for the use of a library established hereunder, using, at the board's option, contracts providing for all or part of the consideration to be paid through installments at stated intervals during a certain period not to exceed **twenty (20) years** with interest on the unpaid balance at any lawful rate for municipal corporations in this State, except that contracts for installment purchases of real estate shall provide for not more than **seventy-five percent (75%)** of the total consideration to be repaid by installments, and to refund at any time any installment contract entered into pursuant to this paragraph by means of a refunding loan agreement, which may provide for installment payments of principal and interest to be made at stated intervals during a certain period not to exceed **twenty (20) years** from the date of such refunding loan agreement, with interest on the unpaid principal balance at any lawful rate for municipal corporations in this State, except that no installment contract or refunding loan agreement for the same property or construction project may exceed an aggregate of **twenty (20) years**;

(E) To remodel or reconstruct a building erected or purchased by the board, when such building is not adapted to its purposes or needs;

(F) To sell or otherwise dispose of any real or personal property that it deems no longer necessary or useful for library purposes, and to lease to others any real property not immediately useful, but for which plans for ultimate use have been or will be adopted, however, the corporate authorities shall have the first right to purchase or lease;

(G) To appoint and to fix the compensation of a qualified librarian, who shall have the authority to hire such other employees as may be necessary, to fix their compensation, and to remove such appointees, subject to the approval of the library board, (but these powers are subject to **Division 1 of Article 10 of the Illinois Municipal Code** in municipalities in which that

Division is in force). The board may also retain counsel and professional consultants as needed; **(See 65 ILCS Sec. 5/10-1-1)**

(H) To contract with any public or private corporation or entity for the purpose of providing or receiving library service or of performing any and all other acts necessary and proper to carry out the responsibilities and the provisions of this Chapter. This contractual power includes, but is not limited to participating in interstate library compacts and library systems, and contracting to supply library services and for the expenditure of any Federal or State funds made available to the municipality or to the State of Illinois for library purposes;

(I) To join with the board or boards of any one or more libraries in this State in maintaining libraries, or for the maintenance of a common library or common library services for participants, upon such terms as may be agreed upon by and between the boards;

(J) To enter into contracts and to take title to any property acquired by it for library purposes by the name and style of “**The Library Board of Trustees of the City**” and by that name to sue and be sued.

(K) To exclude from the use of the library any person who willfully violates the rules prescribed by the board;

(L) To extend the privileges and use of the library; including the borrowing of materials on an individual basis by persons residing outside of the City. If the board exercises this power, the privilege of library use shall be upon such terms and conditions as the board shall, from time to time, by its regulations, prescribe and for such privileges and use, the board shall charge a nonresident fee at least equal to the cost paid by residents of the City, with the cost to be determined according to the formula established by the **Illinois State Library**. The nonresident fee shall not apply to privilege and use provided under the terms of the library's membership in a library system operating under the provisions of the **Illinois Library System Act** or under the terms of any reciprocal agreement with a public or private corporation or entity providing a library service or to a nonresident who is an individual or as a partner, principal stockholder, or other joint owner owns taxable property or is a senior administrative officer of a firm, business, or other corporation owning taxable property within the municipality upon the presentation of the most recent tax bill upon that taxable property, provided that the privilege and use of the library is extended to only one such nonresident for each parcel of such taxable property.

(M) To exercise the power of eminent domain subject to the prior approval of the corporate authorities under the provisions of **Illinois Compiled Statutes, Chapter 75, Sec. 5/5-1 and 5/5-2**.

(N) To join the public library as a member in the **Illinois Library Association and the American Library Association**, non-profit, non-political, **(501-C-3)** associations, as designated by the federal Internal Revenue Service, having the purpose of library development and librarianship; to provide for the payment of annual membership dues, fees and assessments and act by, through, and in the name of such instrumentality by providing and disseminating information and research services, employing personnel and doing any and all other acts for the purpose of improving library development;

(O) To accumulate and set apart as reserve funds, portions of the unexpended balances of the proceeds received annually from taxes or other sources for the purpose of providing self-insurance against liabilities relating to the public library;

(P) To invest funds pursuant to the **Illinois Compiled Statutes, Chapter 30, Section 235/1, et seq.** **(See 75 ILCS Sec. 5/4-7)**

20-1-8 ADDITIONAL POWERS AND DUTIES. In addition to all other powers and authority now possessed by it, the Board of Library Trustees shall have the following powers:

(A) To lease from any public building commission created pursuant to the provisions of the **Public Building Commission Act**, as now or hereafter amended, any real or personal property for library purposes for a period of time not exceeding **twenty (20) years**; (See **50 ILCS Sec. 20/1 et seq.**)

(B) To pay for the use of this leased property in accordance with the terms of the lease and with the provisions of the **Public Building Commission Act**, as now or hereafter amended;

(C) Such lease may be entered into without making a previous appropriation for the expense thereby incurred. However, if the board undertakes to pay all or any part of the costs of operating and maintaining the property of a public building commission as authorized in subparagraph (D) of this section, such expenses of operation and maintenance shall be included in the annual budget of such board annually during the term of such undertaking;

(D) In addition, the board may undertake, either in the lease with a public building commission or by separate agreement or contract with a public building commission, to pay all or any part of the costs of maintaining and operating the property of a public building commission for any period of time not exceeding **forty (40) years**. (See **75 ILCS Sec. 5/4-7.1**)

20-1-9 SELECTION AND USE OF LIBRARY MATERIALS. The Board of Library Trustees shall establish, and review at least biennially, a written policy for the selection of library materials and the use of library materials and facilities. No employee may be disciplined or dismissed for the selection of library materials when the selection is made in good faith and in accordance with the written policy required to be established pursuant to this section. (See **75 ILCS Sec. 5/4-7.2**)

20-1-10 FREE TO PUBLIC. The library established shall be free for the use of the inhabitants of the City, always subject to such rules and regulations as the Library Board of Trustees may adopt, in order to render the use of the library and reading room to the greatest benefit to the greatest number. (See **75 ILCS Sec. 5/4-7**)

20-1-11 ANNUAL REPORT. Within **thirty (30) days** after the expiration of each fiscal year of the municipality, the Library Board of Trustees shall make a report of the condition of their trust on the last day of the fiscal year to the City Council. This report shall be made in writing and shall be verified under oath by the secretary or some other responsible officer of the Library Board of Trustees. The report shall contain the following:

(A) An itemized statement of the various sums of money received from the Library Fund and from other sources;

(B) An itemized statement of the objects and purposes for which those sums of money have been expended;

(C) A statement of the number of books and periodicals available for use and the number and character thereof circulated;

(D) A statement of the real and personal property acquired by legacy, purchase, gift or otherwise;

(E) A statement of the character of any extensions of library service which have been undertaken;

(F) A statement of the financial requirements of the library for the ensuing fiscal year for inclusion in the appropriation of the corporate authority and of the amount of money which, in the judgment of the Library Board of Trustees, it will be necessary to levy for library purposes in the next annual tax levy ordinance;

(G) A statement as to the amount of accumulations and the reasons therefor;

(H) A statement as to any outstanding liabilities including those for bonds still outstanding or amounts due for judgments, settlements, liability insurance, or for amounts due under a certificate of the board;

(I) Any other statistics, information and suggestions that may be of interest.

A report shall also be filed at the same time with the **Illinois State Library**. (See **75 ILCS Sec. 5/4-10**)

20-1-12 **DONATIONS.** Any person desiring to make donations of money, personal property or real estate for the benefit of such library shall have the right to vest the title of the money or real estate so donated in the Library Board of Trustees to be held and controlled by the board when accepted, according to the terms of the deed, gift, devise or bequest of such property, and as to such property, the Board of Trustees shall be held and considered as special trustees. (See **75 ILCS Sec. 5/1-6**)

20-1-13 **DISTURBANCE PROHIBITED - PENALTY.** Any person who shall create any disturbance while in the rooms of the Public Library, or who shall be guilty of any conduct calculated to annoy or disturb others in said library and who shall not cease said conduct when requested to do so by the Librarian or other person in charge, shall be subject to arrest under the provisions of this Chapter.

20-1-14 **INJURY TO OR FAILURE TO RETURN BOOKS - PENALTY.** No person shall maliciously cut, injure, deface, tear, or destroy any book, newspaper, periodical, or picture belonging to the Public Library. No person shall fail to return any book or books taken from the Library at the time when, by the rules of the Library, the same should be returned. The person shall promptly pay the fine provided for by the rules and regulations governing the Library, as the same have been or may be established by the Library Board of Trustees.

20-1-15 **REFERENCE.** The City Council does hereby include by reference, all provisions of **Chapter 75; Paragraph 5/4, et seq. of the Illinois Compiled Statutes** applicable to the City Library that are not provided heretofore.

CHAPTER 21

LIQUOR

ARTICLE I - GENERALLY

21-1-1 **DEFINITIONS.** Unless the context otherwise requires, the words and phrases herein defined are used in this Chapter in the sense given them in the following definitions:

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

"ALCOHOLIC LIQUOR" includes alcohol, spirits, wine and beer, and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer, and capable of being consumed as a beverage by human beings. The provisions of this Chapter shall not apply to alcohol used in the manufacture of denatured alcohol produced in accordance with **Acts of Congress** and regulations promulgated thereunder, nor to any liquid or solid containing **one-half of one percent** or less of alcohol by volume. **(See 235 ILCS Sec. 5/1-3.05)**

"BEER" means a beverage obtained by the alcoholic fermentation of an infusion or concoction of barley or other grain, malt and hops in water, and includes, among other things, beer, ale, stout, lager beer, porter and the like. **(See 235 ILCS Sec. 5/1-3.04)**

"CATERER RETAILER" means a person who serves alcoholic liquors for consumption, either on-site or off-site, whether the location is licensed or unlicensed, as an incidental part of food service. Prepared meals and alcoholic liquors are sold at a package price agreed upon under contract. **(See 235 ILCS Sec. 5/1-3.34)**

"CLOSE" means to shut up so as to prevent entrance or access by any person; and the entire suspension of business.

"CLUB" means a corporation organized under the laws of this State and not for pecuniary profit, solely for the promotion of some common object other than the sale or consumption of alcoholic liquors, kept, used and maintained by its members, through the payment of annual dues, and owning, hiring or leasing a building or space in a building of such extent and character as may be suitable and adequate for the reasonable and comfortable use and accommodation of its members and their guests and provided with suitable and adequate kitchen and dining space and equipment and maintaining a sufficient number of servants and employees for cooking, preparing and serving food and meals for its members and their guests; provided that such club files with the Mayor at the time of its application for a license under this Chapter, **two (2) copies** of a list of names and residences of its members, and similarly files within **ten (10) days** of the

election of any additional member, his name and address; and provided further, that its affairs and management are conducted by a board of directors, executive committee, or similar body chosen by the members at their annual meeting and that no member or officer, agent or employee of the club is paid, or directly or indirectly receives, in the form of salary or other compensation any profits from the distribution or sale of alcoholic liquor to the club or its members or guests introduced by members, beyond the amount of such salary as may be fixed and voted at the annual meeting by the members or by the board of directors or other governing body out of the general revenue of the club. **(See 235 ILCS Sec. 5/1-3.24)**

"CORPORATION" means any corporation, domestic or foreign, qualified to do business in the State of Illinois under the "Business Corporation Act" of Illinois. **(Rule 100.10(b))**

"DISTILLED SPIRITS". See "Spirits".

"EVENT" means a single theme. **(Rules and Regulations 100.10(o))**

"HOTEL" means every building or other structure kept, used, maintained, advertised and held out to the public to be a place where food is actually served and consumed and sleeping accommodations are offered for adequate pay to travelers and guests, whether transient, permanent or residential, in which **twenty-five (25)** or more rooms are used for the sleeping accommodations of such guests and having **one (1)** or more public dining rooms where meals are served to such guests, such sleeping accommodations and dining rooms being conducted in the same building or buildings in connection therewith, and such building or buildings, structure or structures being provided with adequate and sanitary kitchen or dining room equipment and capacity. **(See 235 ILCS Sec. 5/1-3.25)**

"MANAGER" OR "AGENT" means any individual employed by any licensed place of business, provided said individual possess the same qualifications required of the licensee. Satisfactory evidence of such employment will be furnished the Commission in the form and manner as such Commission shall from time to time prescribe. **(Rule 100.10(f))**

"MAYOR" means the Local Liquor Control Commissioner as provided in the **Illinois Compiled Statutes, Chapter 235, entitled "Dramshop"** and all references to Liquor Commissioner shall refer to the Mayor unless otherwise provided.

"MEAL" means food that is prepared and served on the licensed premises and excludes the serving of snacks. **(Rules and Regulations 100.10(n))**

"ORIGINAL PACKAGE" means any bottle, flask, jug, can, cask, barrel, keg, hogshead or other receptacle or container, whatsoever, used, corked or capped, sealed and labeled

by the manufacturer of alcoholic liquor, to contain and to convey any alcoholic liquor. **(See 235 ILCS Sec. 5/1-3.06)**

"PACKAGE LIQUOR STORE" means any public place where packaged liquors are offered for sale in the original, unopened container for consumption away from the premises.

"PARTNER" is any individual who is a member of a co-partnership. "Co-partnership" means an association of **two (2)** or more persons to carry on as co-owners of a business for profit. **(Rules and Regulations 100.10(d)(e))**

"PREMISES/PLACE OF BUSINESS" means the place or location where alcoholic beverages are manufactured, stored, displayed, offered for sale or where drinks containing alcoholic beverages are mixed, concocted and served for consumption. Not included are sidewalks, street, parking areas and grounds adjacent to any such place or location. **(Rules and Regulations 100.10(g))**

"PRIVATE FUNCTION" means a prearranged private party, function, or event for a specific social or business occasion, either by invitation or reservation and not open to the general public, where the guests in attendance are served in a room or rooms designated and used exclusively for the private party, function or event.

"PUBLIC PLACE" means any premises enclosed or unenclosed or partly enclosed and partly unenclosed wherein any service or goods, chattels or merchandise are offered for sale to the public or any such premises used as a clubhouse, club room or meeting place. The terms **"public place"** and **"public premises"** shall be interchangeable for the purposes of this Chapter.

"RESIDENT" means any person (other than a corporation) who has resided and maintained a bona fide residence in the State of Illinois for at least **one (1) year** and in the city, village and county in which the premises covered by the license are located for at least **ninety (90) days** prior to making application for such license. **(Rule 100.10(a))**

"RESTAURANT" means any public place kept, used, maintained, advertised, and held out to the public as a place where meals are served, and where meals actually are served and regularly served, without sleeping accommodations, such space being provided with adequate and sanitary kitchen and dining room equipment and capacity and having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests. **(See 235 ILCS Sec. 5/1-3.23)**

"RETAILER" means a person who sells or offers for sale alcoholic liquor for use or consumption and not for resale in any form. **(See 235 ILCS Sec. 5/1-3.17)**

"SALE" means any transfer, exchange or barter in any manner or by any means whatsoever for a consideration, and includes and means all sales made by any person, whether principal, proprietor, agent, servant or employee. **(See 235 ILCS Sec. 1-3.21)**

"SELL AT RETAIL" and "SALE OF RETAIL" refer to any mean sales for use or consumption and not for resale in any form. **(See 235 ILCS Sec. 5/1-3.18)**

"SPECIAL EVENT" means an event conducted by an educational, fraternal, political, civic, religious or non-profit organization. **(See 235 ILCS Sec. 5/1-3.30)**

"SPECIAL EVENTS RETAILER" means an educational, fraternal, political, civic, religious, or non-profit organization which sells or offers for sale beer or wine, or both, only for consumption at the location and on the dates designated by a special event retail license. **(See 235 ILCS Sec. 5/1-3.17.1)**

"SPIRITS" means any beverage which contains alcohol obtained by distillation, mixed with water or other substance in solution, and includes brandy, rum, whiskey, gin or other spirituous liquors and such liquors when rectified, blended or otherwise mixed with alcohol or other substances. **(See 235 ILCS Sec. 5/1-3.02)**

"TO SELL" includes to keep or expose for sale and to keep with intent to sell. **(See 235 ILCS Sec. 5/1-3.22)**

"WINE" means any alcoholic beverage obtained by the fermentation of the natural contents of fruits or vegetables containing sugar, including such beverages when fortified by the addition of alcohol or spirits as above defined. **(See 235 ILCS Sec. 5/1-3.03)**

ARTICLE II - LICENSES

21-2-1 LICENSE REQUIRED. No person shall sell, keep or offer for sale at retail, or conduct any place for the sale at retail of alcoholic liquor within the limits and territory of this municipality without having a license to do so, issued by the Mayor of this municipality in the manner hereinafter provided, and a valid license for such purpose issued by the **Illinois Liquor Control Commissioner of the State of Illinois**.

A similar valid license issued by the Mayor of this municipality is hereby required for and with respect to each building, location and premises, within the aforesaid territory of this municipality, at or upon which alcoholic liquor is to be sold or kept or offered for sale at retail. **(See 235 ILCS Sec. 5/4-1)**

21-2-2 APPLICATIONS. The Mayor is authorized to grant and issue licenses to individuals, firms, and corporations to sell at retail and to keep and offer for sale at retail alcoholic liquors within the limits and territory of this municipality upon the conditions and in the manner provided by this Chapter and by the **Act of the General Assembly of Illinois**, and not otherwise. Such license shall be in writing, signed by the Mayor and attested by the Municipal Clerk, with the seal of his office affixed thereto.

Prior to issuance of a license, the applicant must submit to the Mayor an application in triplicate, in writing and under oath, stating the following:

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

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

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

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

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

(F) Whether applicant has made similar application for a similar other license on premises other than described in the application and the disposition of such application.

(G) That applicant has never been convicted of a felony and is not disqualified to receive a license by reason of any matter or thing contained in the aforesaid **Act of the General Assembly** or in this Chapter or resolution and amendments thereto.

(H) Whether a previous license issued to the applicant by any state, or subdivision thereof, or by the federal government has been revoked and the reasons therefor.

(I) That he will not violate any of the laws of the State of Illinois or of the United States, or any of the provisions of this Chapter or resolution and amendments thereto in the conduct of his place of business.

In the case of a partnership or corporation, the information and statements required by this Section shall be furnished as to each partner, and with respect to a corporation, the information and statements required by this Section shall be furnished as to the president of the corporation, the secretary of the corporation, the directors of the corporation, and with respect to the person who is to manage the establishment for which a license is sought.

If the application is made on behalf of a partnership, firm, association, club or corporation, then the same shall be signed and sworn to by at least **one (1) member** of such partnership, firm, association or club, or by the president and secretary of such corporation.

One (1) copy of the application shall be retained by the Mayor, **one (1) copy** given to the Chief of Police; the Chief of Police shall endorse on the copies his approval or disapproval of the application and may make further comments regarding that application. The copies shall be returned to the Mayor and the endorsement and comment of the Chief of Police shall be considered by him as an aid in deciding whether the license should be issued or refused. **(See 235 ILCS Sec. 5/7-1)**

21-2-3 EXAMINATION OF APPLICANT. The Mayor shall have the right to examine or cause to be examined, under oath, any applicant for a local license or for renewal

thereof, or any licensee upon whom notice of revocation or suspension has been served in the manner hereinafter provided, and to examine or cause to be examined, the books and records of any such applicant or licensee; to hear testimony and take proof for his information in the performance of his duties, and for such purpose to issue subpoenas which shall be effective in any part of this State. For the purpose of obtaining any of the information desired by the Mayor under this Section, he may authorize his agent to act on his behalf. **(See 235 ILCS Sec. 5/4-5)**

21-2-4 PROHIBITED LICENSEES. No retail license shall be issued by the Mayor to the following:

- (A) A person who **is not** a resident of this municipality;
- (B) A person who **is not twenty-one (21) years** of age;
- (C) A person who has been convicted of a felony under any federal or state law if the Mayor determines, after investigation, that such person has not been sufficiently rehabilitated to warrant the public trust;
- (D) A person who has been convicted of being the keeper of or is keeping a house of ill-fame;
- (E) A person who has been convicted of pandering or other crime or misdemeanor opposed to decency or morality;
- (F) A person whose license has previously been revoked for cause;
- (G) A person who, at the time of the application for renewal for any license issued hereunder, would not be eligible for such license upon first application;
- (H) A co-partnership, if any general partnership thereof or any limited partnership thereof, owning more than **five percent (5%)** of the aggregate limited partner interest in such co-partnership would not be eligible to receive a license hereunder for any reason;
- (I) A corporation, if any officer, manager or director thereof or any stockholder owning in the aggregate more than **five percent (5%)** of such corporation, would not be eligible to receive a license hereunder for any reason other than the requirement for citizenship and residence;
- (J) A corporation unless it is incorporated in the State of Illinois, or unless it is a foreign corporation which is qualified under the **"Business Corporation Act of 1983"** to transact business in Illinois;
- (K) A person whose place of business is conducted by a manager or agent unless the manager or agent possesses the same qualifications required by the licensee;
- (L) Any person, association, or corporation not eligible for a state retail liquor license;
- (M) A person who is not of good character and reputation in the community in which he resides;
- (N) A person who has been convicted of a violation of any federal or state law concerning the manufacture, possession or sale of alcoholic liquor, subsequent to the passage of this Code or has forfeited his bond to appear in court to answer charges for any such violation;
- (O) A person who does not own the premises for which a license is sought, or does not rent nor have a lease thereon for the full period for which the license is to be issued;

(P) Any law enforcing public official, including members of local liquor control commissions, any mayor, alderman, or member of a city council or commission, any president of a village board of trustees, any member of a village board of trustees, or any president or member of a county board; and no such official shall be interested directly in the manufacture, sale or distribution of alcoholic liquor, except that license may be granted to such official in relation to premises which are not located within the territory subject to the jurisdiction of that official if the issuance of such license is approved by the State Liquor Control Commission and the Mayor.

(Q) A person who is not a beneficial owner of the business to be operated by the licensee;

(R) A person who has been convicted of a gambling offense as prescribed by any of **subsections (a)(3) through (a)(11) of Section 28-1.1 of, or as proscribed by Section 28-3 of the "Criminal Code of 1961", approved July 28, 1961**, as heretofore or hereafter amended, or as proscribed by a statute replaced by any of the aforesaid statutory provisions;

(S) A person to whom a federal wagering stamp has been issued by the federal government for the current tax period; except those persons who are eligible to receive a license under the Raffles Act or the Illinois Pull Tabs and Jar Games Act;

(T) A co-partnership to which a federal wagering stamp has been issued by the federal government for the current tax period, or if any of the partners have been issued a federal gaming device stamp or federal wagering stamp by the federal government for the current tax period;

(U) A corporation, if any officer, manager or director thereof, or any stockholder owning in the aggregate more than **twenty percent (20%)** of the stock of such corporation has been issued a federal wagering stamp for the current tax period;

(V) Any premises for which a federal wagering stamp has been issued by the federal government for the current tax period. **(See 235 ILCS Sec. 5/6-2)**

21-2-5 TERM; FEE SUBMITTED IN ADVANCE. Retail liquor licenses issued under this Chapter shall be valid for a **twelve (12) month period** upon the payment of the license fee as hereinafter set forth unless sooner revoked or suspended. The **twelve (12) month period** shall be from **July 1st to June 30th** of the following year.

The license fee shall be payable in advance by the applicant for a license at the time the application for a license is submitted to the Mayor as hereinbefore provided. A licensee may make arrangements to pay the liquor license fees quarterly. In the event the license is denied, the license fee shall be returned to the applicant. The fees shall be deposited in the Municipal General Fund. The application for a license shall be filed with the Municipal Clerk.

Licenses shall state thereon the names of the licensees and the address and description of the premises for which they are granted and the dates of their issuance and expiration.

With respect to a corporation operating an establishment for which a liquor license has been issued, should the manager of said establishment change after the issuance of said liquor license, the corporation **must submit** the new manager's name and shall be submitted within **thirty (30) days**. Continuation of the license will be contingent upon a background check of the new manager as set out in this Chapter, and all fees shall be waived should the

license be changed only as a result of a change of managers. If, for some reason, the manager is not acceptable, the licensee shall have **thirty (30) days** to submit a new name before revocation. Failure to provide new information shall be grounds for suspension or revocation of said license. **(See 235 ILCS Sec. 5/4-1)**

21-2-6 INITIAL FEE. The first annual fee for any new alcoholic license, regardless of Class, is hereby established at **Five Thousand Dollars (\$5,000.00)**. The second annual fee and the annual fees thereafter shall be at the regular rate as established in this Section. For the purposes of this paragraph, a "new alcoholic license" is defined to be any new license not heretofore provided for in **Section 21-2-7. (Ord. No. 93-20; 10-05-93)**

21-2-7 CLASSIFICATION - FEE - LIMITATION. Every person engaged in the retail sale of alcoholic liquor in the City shall pay an annual license fee. Such licenses shall be divided into the following classes:

(A) **Class "A",** which shall only permit the retail sale of alcoholic liquor in sealed packages, but not for consumption on the premises where sold. The annual license fee shall be **Seven Hundred Fifty Dollars (\$750.00)**. There shall be no more than **one (1) license** issued during any year.

(B) **Class "B",** which shall permit the retail sale of alcoholic liquor for consumption on or off the premises where sold, and not for resale in any form. The annual license fee shall be **One Thousand Dollars (\$1,000.00)**. There shall be no more than **three (3) licenses** issued during any year.

(C) **Class "C",** which shall permit the retail sale of beer and wine for consumption only on the premises where sold, and not for resale in any form. The annual license fee shall be **Four Hundred Dollars (\$400.00)**. There shall be no more than **one (1) license** issued during any year. **(Ord. No. 12-17; 11-06-12)**

(D) **Class "E",** which shall permit the retail sale of alcoholic beverages in restaurants, where meals are served and only for consumption on the premises and not for resale in any form. The annual license fee shall be **One Thousand Dollars (\$1,000.00)**. There shall be no more than **four (4) licenses** issued during any year. **(Ord. No. 12-17; 11-06-12)**

(E) **Class "F",** which shall permit the retail sale of beer and alcoholic liquor for consumption only on the premises where sold, to be issued to a regularly organized club, as hereinbefore defined, such sales to be made only to members of the club and to their guests. The annual license fee shall be **One Thousand Dollars (\$1,000.00)**. There shall be no more than **four (4) licenses** issued during any year. **(Ord. No. 06-01; 02-07-06)**

(F) **Class "G",** which shall permit only the retail sale of beer and wine in sealed packages for consumption off the premises where sold and not for resale in any form. The annual license fee shall be **Seven Hundred Fifty Dollars (\$750.00)**. There shall be no more than **three (3) licenses** issued during any year. **(Ord. No. 98-6; 05-05-98)**

All licenses issued hereunder shall be designated by the classification letter herein provided.

21-2-8 OUTSIDE SALES. Any license holder desiring to serve alcoholic beverages for consumption outdoors, must construct and maintain a solid opaque wall having a minimum height of **six (6) feet** and which surrounds the entire area. Said wall must be located a minimum of **six (6) feet** from any public sidewalk. The plans for said wall must be approved by the City Council prior to the wall's construction. **(Ord. No. 94-41; 06-21-94)**

21-2-9 SPECIAL EVENTS LICENSE.

(A) **Purpose.** A Special Event liquor license may be issued for a limited period of time for the purpose of allowing the licensee to raise funds for charitable, educational or civic purposes.

(B) **Issuance.** A Special Event liquor license may be issued to:

- (1) A not-for-profit corporation organized and operating under the laws of the State of Illinois for charitable, education, or civic purposes which has s a sponsor a holder of a current liquor license from the City which allows for the on premises consumption of beer and/or wine.
- (2) A "special event" is defined as any event of charitable, educational or civic nature, provided that such special event shall not otherwise conflict with, or violate, any provision of this or any other Article of the City.
- (3) Application shall be made with the liquor commissioner no less than **thirty (30) days** prior to the date when the Special Event license shall be issued.

(C) **Term.** The Special Event license shall be issued for a period not to exceed **six (6) consecutive days** and shall be effective each day from **3:00 P.M.** to **12:01 A.M.**

(D) **Restrictions.** A Special Event license holder is subject to the following restrictions:

- (1) Only beer and/or wine by the drink for consumption on the premises may be sold.
- (2) No more than **six (6)** Special Event licenses shall be issued hereunder within any calendar year.
- (3) Special Event sites may include an outdoor area, if such area is completely enclosed by an interior fence or wall at least **four (4) feet** high which is then further enclosed by a fence or wall at least **four (4) feet** high and providing a buffer of no less than **four (4) feet** beyond the perimeter of the interior fence or wall. Such buffer zone shall be so designed

as to prohibit the contact between persons within the special event interior fence or wall and those persons outside.

- (4) The beer and/or wine at the special event site must be served inside a tent or other structure with opaque walls. The beer and/or wine at the special event site may be consumed outside the tent and/or other opaque structures, however, the consumption of beer and/or wine must be within the confines of the special event site described in paragraph (D)(3).
- (5) No direct access from any public street, driveway, alley or sidewalk nor any unsupervised access from any other location into any special event licensed area shall be permitted.
- (6) Entertainment at special event activities licensed to take place outdoors shall be terminated no later than **12:01 A.M.**
- (7) A Special Event license is limited to the area owned, leased or rented by such holder on which the special event is to take place.
- (8) All Federal, State and City Laws and Regulations must be complied with at all times.
- (9) No Sunday license available.

(E) **Application.** In addition to the foregoing requirements, the applicant shall include the following information and additional documentation:

- (1) An executed copy of the lease, rental agreement or other written authority for the use of the premises if the applicant is not the owner of the premises.
- (2) A drawing/diagram to scale of the special event premises requested.
- (3) The purpose for the issuance of the license.
- (4) A statement of the applicant's plans for crowd control, including the number and names of persons working access points into the event area and parking/traffic considerations.
- (5) A special events permit from the State of Illinois and certificate of insurance showing evidence of dram shop and liability insurance coverage.
- (6) The specific times and date for the term of the special event license.

(F) **Fees.** The fee for the Special Event license issued to a not-for-profit corporation shall be **One Hundred Dollars (\$100.00)** for the first day of the special event and **Twenty-Five Dollars (\$25.00)** per day thereafter for each day for which the license is issued and shall be paid in full at the time the license is issued.
(Ord. No. 10-2; 02-16-10)

21-2-10 NATURE OF LICENSE. A license issued under this Chapter shall be purely a personal privilege, good for not to exceed **one (1) year** after issued unless sooner revoked as in this Chapter authorized and provided, and shall not constitute property nor shall it be subject to attachment, garnishment or execution; nor shall it be alienable or transferable, voluntarily or involuntarily, or subject to being encumbered or hypothecated. Such license shall not descend by the laws of testate or intestate devolution, but it shall cease upon the death of the licensee, provided that executors and administrators of any estate of the deceased licensee and the

trustees of any insolvent or bankrupt licensee, when such estate consists in part of alcoholic liquor, may continue the business of the sale of alcoholic liquor under the order of the court having jurisdiction of such estate and may exercise the privileges of such deceased, insolvent, or bankrupt licensee after the death of such decedent or such insolvency or bankruptcy until the expiration of such license, but not longer than **six (6) months** after the death, bankruptcy or insolvency of such licensee. **(See 235 ILCS Sec. 5/6-1) (See Attorney General's Report No. 703; 01-08-48)**

21-2-11 LIMITATION OF LICENSES.

(A) **Annexing License Holders.** The restrictions contained in this Chapter shall in no way affect taverns and other business(es) holding retail liquor licenses, duly licensed by the County, which are located in the territory annexed to the municipality. Licenses may be issued to them or renewed by the duly constituted authorities upon annexation; provided that thereafter, all of the restrictions and contingencies contained herein shall apply.

(B) **Destroyed or Damaged Business.** No license shall be held in existence by the mere payment of fees by any person, firm or corporation for a period longer than **ninety (90) days** without a tavern or liquor business for the same being in complete and full operation. However, if a tavern or liquor business has been destroyed or damaged by fire or act of God and cannot be rebuilt or repaired within the **ninety (90) day period**, then, in that event, the Mayor shall extend the period of time for which a liquor license may be held by the mere payment of fees without the tavern or liquor business being in full and complete operation for an additional **ninety (90) days**.

If either of the above stated periods of time passes without the particular tavern or liquor business returning to complete and full operation, the license for that particular business shall expire and not be subject to renewal, unless all other requirements of this Chapter shall have been met. **(See 235 ILCS Sec. 5/4-1)**

21-2-12 DRAMSHOP INSURANCE. No license shall be issued hereunder unless the applicant shall file with the application a certificate by an insurance company authorized to do business in the State of Illinois, certifying that the applicant has the following minimum coverages:

(A)	<u>Bodily Injury Liability.</u>	\$45,000 each occurrence
(B)	<u>Property Damage:</u>	\$45,000 each occurrence
(C)	<u>Means of Support or Loss of Society:</u>	\$55,000 each occurrence
(D)	<u>Combined Single Limit.</u> In lieu of individual insurance coverage listed in subsections (A), (B) and (C) of this Section, the applicant may provide a combined single limit policy in the amount of Three Hundred Thousand Dollars (\$300,000.00) . (See 235 ILCS Sec. 5/1-3.17-1 and 235 ILCS Sec. 5/5-1(e))	

21-2-13 DISPLAY OF LICENSE. Every licensee under this Chapter shall cause his license to be framed and hung in plain view in a conspicuous place on the licensed premises. Whenever such license shall be lost or destroyed, a duplicate shall be issued by the City Clerk at a cost of **Two Dollars (\$2.00)**. **(See 235 ILCS Sec. 5/6-24)**

21-2-14 RECORD OF LICENSES. The Mayor shall keep a complete record of all licenses issued by him and shall supply the Clerk, Treasurer and Chief of Police a copy of the same. Upon issuance or revocation of a license, the Mayor shall give written notice to these same officers within **forty-eight (48) hours.** (See 235 ILCS Sec. 5/4-1)

ARTICLE III - REGULATIONS

21-3-1 HOURS. It shall be unlawful for holders of a liquor license to sell or offer for sale alcoholic liquor as permitted by the holders Class of license from the City between the hours of **8:00 A.M.** and the next following **2:00 A.M.** every day, including Sundays and holidays. It shall be unlawful to sell or offer for sale at retail any alcoholic liquor in the City between the hours of **2:00 A.M.** and the next following **8:00 A.M.**, every day of the week, including Sundays and holidays.

The premises on which alcoholic liquor is sold shall be cleared of all persons, except owners and employees, and closed within **thirty (30) minutes** after the last allowable time for sale of alcoholic liquor as provided herein provided this paragraph shall not apply to those portions of Class "A" licensed premises which are devoted to the business of the sale of services or commodities other than alcoholic liquor.

It shall be unlawful to keep open for business or to admit the public to, or permit the public to remain within, or to permit the consumption of alcoholic liquor in or upon any premises in which alcoholic liquor is sold at retail during the hours within which the sale of such liquor is prohibited; provided that restaurants, hotels and those portions of Class "A" licensed premises which are devoted to the business of the sale of services or commodities other than alcoholic liquor, may be kept open for business during such hours, but no alcoholic liquor may be sold to, or consumed by the public during such hours. **(Ord. No. 12-17; 11-06-12) (See 235 ILCS Sec. 5/4-1)**

21-3-2 HAPPY HOUR RESTRICTIONS.

(A) All retail licensees shall maintain a schedule of the prices charged for all drinks of alcoholic liquor to be served and consumed on the licensed premises or in any room or part thereof. Whenever a hotel or multi-use establishment which holds a valid retailer's license operates on its premises more than one establishment at which drinks of alcoholic liquor are sold at retail, the hotel or multi-use establishment shall maintain at each such establishment a separate schedule of the prices charged for such drinks at the establishment.

(B) No retail licensee or employee or agent of such licensee shall:

- (1) Serve **two (2)** or more drinks of alcoholic liquor at one time to one person for consumption by that one person, except selling or delivering wine by the bottle or carafe;
- (2) Sell, offer to sell or serve to any person an unlimited number of drinks of alcoholic liquor during any set period of time for a fixed price, except at private functions not open to the general public;
- (3) Sell, offer to sell or serve any drink of alcoholic liquor to any person on any one date at a reduced price other than that charged other purchasers of drinks on that day where such

reduced price is a promotion to encourage consumption of alcoholic liquor, except as authorized in subsection C(7) of this Section.

- (4) Increase the volume of alcoholic liquor contained in a drink, or the size of a drink of alcoholic liquor, without increasing proportionately the price regularly charged for the drink on that day;
- (5) Encourage or permit, on the licensed premises, any game or contest which involves drinking alcoholic liquor or the awarding of drinks of alcoholic liquor as prizes for such game or contest on the licensed premises; or
- (6) Advertise or promote in any way, whether on or off the licensee premises, any of the practices prohibited under paragraphs (1) through (5).

(C) Nothing in subsection B shall be construed to prohibit a licensee from:

- (1) Offering free food or entertainment at any time;
- (2) Including drinks or alcoholic liquor as part of a meal package;
- (3) Including drinks of alcoholic liquor as part of a hotel package;
- (4) Negotiating drinks of alcoholic liquor as part of a contract between a hotel or multi-use establishment and another group for the holding of any function, meeting, convention or trade show;
- (5) Providing room service to persons renting rooms at a hotel;
- (6) Selling pitchers (or the equivalent, including but not limited to buckets), carafes, or bottles of alcoholic liquor which are customarily sold in such manner and delivered to **two (2)** or more persons at one time; or

- (7) Increasing prices of drinks of alcoholic liquor in lieu of, in whole, or in part, a cover charge to offset the cost of special entertainment not regularly scheduled.

(D) A violation of this Section shall be grounds for suspension or revocation of the retailer's license as provided by Article IV of this Code. **(See 235 ILCS Sec. 5/6-28)**

21-3-3 PROHIBITED LOCATIONS. No license shall be issued for the sale of any alcoholic liquor at retail within **one hundred feet (100')** of any church, school (other than an institution of higher learning), hospital, home for the aged or indigent persons, or for veterans, their spouses or children or any military or naval station; provided, that this prohibition shall not apply to hotels offering restaurant service, regularly organized clubs or to restaurants, food shops, or other places where the sale of alcoholic liquors is not the principal business carried on if such place of business so exempted shall have been established for such purposes prior to the taking effect of this Chapter; nor to the renewal of a license for the sale at retail of alcoholic liquor on the premises within **one hundred feet (100')** of any church or school where such church

or school has been established within such **one hundred feet (100')** since the issuance of the original license. In the case of a church, the distance of **one hundred feet (100')** shall be measured to the nearest part of any building used for worship services or educational programs and not to property boundaries.

Nothing in this Section shall prohibit the issuance of a license to a church or private school to sell at retail alcoholic liquor if any such sales are limited to periods when groups are assembled on the premises solely for the promotion of some common object other than the sale or consumption of alcoholic liquors. **(See 235 ILCS Sec. 5/6-11)**

21-3-4 CHANGE OF LOCATION. A retail liquor dealer's license shall permit the sale of alcoholic liquor only on the premises described in the application and license. Such location may be changed only upon the written permit to make such change issued by the Mayor. No change of location shall be permitted unless the proposed new location is a proper one for the retail sale of alcoholic liquor under the law of this state and the Code of this municipality. **(See 235 ILCS Sec- 5/7-14)**

21-3-5 STORES SELLING SCHOOL SUPPLIES, LUNCHES, ETC. No license shall be issued to any person for the sale at retail of any alcoholic liquor at any store or other place of business where the majority of customers are minors of school age or where the principal business transacted consists of school books, school supplies, food, lunches, or drinks for such minors. **(See 235 ILCS Sec. 5/6-12)**

21-3-6 TRANSPORTING, ETC., IN MOTOR VEHICLES. No person shall, within this municipality, transport, carry, possess, or have any alcoholic liquor in, upon, or about any motor vehicle in or on any public street, alley or place, except in the original package and with the seal unbroken.

21-3-7 OPEN LIQUOR - CUP-TO-GO PROHIBITED. The licensee shall not knowingly permit any person to leave his premises with open liquor or in a "**cup-to-go**".

21-3-8 LIQUOR IN VEHICLES; UNDERAGE. The presence in a vehicle other than a public vehicle of any alcoholic liquor shall be prima facie evidence that it is in the possession of and is being carried by all persons occupying such vehicle at the time of which such alcoholic liquor is found, except under the following circumstances:

- (A) If such liquor is found on the person of one of the occupants therein;
- or
- (B) If such vehicle contains at least one occupant over **twenty-one (21) years of age.**

21-3-9 ELECTION DAYS. All such licensees may sell alcoholic liquor at retail, by the drink or in the original package for consumption either on or off the premises licensed on the day of any national, state, county or municipal election, including primary elections during the hours the polls are open within the political area in which such election is being held and on Sundays; subject to all the remaining terms, conditions and opening hours and closing hours as set forth in this Chapter.

21-3-10 UNLAWFUL ACTS. It shall be unlawful for any person to do or commit any of the following acts within the City, to-wit:

(A) Drink any alcoholic liquors on any public street, alley, sidewalk, or other public way without special permission granted by the Mayor.

(B) Drink any alcoholic liquors in any public park, except with the permission of the Mayor.

(C) Drink any alcoholic liquors on any private property without permission of an owner thereof.

(D) Appear on or in any public street, alley, sidewalk or other public place, including parks and recreation areas, in an intoxicated condition.

21-3-11 UNLAWFUL ENTERTAINMENT. No licensee, his agent, servant or employee shall permit or allow any lewd or lascivious act or any topless and/or bottomless employee and/or employees **[topless being defined as naked and substantially without clothing or covering of the body from the waist to the neckline and bottomless being defined as naked and substantially without clothing or covering of the body from the waist downward]**, or entertainment to be performed within the licensed premises by an entertainer employed therein, or by any employee or guest.

Nor shall any licensee, his agent, servant or employee permit or allow any employee or guest or any other person whomever to solicit or encourage the purchasing of any alcoholic liquor or beverage of any description, or the giving of any gratuity or gift by any patron or guest to or for the benefit of such employee or guest.

The following kinds of conduct on premises in this municipality licensed to sell alcoholic liquor are prohibited:

(A) The performance of acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts;

(B) The actual or simulated exhibition, touching, caressing, or fondling of the breasts, buttocks, pubic hair, anus, vulva, or genitals;

(C) The actual or simulated displaying of the breasts, buttocks, pubic hair, anus, vulva, or genitals;

(D) The permitting by a licensee of any person to remain in or upon the licensed premises who exposes to view any portion of his or her breasts, buttocks, genitals, vulva, or anus;

(E) The displaying of films or pictures depicting acts, a live performance of which are prohibited by the regulations quoted above.

21-3-12 SANITARY CONDITIONS. All premises used for the retail sale of alcoholic liquor or for the storage of such liquor for such sale shall be kept in a clean and sanitary condition, and shall be kept in full compliance with the codes regulating the condition of the premises used for the storage or sale of food for human consumption. **(See 410 ILCS Sec. 650/1, et seq.)**

21-3-13 DISEASED EMPLOYEES. It shall be unlawful to employ in any premises used for the retail sale of alcoholic liquor, any person who is afflicted with or who is a carrier of any contagious disease, infectious or venereal disease; and it shall be unlawful for any person who is afflicted with or a carrier of any such disease to work in or about any premises or to engage in any way in the handling, preparation or distribution of such liquor. **(See 410 ILCS Sec. 650/10)**

21-3-14 HEALTH PERMIT. Every licensee shall have, at all times, a valid operating permit from the County Health Department which regulates health standards.

21-3-15 PEDDLING. It shall be unlawful to peddle alcoholic liquor in this municipality. **(See 235 ILCS Sec. 5/4-1)**

21-3-16 GAMBLING. It is unlawful to keep, place, maintain, or operate any gambling device or instrument in and upon the premises used or occupied as a place where alcoholic liquor is sold or given away, except as authorized by the Video Gaming Act or other law of the State of Illinois. It shall be unlawful for any licensee or licensee's agent and/or employee, to give or award a cash prize or equivalent to any person playing any devices or machines defined as a coin-operated amusement device pursuant to **Section 7-4-1** of the City Code, except as may be authorized by the Video Gaming Act or other statute of the State of Illinois. **(See 720 ILCS Sec. 5/28-1) (Ord. No. 10-20; 09-07-10)**

21-3-17 DISORDERLY HOUSE. Any person licensed under this Chapter shall not suffer or permit any disorder, drunkenness, quarreling, fighting, unlawful games, or riotous or disorderly conduct in any house or premises kept or occupied by him for the sale of liquor. **(See 235 ILCS Sec. 5/4-1)**

21-3-18 PROHIBITED SALES - GENERALLY. No licensee, nor any officer, associate, member, representative, agent or employee of such licensee shall sell, give or deliver alcoholic liquor to any person under the age of **twenty-one (21) years**, or to any intoxicated person or to any person known by him to be a habitual drunkard, spendthrift, insane, or mentally ill. No person, after purchasing or otherwise obtaining alcoholic liquor shall sell, give or deliver such alcoholic liquor to another person under the age of **twenty-**

one (21) years, except in the performance of a religious ceremony or service. **(See 235 ILCS Sec- 5/6-16)**

21-3-19 PERSONS SELLING LIQUOR. It shall be unlawful for any person under the age of **twenty-one (21) years** to attend any bar or to draw, pour or mix any alcoholic liquor. In a Class "A", "C", "E" or "G" licensed business, a person may serve alcoholic liquor if he is **eighteen (18) years** of age or older. **(See 235 ILCS Sec. 5/4-1) (Ord. No. 01-17; 07-03-01)**

21-3-20 UNDERAGED; ENTRY ON LICENSED PREMISES. It shall be unlawful for any person under the age of **twenty-one (21) years** to enter upon premises where alcoholic liquors, spirits, beer or wine are sold by the holder of a Class "B" license unless accompanied by a parent or legal guardian. No holder of a Class "B" license, nor any officer, associate, member, representative, agent or employee of such licensee shall permit any person under the age of **twenty-one (21) years** not accompanied by a parent or legal guardian to enter the licensed premises. For the purpose of preventing the violation of this section, any holder of a Class "B" license, or his agent or employee, may refuse to permit entry onto the licensed premises of any person under the age of **twenty-one (21) years** who is unable to produce adequate written evidence of the fact that the person accompanying such person under the age of **twenty-one (21) years** is that person's parent or legal guardian. **(See 235 ILCS Sec- 5/4-1)**

21-3-21 UNLAWFUL PURCHASE OF LIQUOR. Any person to whom the sale, gift or delivery of any alcoholic liquor is prohibited because of age shall not purchase or accept a gift of such alcoholic liquor or have such alcoholic liquor in his possession. **(See 235 ILCS Sec. 5/6-20)**

21-3-22 IDENTIFICATION REQUIRED. If a licensee or his agents or employees believe or have reason to believe that a sale or delivery of any alcoholic liquor is prohibited because of the age of the prospective recipient, he shall, before making such sale or delivery, demand presentation of some form of positive identification, containing proof of age, issued by a public officer in the performance of his official duties.

Proof that the defendant/licensee or his employees or agent demanded, was shown, and reasonably relied upon such written evidence in any transaction forbidden by this section is competent evidence and may be considered in any criminal prosecution therefor or in any proceedings for the suspension or revocation of any license based thereon. **(See 235 ILCS Sec. 5/6-20)**

21-3-23 TRANSFER OF IDENTIFICATION CARD. No person shall transfer, alter or deface such an identification card; use the identification card of another; carry or use a false or forged identification card; or obtain an identification card by means of false information. No person shall purchase, accept delivery, or have possession of alcoholic liquor in violation of this Chapter.

The consumption of alcoholic liquor by any person under the age of **twenty-one (21) years** is forbidden. **(See 235 ILCS Sec. 5/6-20)**

21-3-24 POSTING WARNING. In every licensed business where alcoholic liquor is sold, there shall be displayed at all times in a prominent place, a printed card which shall be supplied by the Municipal Clerk, and which shall read as follows:

UNDERAGE LIQUOR WARNING

"YOU ARE SUBJECT TO A FINE UP TO \$750 UNDER THE ORDINANCES OF THIS MUNICIPALITY IF YOU PURCHASE ALCOHOLIC LIQUOR OR MISREPRESENT YOUR AGE FOR THE PURPOSE OF PURCHASING OR OBTAINING ALCOHOLIC LIQUOR."

21-3-25 EXCLUSIONARY PROVISION. The possession and dispensing or consumption by an underaged person of alcoholic liquor in the performance of a religious service or ceremony, or the consumption by an underaged person under the direct supervision and approval of the parent or parents of such underaged person in the privacy of a home is not prohibited by this Chapter. **(See 235 ILCS Sec. 5/6-20)**

21-3-26 INSPECTIONS. It shall be unlawful to refuse to grant admittance to the premises for which a license has been issued at any time upon the verbal request of the Chief of Police, any police officer, or the Liquor Commissioner for the purpose of making an inspection of such premises or any part thereof. **(See 235 ILCS Sec- 5/4-4)**

21-3-27 BOOKS AND RECORDS---AVAILABLE UPON REASONABLE NOTICE AND MAINTAINED IN STATE RECORDS. It shall be the duty of every retail licensee to make books and records available upon reasonable notice for the purpose of investigation and control by the Mayor having jurisdiction over the licensee. Such books and records need not be maintained on the licensed premises, but must be maintained in the State of Illinois. **(See 235 ILCS Sec. 5/6-10)**

21-3-28 RESTRICTIONS ON LICENSEE. In addition to the restrictions on licensing, the holder of a license is subject to the following restrictions:

(A) It is unlawful for any licensee to accept, receive or borrow money or anything of value directly or indirectly from any manufacturer or distributor of alcoholic liquor. **(See 235 ILCS Sec. 5/6-5)**

(B) No licensee licensed under the provisions of this Code shall deny or permit his agents or employees to deny any person the full and equal enjoyment of the accommodations, advantages, facilities and privileges of any premises in which alcoholic liquors are authorized to be sold subject only to the conditions and limitations established by law and applicable alike to all citizens. **(See 235 ILCS Sec. 5/6-17)**

(C) No licensee shall sell liquor to any persons on credit, or in payment for services rendered but this does not apply to clubs and hotels and liquor purchased for consumption off the premises. **(See 235 ILCS Sec. 5/6-19)**

(D) No licensee shall fill or refill in whole or in part any original package of alcohol with the same or other liquor and no liquor shall be sold except in original packages. **(See 235 ILCS Sec. 5/6-22)**

(E) No alcoholic liquor shall be sold or delivered in any building belonging to or under the control of a municipality except in connection with the operation of an established food service facility or at a site specifically provided for in the Act and where dram shop insurance coverage is provided. **(See 235 ILCS Sec. 5/6-15)**

(F) An established place of business is a prerequisite to the issuance of a license. Revocation of a license when a licensee ceases to operate the business before the license expires is within the authority of the commissioner on the grounds of nonuse. **(See Goode V. Thomas 31 Ill. App. 3d 674, 1975)**

21-3-29 SELLING FALSE IDENTIFICATION. Any person who sells, gives, or furnishes to any person under the age of **twenty-one (21) years** any false or fraudulent written, printed, or photostatic evidence of the age and identity of such person or who sells, gives or furnishes to any person under the age of **twenty-one (21) years** evidence of age and identification of any other person is guilty of violating this Code. **(See 235 ILCS Sec. 5/6-16)**

21-3-30 FALSE IDENTIFICATION. Any person under the age of **twenty-one (21) years** who presents or offers to any licensee, his agent or employee, any written, printed or photostatic evidence of age and identity which is false, fraudulent, or not actually his own for the purpose of ordering, purchasing, attempting to purchase or otherwise procuring or attempting to procure, the serving of any alcoholic beverage, or who has in his possession any false or fraudulent, written, printed, or photostatic evidence of age and identity, is guilty of violating this Code. **(See 235 ILCS Sec. 5/6-16)**

21-3-31 UNDERAGED DRINKING ON STREETS. Any person under the age of **twenty-one (21) years** who has any alcoholic beverage in his possession on any street or highway or in any public place, or in any place open to the public is guilty of violating this Code. This section does not apply to possession by a person under the age of **twenty-one (21) years** making a delivery of an alcoholic beverage in pursuance of the order of his or her parent or in pursuance of his or her employment. **(See 235 ILCS Sec. 5/6-16)**

21-3-32 RESIDENTIAL DRINKING. Any person shall be guilty of a violation of this Code where he or she knowingly permits a gathering at a residence which he or she occupies of **two (2) or more persons** where any one or more of the persons is under **eighteen (18) years** of age and the following factors also apply:

(A) the person occupying the residence knows that any such person under the age of **eighteen (18)** is in possession of or is consuming any alcoholic beverage; and

(B) the possession or consumption of the alcohol by the person under **eighteen (18)** is not otherwise permitted by this Code and

(C) the person occupying the residence knows that the person under the age of **eighteen (18)** leaves the residence in an intoxicated condition.

For the purposes of this section where the residence has an owner and a tenant or lessee, there is a rebuttable presumption that the residence is occupied only by the tenant or lessee. **(See 235 ILCS Sec. 5/6-16)**

21-3-33 RENTING HOTEL ROOMS FOR DRINKING. Any person who rents a hotel or motel room from the proprietor or agent thereof for the purpose of or with the knowledge that such room shall be used for the consumption of alcoholic liquor by persons under the age of **twenty-one (21) years** shall be guilty of violating this Code. **(See 235 ILCS Sec. 5/6-16)**

ARTICLE IV - VIOLATIONS AND PENALTIES

21-4-1 OWNER OF PREMISES PERMITTING VIOLATION. If the owner of the licensed premises or any person from whom the licensee derives the right to possession of such premises, or the agent of such owner or person shall knowingly permit the licensee to use said licensed premises in violation of the terms of this Code, said owner, agent or other person shall be deemed guilty of a violation of this Code to the same extent as said licensee and be subject to the same punishment. **(See 235 ILCS Sec. 5/10-2)**

21-4-2 ACTS OF AGENT OR EMPLOYEE - LIABILITY; KNOWLEDGE. Every act or omission of whatsoever nature constituting a violation of any of the provisions of this Code by any officer, director, manager or other agent or employee of any licensee shall be deemed and held to be the act of such employer or licensee, and said employer or licensee shall be punishable in the same manner as if said act or omission had been done or omitted by him personally. **(See 235 ILCS Sec. 5/10-3)**

21-4-3 REVOCATION OF LICENSE AFTER CONVICTION. Whenever any licensee shall be convicted of any violation of this Code, the license of said licensee may, in the discretion of the Mayor, be revoked and forfeited and all fees paid thereon shall be forfeited, and it shall thereafter be unlawful and shall constitute a further violation of this Code for said licensee to continue to operate under such license. **(See 235 ILCS Sec. 5/10-4)**

21-4-4 REVOCATION OF LICENSE WHEN EMPLOYEE CONVICTED. Whenever any officer, director, manager, or other employee in a position of authority of any licensee under this Code shall be convicted of any violation of this Code while engaged in the course of his employment or while upon the premises described by the license, the license shall be revoked and the fees paid thereon forfeited, both as to the holder of the license and

as to the premises, as if said licensee had himself been convicted. **(See 235 ILCS Sec. 5/10-5)**

21-4-5 MISBRANDING. Any person who shall knowingly possess, sell or in any way dispose of any alcoholic liquor under any other than the proper name or brand known to the trade as designating the kind and quality of the contents of the package or other containers of the alcoholic liquor, or who shall cause any such act to be done, shall forfeit the alcoholic liquor and the packages and containers to the State and shall be subject to the punishment and penalties provided for violation of this Code. **(See 235 ILCS Sec. 5/10-6)**

21-4-6 ABATEMENT OF PLACE USED IN VIOLATION. Every lot, parcel or tract of land, and every building, structure, tent, railroad car, boat, wagon, vehicle, establishment or place whatsoever, together with all furniture, fixtures, ornaments and machinery located thereon, wherein there shall be conducted any unlawful sale of any alcoholic liquor, or whereon or wherein there shall be kept, stored, concealed or allowed any alcoholic liquor intended for illegal sale or to be sold, disposed of or in any other manner used in violation of any of the provisions of this Code, is hereby declared to be a public nuisance and shall be abated as provided by the laws of this State for the abatement of public nuisances. **(See 235 ILCS Sec. 5/10-7)**

21-4-7 USE OF PREMISES FOR ONE YEAR AFTER REVOCATION. When any license has been revoked for any cause, no license shall be granted for the same premises for a period of **one (1) year** thereafter. **(See 235 ILCS Sec. 5/7-13)**

21-4-8 REVOCATION OF LICENSES. The Local Liquor Control Commissioner shall have the following powers, functions and duties with respect to licenses granted under this Code.

(A) In addition to and not limited by the specific penalties set out for violations of specific articles of this Code, the Local Liquor Control Commissioner may suspend for **thirty (30) days** or revoke any liquor license issued under this Code for any state law pertaining to the sale of alcoholic liquors by any licensee, his agent, servant or employee.

(B) To suspend or revoke any liquor license if the licensee makes any false statement or misrepresentation in the application for a license.

(C) To enter or to authorize any law enforcing officer to enter at any time upon any premises licensed hereunder to determine whether any of the provisions of this Code or any rules or regulations adopted by him or by the State Commission have been or are being violated, and at such time to examine said premises of said licensee in connection therewith;

(D) To notify the Secretary of State where a club incorporated under the General Not for Profit Corporation Act or a foreign corporation functioning as a club in this State under a certificate of authority issued under that Act has violated this Code by selling or offering for sale at retail alcoholic liquors without a retailer's license;

(E) To receive complaint from any citizen within his jurisdiction that any of the provisions of this Act, or any rules or regulations adopted pursuant hereto, have been or are being violated and to act upon such complaints in the manner hereinafter provided;

(F) The Local Liquor Control Commissioner shall also have the power to levy fines in accordance with **Section 21-4-10** of this Code. **(See 235 ILCS Sec. 5/4-4)**

21-4-9 COMPLAINT BY RESIDENTS. Any **five (5) residents** of the municipality shall have the right to file a complaint with the Liquor Commissioner, stating that a licensee under this Code has been or is violating the provisions of this Code or any 10 amendments hereto, or of any of the statutes of this State of Illinois, enacted with reference to the control of liquor. Such complaint shall be made in writing and shall be signed and sworn to by the parties complaining.

The complaint shall state the particular provision, rule or regulation believed to have been violated and the facts in detail upon which such belief is based. If the Liquor Commissioner is satisfied that the complaint substantially charges a violation, and that from the facts alleged, there is reasonable cause for such belief, he shall set the matter for hearing, and shall serve notice upon the licensee of the time and place of such hearing and of the particular charges in the complaint. **(See 235 ILCS Sec. 5/7-7)**

21-4-10 REVOCATION OR SUSPENSION OF LOCAL LICENSE; - NOTICE AND HEARING. The Liquor Commissioner may revoke or suspend any license issued by him if he determines that the licensee has violated any of the provisions of the **Illinois Liquor Act**, any valid ordinance adopted by the municipality, any applicable rule or regulation established by the Liquor Commissioner or the State Commission which is not inconsistent with law.

(A) **Fine as Opposed to Suspension or Revocation.** In addition to suspension and/or revocation, the Liquor Commissioner may levy a fine on the licensee for such violations. The fine imposed shall not exceed One Thousand Dollars (\$1,000.00) for each violation; each day on which a violation continues shall constitute a separate violation. No more than Ten Thousand Dollars (\$10,000.00) in fines under this section may be imposed against any licensee during the period of his license. Proceeds from such fines shall be paid into the general corporate fund of the municipal treasury, as the case may be. **(See P.A. 89-0063)**

(B) **Revocation and Suspension: Notice.** However, no such license shall be so revoked or suspended and no licensee shall be fined except after a public hearing by the Local Liquor Control Commissioner with a **three (3) day** written notice to the licensee affording the licensee an opportunity to appear and defend. All such hearings shall be open to the public and the Liquor Commissioner shall reduce all evidence to writing and shall maintain an official record of the proceedings. If the Liquor Commissioner has reason to believe that any continued operation of a particular licensed premises will immediately threaten the welfare of the community he may, upon the issuance of a written order stating the reason for such conclusion and without notice or hearing order the licensed premises closed for not more than **seven (7) days**, giving the licensee an opportunity to be heard

during that period, except that if such licensee shall also be engaged in the conduct of another business or businesses on the licensed premises such order shall not be applicable to such other business or businesses.

(C) **Hearing.** The Liquor Commissioner shall, within **five (5) days** after such hearing, if he determines after such hearing that the license should be revoked or suspended, state the reason or reasons for such determination in a written order of revocation or suspension and shall serve a copy of such order within the **five (5) days** upon the license. The findings of the Commissioner shall be predicted upon competent evidence. **(See 235 ILCS Sec. 5/7-5)**

21-4-11 APPEALS FROM ORDER OF LIQUOR COMMISSIONER. Except as provided in this section, any order or action of a Local Liquor Control Commissioner levying a fine or refusing to levy a fine on a licensee, granting or refusing to grant a license, revoking or suspending or refusing to revoke or suspend a license or refusing for more than **thirty (30) days** to grant a hearing upon a complaint to revoke or suspend a license may within **twenty (20) days** after notice of such order or action by appealed by any resident of the municipality under the jurisdiction of the Liquor Commissioner or any person interested, to the State Commission.

In any case where a licensee appeals to the State Commission from an order or action of the Liquor Commissioner having the effect of suspending or revoking a license, denying a renewal application, or refusing to grant a license, the licensee shall resume the operation of the licensed business pending the decision of the State Commission and the expiration of the time allowed for an application for rehearing. If an application for rehearing is filed, the licensee shall continue the operation of the licensed business until the denial of the application or, if the rehearing is granted, until the decision on rehearing. **(See 235 ILCS Sec. 5/7-9)**

21-4-12 SUBSEQUENT VIOLATIONS IN A YEAR. In any case, in which a licensee appeals to the State Commission a suspension or revocation by a Local Liquor Control Commissioner that is the second or subsequent such suspension or revocation placed on that licensee within the preceding **twelve (12) month period**, the licensee shall consider the suspension or revocation to be in effect until a reversal of the Liquor Commissioner's action has been issued by the State Commission and shall cease all activity otherwise authorized by the license. The State Commission shall expedite, to the greatest extent possible, its consideration of any appeal that is an appeal of a second or subsequent suspension or revocation within the past **twelve (12) month period**. **(See 235 ILCS Sec. 5/7-9)**

21-4-13 APPEAL LIMITATIONS FOR SUBSEQUENT VIOLATION. Any appeal of the decision and findings of the Liquor Commissioner in **Section 21-4-12** shall be limited to a review of the official record of the proceedings of said Liquor Commissioner. The official record shall be a "certified official record" of the proceedings taken and prepared by a certified court reporter or certified shorthand reporter. A copy

of this record shall be filed by the Liquor Commissioner within **five (5) days** after notice of the filing of such appeal is received by the municipality from State Commission. **(See 235 ILCS Sec. 5/7-9)**

CHAPTER 22

MANDATED POLICIES

ARTICLE I – IDENTITY THEFT PREVENTION POLICY

22-1-1 DEFINITIONS.

(A) For purposes of this Policy, the term "*Covered Account*" means an account that the City offers or maintains, primarily for personal, family or household purposes, that involves or is designed to permit multiple payments or transactions and any other account that the City offers or maintains for which there is a reasonably foreseeable risk to customers or the safety and soundness of the City from identity theft, including financial, operational, compliance, reputation, or litigation risks.

(B) For purposes of this Policy, the term "*Identity Theft*" means a fraud committed or attempted using the identifying information of another person without authority.

(C) For purposes of this Policy, the term "*Red Flag*" means a pattern, practice, or specific activity that indicates the possible existence of identity theft. **Section 22-1-3** provides a specific description of which Red Flags are applicable to this Policy.

22-1-2 INCORPORATION OF EXISTING POLICY AND PROCEDURE.

The following policies and procedures already in effect at the City are specifically incorporated and will continue to operate in conjunction with the Identity Theft Prevention to achieve its stated purpose. Not Applicable.

22-1-3 IDENTIFICATION OF RELEVANT RED FLAGS. After careful examination of our accounts, including the methods by which we open, access and past experience with identity theft, the following events/occurrences reasonably indicate the potential for identity theft and should be considered "Red Flags" for purposes of this policy:

(A) **Alerts, Notifications, or Other Warnings Received from Consumer Reporting Agencies or Service Providers, such as Fraud Detection Services.** For the purposes of this policy the City will be utilizing the ONLINE Utility Exchange as their service provider to identify the "Red Flags" listed below:

- (1) A fraud or active duty alert is included with a consumer report.
- (2) A consumer reporting agency provides a notice of credit freeze in response to a request for a consumer report.
- (3) A consumer reporting agency provides a notice of address discrepancy (**See Section 22-1-7**).

- (4) A consumer report indicates a pattern of activity that is inconsistent with the history and usual pattern of activity of an applicant or customer, such as:
 - (a) A recent and significant increase in the volume of inquiries;
 - (b) An unusual number of recently established credit relationships;
 - (c) A material change in the use of credit, especially with respect to recently established credit relationships; or
 - (d) An account that was closed for cause or identified for abuse of account privileges by a financial institution or creditor.

(B) **The Presentation of Suspicious Documents, such as:**

- (1) Documents provided for identification appear to have been altered or forged.
- (2) The photograph or physical description on the identification is not consistent with the appearance of the applicant or customer presenting the identification.
- (3) Other information on the identification is not consistent with information provided by the person opening a new covered account or customer presenting the identification.
- (4) Other information on the identification is not consistent with readily accessible information that is on file with the financial institution or creditor, such as a signature card or a recent check.
- (4) An application appears to have been altered or forged, or gives the appearance of having been destroyed and reassembled.

(C) **The Presentation of Suspicious Personal Identifying Information, Such as a Suspicious Address Change.**

- (1) Personal identifying information provided is inconsistent when compared against external information sources used by the City. For example:
 - (a) The address does not match any address in the consumer report; or
 - (b) The Social Security Number (SSN) has not been issued, or is listed on the Social Security Administration's Death Master File.
- (2) Personal identifying information provided by the customer is not consistent with other personal identifying information provided by the customer. For example, there is a lack of correlation between the SSN range and date of birth.

- (3) Personal identifying information provided is associated with known fraudulent activity as indicated by internal or third-party sources used by the City. For example:
 - (a) The address on an application is the same as the address provided on a fraudulent application; or
 - (b) The phone number on an application is the same as the number provided on a fraudulent application.
- (4) Personal identifying information provided is of a type commonly associated with fraudulent activity as indicated by internal or third-party sources used by the financial institution or creditor. For example:
 - (a) The address on an application is fictitious, a mail drop, or a prison; or
 - (b) The phone number is invalid, or is associated with a pager or answering service.
- (5) The SSN provided is the same as that submitted by other persons opening an account or other customers.
- (6) The address or telephone number provided is the same as or similar to the account number or telephone number submitted by an unusually large number of other persons opening accounts or other customers.
- (7) The person opening the covered account or the customer fails to provide all required personal identifying information on an application or in response to notification that the application is incomplete.
- (8) Personal identifying information provided is not consistent with personal identifying information that is on file with the City.
- (9) If the City uses challenge questions, the person opening the covered account or the customer cannot provide authenticating information beyond that which generally would be available from a wallet or consumer report.

(D) **Unusual Use of, or Other Suspicious Activity Related to, a Covered Account.**

- (1) Shortly following the notice of a change of address for a covered account, the City receives a request for a new, additional, or replacement card or a cell phone, or for the addition of authorized users on the account.
- (2) A new revolving credit account is used in a manner commonly associated with known patterns of fraud patterns. For example:
 - (a) The majority of available credit is used for cash advances or merchandise that is easily convertible to cash (e.g., electronics equipment or jewelry); or

- (b) The customer fails to make the first payment or makes an initial payment but no subsequent payments.
- (3) A covered account is used in a manner that is not consistent with established patterns of activity on the account. There is, for example:
 - (a) Nonpayment when there is no history of late or missed payments;
 - (b) A material increase in the use of available credit;
 - (c) A material change in purchasing or spending patterns;
 - (d) A material change in electronic fund transfer patterns in connection with a deposit account; or
 - (e) A material change in telephone call patterns in connection with a cellular phone account.
- (4) A covered account that has been inactive for a reasonably lengthy period of time is used (taking into consideration the type of account, the expected pattern of usage and other relevant factors).
- (5) Mail sent to the customer is returned repeatedly as undeliverable although transactions continue to be conducted in connection with the customer's covered account.
- (6) The City is notified that the customer is not receiving paper account statements.
- (7) The City is notified of unauthorized charges or transactions in connection with a customer's covered account.

(E) **Notice From Customers, Victims of Identity Theft, Law Enforcement Authorities, or Other Persons Regarding Possible Identity Theft in Connection with Covered Accounts Held by the City.**

- (1) The City is notified by a customer, a victim of identity theft, a law enforcement authority, or any other person that it has opened a fraudulent account for a person engaged in identity theft.

22-1-4 DETECTION, PREVENTION AND MITIGATION.

(A) **Detection.** In an effort to ensure proper detection of any Red Flags, all customers (consumers) must provide at least the following information/documentation before any new covered account will be opened:

- (1) Full Name.
- (2) Date of birth (individual).
- (3) Address, (a residential or business street address for an individual; for an individual who does not have a residential or business street address, an Army Post Office (APO) or Fleet Post Office (FPO) box number, or the residential or business street address of next of kin or of another contact individual;

or for a person other than an individual (such as a corporation, partnership, or trust), a principal place of business, local office, or other physical location.

- (4) Identification number, which shall be:
 - (a) For a U.S. person, a taxpayer identification number; or
 - (b) For a non-U.S. person, one or more of the following: a taxpayer identification number; passport number and country of issuance; alien identification card number; or number and country of issuance of any other government-issued document evidencing nationality or residence and bearing a photograph or similar safeguard.

For any account holder of a covered account for which the above information is not already on file at the City the customer will be contacted within a reasonable period of time after discovering the missing information to obtain the necessary information.

To assist with detection of Red Flags, the City will implement the appropriate computer programs tailored to the City business needs to help authenticate customers, monitor transactions, and change of address requests. The following programs are being used and the City continued use thereof is incorporated and made part of this policy.

(B) **Preventing and Mitigating Identify Theft.** In the event a Red Flag is detected, the City is committed to preventing the occurrence of identify theft and taking the appropriate steps to mitigate any harm caused thereby. In order to respond appropriately to the detection of a Red Flag, The City shall consider any aggravating circumstance(s) that may heighten the risk of identity theft. After assessing the degree of risk posed, the City will respond to the Red Flag in an appropriate manner, which may include:

- (1) Monitoring a covered account for evidence of identity theft;
- (2) Contacting the customer;
- (3) Changing any passwords, security codes, or other security devices that permit access to a covered account;
- (4) Reopening a covered account with a new account number;
- (5) Not opening a new covered account;
- (6) Closing an existing covered account;
- (7) Not attempting to collect on a covered account or not selling a covered account to a debt collector;
- (8) Notifying law enforcement; or
- (9) Determining that no response is warranted under the particular circumstances.

In an effort to mitigate the damages caused by identity theft, the City has been utilizing the services of On Line Utility Exchange since March, 2008.

For the protection of our customers, all service providers hired by the City to perform any activity in connection with any covered account must also take appropriate steps to prevent identity theft. To this end, the City will only contract with service providers that have implemented and follow a similar identity theft prevention policy.

22-1-5 PROGRAM DATES. The City is committed to maintaining an Identity Theft Prevention Policy that is current with the ever-changing crime of identity theft. To that end, the City will reassess this policy on a periodic (annual) basis. In reassessing this policy, the City will add/delete Red Flags in **Section 22-1-3**, as necessary, to reflect changes in risks to customers or to the safety and soundness of the City from identity theft. The determination to make changes to this policy will be within the discretion of the City Council after careful consideration of the following:

- (A) The City's past experience(s) with identity theft;
 - (B) Changes in methods of identity theft;
 - (C) Changes in methods to detect, prevent, and mitigate identify theft;
 - (D) Changes in the types of accounts that the City offers or maintains;
- and
- (E) Changes in the business arrangements of the City including mergers, acquisitions, alliances, joint ventures, and service provider arrangements.

(Ord. No. 09-2; 04-07-09)

ARTICLE II - EQUAL EMPLOYMENT POLICY

22-2-1 ADOPTION OF CODES. The City hereby declares to uphold, defend, enforce, and advocate for all laws related to Equal Employment Opportunity including, but not limited to, the following:

(A) **Title VI of the Civil Rights Act of 1964** which prohibits discrimination in the participation in or benefits of programs or activities receiving federal financial assistance on the basis of race, color, or national origin.

(B) **Title VII of the Civil Rights Act of 1964** which prohibits discrimination because of race, color, religion, sex or national origin in all employment practices including hiring, firing, promotions, compensation, and other terms, privileges and conditions of employment.

(C) **Title IX of the Education Amendments of 1972** which prohibits discrimination in federally assisted education programs.

(D) **The Equal Pay Act of 1963** which covers all employees who are covered by the Fair Labor Standards Act. The Act forbids pay differentials on the basis of sex.

(E) **The Age Discrimination Act of 1967** which prohibits discrimination because of age against anyone between the ages of **forty (40)** and **sixty-five (65)**.

(F) **Federal Executive Order 11246** which requires every contract with federal financial assistance to contain a clause against discrimination because of race, color, religion, sex, or national origin.

(G) **Section 504 of the Rehabilitation Act of 1973 and DOL Implementing Regulations at 29 CFR 32** which prohibits any discrimination based on disability.

(H) **Section 188 of WIA and the U.S. DOL Regulations at 29 CFR Parts 31 and 32** which provides that no person in the United States shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination on the basis of race, color, or national origin, under any program or activity receiving Federal financial assistance from the Department of Labor.

(I) **Chapter 68, Article I, Section 17-19 of the Illinois Constitution** which prohibits discrimination based on race, color, creed, national ancestry, disability, and sex in the hiring and promotion practices of any employer.

(J) **The Americans with Disabilities Act of 1990** which prohibits any discrimination against qualified individuals with disabilities on the basis of their disability.

(K) **Illinois Human Rights Act (775 ILCS 5)** which prohibits discrimination based on race, color, religion, sex, national origin, ancestry, age, order of protection status, marital status, physical or mental disability, military status, sexual orientation, or unfavorable discharge from military service in connection with employment, real estate transactions, access to financial credit, and the availability of public accommodations.

22-2-2 NON-DISCRIMINATORY PRACTICES. The City will assure non-discriminatory employment practices in recruitment, recruitment advertising, employment, placement, layoff or termination, promotion, demotion or transfer, rate of pay or other forms of compensation and use of facilities.

22-2-3 CONTRACTING WITH NON-COMPLAINTS. The City will not contract with other agencies, banks, businesses, vendors, etc., who practice or establish a pattern of discrimination based on race, color, religion, sex, national origin, ancestry, age, order of

protection status, marital status, physical or mental disability, military status, sexual orientation, or unfavorable discharge from military.

(A) The City will incorporate into any contract for construction work, or modification thereof, subject to the relevant rules, regulations, and orders of the Secretary of Labor or of any prior authority that remain in effect, which is paid in whole or in part with the aid of such financial assistance, the following "Equal Opportunity Clause":

In the event of the contractor's non-compliance with the provisions of this Equal Employment Opportunity Clause, the Act or the Rules and Regulations of the Department, the contractor may be declared ineligible for future contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations, and the contract may be cancelled or voided in whole or in part, and other sanctions or penalties may be imposed or remedies invoked as provided by statute or regulation. During the performance of this contract, the contractor agrees as follows:

- (1) That he or she will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, marital status, national origin or ancestry, citizenship status, age, physical or mental disability unrelated to ability, sexual orientation, military status or an unfavorable discharge from military service; and, further, that he or she will examine all job classifications to determine if minority persons or women are underutilized and will take appropriate affirmative action to rectify any underutilization.
- (2) That, if he or she hires additional employees in order to perform this contract or any portion of this contract, he or she will determine the availability (in accordance with the Department's Rules and Regulations) of minorities and women in the areas from which he or she may reasonably recruit and he or she will hire for each job classification for which employees are hired in a way that minorities and women are not underutilized.
- (3) That, in all solicitations or advertisements for employees placed by him or her or on his or her behalf, he or she will state that all applicants will be afforded equal opportunity without discrimination because of race, color, religion, sex, sexual orientation, marital status, national origin or ancestry, citizenship status, age, physical or mental disability unrelated to ability, sexual orientation, military status or an unfavorable discharge from military service.
- (4) That he or she will send to each labor organization or representative of workers with which he or she has or is bound by a collective bargaining or other agreement or understanding, a notice advising the labor organization or representatives of the contractor's obligations under the Act and the Department's Rules and Regulations. If any labor organization or representative fails or refuses to cooperate with the contractor in his or her efforts to comply with the Act and Rules and Regulations, the contractor will promptly notify the Department and the contracting agency and will recruit employees from other sources when necessary to fulfill its obligations under the contract.

- (5) That he or she will submit reports as required by the Department's Rules and Regulations, furnish all relevant information as may from time to time be requested by the Department or the contracting agency, and in all respects comply with the Act and the Department's Rules and Regulations.
- (6) That he or she will permit access to all relevant books, records, accounts and work sites by personnel of the contracting agency and the Department for purposes of investigation to ascertain compliance with the Act and the Department's Rules and Regulations.
- (7) That he or she will include verbatim or by reference the provisions of this clause in every subcontract awarded under which any portion of the contract obligations are undertaken or assumed, so that the provisions will be binding upon the subcontractor. In the same manner as with other provisions of this contract, the contractor will be liable for compliance with applicable provisions of this clause by subcontractors; and further it will promptly notify the contracting agency and the Department in the event any subcontractor fails or refuses to comply with the provisions. In addition, the contractor will not utilize any subcontractor declared by the Illinois Human Rights Commission to be ineligible for contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations.

22-2-4 OUTREACH TO ALL. The City assures that it will actively provide nondiscriminatory outreach, selection, and service to all individuals.

22-2-5 MINORITY HIRING. Efforts will be made to hire minority individuals for all job categories so that minority employment in all categories of the work force will represent a proportionate share of minority populations in the City as well as surrounding areas.

22-2-6 ACCOMMODATIONS FOR DISABLED. The City will provide accommodations to the best of its ability for employees with disabilities, contingent on budget and structural limitations.

22-2-7 COMPLIANCE BY EMPLOYEES. All City employees are expected to adhere to the above policy and to work actively for its implementation both internally and in carrying out City program activities.

22-2-8 DESIGNATED ENFORCERS. The City designates the Mayor and the City Council to carry out the EEO/AA plan.

(Ord. No. 11-10; 08-02-11)

ARTICLE III - FREEDOM OF INFORMATION

22-3-1 COPY COSTS. Effective **May 15, 2007**, all City offices shall charge **Six Cents (\$0.06)** per page photocopy expense for any and all photocopies made pursuant a request for copies of documents under the Illinois Freedom of Information Act or as otherwise requested by any person, corporation, or other legal entity.

(Ord. No. 07-04; 05-15-07)

CHAPTER 23

MOBILE HOMES

23-1-1 **DEFINITIONS.** Unless the context clearly regulates otherwise, the words and phrases set forth below shall have the meanings set forth in this Act.

(A) **Mobile Home.** A structure, other than a double wide or modular home, designed for permanent habitation and so constructed as to permit its transport on wheels, temporarily or permanently attached to its frame, from the place of its construction to the location, or subsequent locations, at which it is intended to be a permanent habitation and designed to permit the occupancy thereof as a dwelling place for **one (1)** or more persons. (**Ord. No. 95-7; 06-06-95**)

(B) **Permanent Habitation.** A period of **two (2)** or more months.

(C) **Mobile Home Park.** A tract of land or **two (2)** or more contiguous tracts of land licensed by the State of Illinois as a mobile home park. (**Ord. No. 95-7; 06-06-95**)

(D) **Site.** A platted City lot or parcel as shown on the official map of the City of Newton dated **April 21, 1992** or as shown on plats accepted and approved by the City of Newton on or after **April 21, 1992**. (**Ord. No. 95-14; 07-18-95**)

(E) **Individual Utilities.** The provisions for each mobile home of: a separate metered connection to electrical service; separate and metered water service from any approved public water supply or a separate private water supply; and a tapped connection to an approved public sewer system or a separate private sewage disposal system.

23-1-2 **LICENSE.** No person shall establish, maintain, conduct, or operate a mobile home park or place a mobile home upon a mobile home site within the City limits without first obtaining a license therefore from the City. "Conduct or operate a mobile home park" as used in this Chapter shall include, but not necessarily be limited to supplying or maintaining common water, sewer or other utility supply or service, or the collection of rents directly or indirectly from **two (2)** or more independent mobile homes. If a mobile home park provides sites for **five (5)** or more independent mobile homes, a license for the operation thereof must also be obtained from the State of Illinois Department of Public Health. The fee for the issuance of a license shall be **Ten Dollars (\$10.00)**.

23-1-3 **DRAINAGE.** No mobile home park or individual mobile home site shall be located or operated so that the drainage of the park or individual site area will endanger any water supply. No waste water from any such mobile home shall be deposited on the surface of the ground on which the mobile home is resting.

23-1-4 **SITE.** No mobile home shall be parked closer than **ten (10) feet** to a side lot line, alley or building or closer than **twenty (20) feet** to a public street. Each individual site shall abut or face on a private or public driveway or roadway of not less than **twenty-two (22) feet** in width, which driveway or roadway shall have unobstructed access to a public highway or alley which shall have adequate roadway drainage. There shall be an open space of at least **ten (10) feet**

adjacent to the sides of each mobile home and at least **ten (10) feet** adjacent to the ends of each mobile home such that there is a distance of at least **twenty (20) feet** between walls of each mobile home and which space shall be exclusive of the roadway or private or public driveway. Each site or space upon which a mobile home is accommodated shall be furnished and supplied with **two (2) parking spaces** for motor vehicles, which parking spaces shall not be located upon any street, alley or roadway, but upon land adjacent to or attached to the land on which the mobile home is located. **(Ord. No. 95-7; 06-06-95)**

Only **one (1) mobile home** shall be permitted per each City lot, unless same are in a state-approved mobile home park, and that no mobile home shall be permitted on any City lot where other residential structures exist. **(Ord. No. 93-12; 08-03-93)**

23-1-5 WATER SUPPLY. A public supply of potable water approved by the State of Illinois Department of Public Health shall be furnished to each mobile home and no water from any other source shall be so supplied unless the same is approved by the State of Illinois Department of Public Health. No person shall connect water service to a mobile home until the mobile home park or independent mobile home site has been inspected by the Water Superintendent or a designated City employee for compliance with this Code. A water line shut-off shall be located inside the mobile home during new construction or remodeling.

23-1-6 SEWAGE. All sewage and other water carried wastes shall be disposed of into the municipal sewerage system whenever the interceptor or sewer main is located within **two hundred (200) feet** of the property lines of any mobile home park or any site upon which a mobile home is located. No person, firm or corporation shall connect sewerage service to a mobile home until the mobile home park or independent mobile home site has been inspected by the appropriate City employee for compliance with this Code and **Chapter 38.**

23-1-7 SEWER COLLECTION. When a water carriage system is used, each site upon which a mobile home is parked shall be provided with a sewer connection for the combined liquid waste outlet or outlets of each mobile home. It shall be the duty of the owner or occupant of a mobile home or owner or operator of a mobile home park to provide an approved type of water and odor tight connection from the mobile home water drainage system to the sewer connection, and it shall be the duty of the owner or occupant or operator to make such connection and keep all occupied mobile homes connected to the said sewer at all times. No water waste shall be allowed to fall on the ground from a mobile home and any unconnected sewer connections or taps shall be closed so that they will emit no odors or cause a breeding place for insects.

23-1-8 ELECTRICAL OUTLETS. Electrical outlets for each mobile home park site or individual site shall be provided and the installation shall be in accordance with all national, state, or local codes. No person, firm or corporation shall connect electrical service to a mobile home until the mobile home park or independent mobile home site has been inspected by the appropriate City employee for compliance with this Chapter.

23-1-9 **EFFECTIVE DATE.** Nothing herein contained shall apply to or regulate the use or occupancy of any mobile home placed upon a tract of land within the City limits of the City of Newton, Illinois, prior to **July 6, 1982**. These provisions shall not apply to any successor in the ownership of any mobile home placed upon a tract of land within the City limits prior to **July 6, 1982**.

23-1-10 **MISCELLANEOUS REGULATIONS.**

(A) Only **one (1) mobile home** is permitted per each platted City lot or parcel as shown on the official map dated **April 21, 1992** of the City of Newton, Illinois. No mobile home is permitted on any parcel of land which is less than the whole platted City lot or parcel as shown on the official map dated **April 21, 1992** of the City of Newton, Illinois. **(Ord. No. 03-01; 01-21-03)**

(B) No mobile home is permitted on any site where other residential structures exist.

(C) All mobile homes shall conform to all city, county, state and federal statutes, regulations or laws that may apply.

(D) No mobile home shall be expanded, substituted, or replaced except in compliance with this Code.

(E) No mobile home shall be used for storage or other non-residential purposes. **(Ord. No. 95-7; 06-06-95)**

CHAPTER 24

MOTOR VEHICLE CODE

ARTICLE I - DEFINITIONS

24-1-1 ILLINOIS VEHICLE CODE; DEFINITIONS ADOPTED. The Illinois Vehicle Code, **Illinois Compiled Statutes, Chapter 625, Chapter 1**, entitled "**Title and Definitions**", as passed, approved and amended by the Illinois General Assembly is hereby adopted by the City, the provisions thereof shall be controlling within the corporate limits of the City. **(See 65 ILCS Sec. 5/1-3-2)**

ARTICLE II - GENERAL REGULATIONS

24-2-1 OBEDIENCE TO POLICE. Members of the Police Department, Special Police, Auxiliary Police and Marshals assigned to traffic duty are hereby authorized to direct all traffic in accordance with the provisions of this Article or in emergencies as public safety or convenience may require, and it shall be unlawful for any person to fail or refuse to comply with any lawful order, signal or direction of a policeman. Except in cases of emergency, it shall be unlawful for any person not authorized by law to direct or attempt to direct traffic. **(See 625 ILCS Sec. 5/11-203)**

24-2-2 SCENE OF FIRE. The Fire Department officer in command or any fireman designated by him may exercise the powers and authority of a policeman in directing traffic at the scene of any fire or where the Fire Department has responded to an emergency call for so long as the Fire Department equipment is on the scene in the absence of or in assisting the Police Department.

24-2-3 SIGNS AND SIGNALS. It shall be unlawful for the driver of any vehicle to disobey the instructions of any traffic sign or signal placed in view by authority of the corporate authorities or in accordance with the laws of the State of Illinois except upon direction of a police officer. All signs and signals established by direction of the governing body shall conform to the Illinois State Manual of Uniform Traffic Control Devices for Streets and Highways. **Schedule "V" - Signs and Signals** shall be an integral part of this Section. **(See 625 ILCS 5/11-301)**

24-2-4 UNAUTHORIZED SIGNS. No person shall place, maintain or display upon or in view of any street, any unauthorized sign, signal, marking, light, reflector or device which purports to be or is an imitation of or resembles an official traffic-control device or railroad sign or signal, or which attempts to direct the movement of traffic, nor shall any person place, maintain or display upon or in view of any street, any other sign which hides from view or interferes with the movement of traffic or effectiveness of any traffic-control device or any railroad sign or signal, and no person shall place or maintain, nor shall any public authority permit upon any highway, any traffic sign or signal bearing thereon any commercial advertising. No tree, bush or foliage of any kind shall be so placed, maintained, allowed to remain, or be displayed upon either public or private property in such a manner as to hide from view or interfere with the movement of traffic or the effectiveness of any traffic-control device, sign or signal.

24-2-5 INTERFERENCE WITH SIGNS OR SIGNALS. It shall be unlawful for any person to deface, injure, move or interfere with any official traffic sign or signal.

24-2-6 ADVERTISING SIGNS. It shall be unlawful to maintain anywhere in the City any sign, signal, marking or device other than a traffic sign or signal authorized by the City Council or the Illinois State Department of Transportation Division of Highways, which purports to be or is an imitation of or resembles an official traffic-control device or railroad sign or signal in view of any street or highway, and it shall be unlawful to place or maintain any sign which hides from view any lawful traffic-control device. It shall be unlawful to maintain or operate any flashing or rotating beacon of light in view of any street or highway. **(See Chapters 27 and 33)**

24-2-7 ANIMALS OR BICYCLES. Any person riding a bicycle or an animal or driving any animal drawing a vehicle upon any street shall be subject to the provisions of this Code applicable to the driver of a vehicle, except those provisions which can have no application to one riding a bicycle or driving or riding an animal. **(See 625 ILCS Sec. 5/11-206)**

24-2-8 LAMPS AND OTHER EQUIPMENT ON BICYCLES.
(A) Every bicycle, when in use at nighttime, shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least **five hundred feet (500')** to the front and with a red reflector on the rear of a type approved by the Department which shall be visible from all distances of **one hundred feet (100')** to **six hundred feet (600')** to the rear when directly in front of lawful lower beams of headlights on a motor vehicle. A lamp emitting a red light visible from a distance of **five hundred feet (500')** to the rear may be used in addition to the red reflector.

(B) A bicycle shall not be equipped with, nor shall any person use any siren upon a bicycle.

(C) Every bicycle shall be equipped with a brake which will adequately control movement of and stop and hold such bicycle.

(D) No person shall sell a new bicycle or pedal for use on a bicycle that is not equipped with a reflex reflector or conforming to specifications prescribed by the State on each pedal, visible from the front and rear of the bicycle during darkness from a distance of **two hundred feet (200')**.

(E) No person shall sell or offer for sale a new bicycle that is not equipped with side reflectors. Such reflectors shall be visible from each side of the bicycle from a distance of **five hundred feet (500')** and shall be essentially colorless or red to the rear of the center of the bicycle and essentially colorless or amber to the front of the center of the bicycle provided. The requirements of this paragraph may be met by reflective materials which shall be at least **three-sixteenths of an inch (3/16th")** wide on each side of each tire or rim to indicate as clearly as possible the continuous circular shape and size of the tires or rims of such bicycle and which reflective materials may be of the same color on both the front and rear tire or rim. Such reflectors shall conform to specifications prescribed by the State.

(F) No person shall sell or offer for sale a new bicycle that is not equipped with an essentially colorless front-facing reflector.

(G) Any person charged with a violation of this section shall upon conviction, be fined in accordance with Section 1-1-20 of the City Code. **(See 625 ILCS Sec. 5/11-1507)**

ARTICLE III - STOP AND THROUGH STREETS

24-3-1 THROUGH STREETS. The streets and parts of streets of the City designated by ordinance as "through streets" are hereby declared to be through streets. The driver of a vehicle shall stop at the entrance to a through street and shall yield the right-of-way to other vehicles which have entered the intersection or which are approaching so close on a through street as to constitute an immediate hazard unless directed otherwise by the traffic officer. See **Schedule "A"** for applicable through and stop streets.

24-3-2 ONE-WAY STREETS OR ALLEYS. It shall be unlawful to operate any vehicle on any streets or alleys designated as one-way streets or alleys by ordinance in any direction other than that so designated. See **Schedule "B"** for the designated one-way streets and alleys. **(See 625 ILCS Sec. 5/11-208)**

24-3-3 STOP STREETS. The driver of a vehicle shall stop in obedience to a stop sign at an intersection where a stop sign is erected pursuant to ordinance at one

or more entrances thereto and shall proceed cautiously, yielding to the vehicles not so obliged to stop which are within the intersection or approaching so close as to constitute an immediate hazard, unless traffic at such intersection is controlled by a police officer on duty, in which event, the directions of the police officer shall be complied with. See **Schedule "C"** for designated stop intersections. **(See 625 ILCS Sec. 5/11-302)**

24-3-4 YIELD RIGHT-OF-WAY STREETS. The driver of a vehicle approaching a yield sign, in obedience to such sign, shall slow down to a speed reasonable for the existing conditions and if required for safety to stop, shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection or if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway. After slowing or stopping, the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time such driver is moving across or within the intersection. **See Schedule "D" for yield right-of-way streets.**

24-3-5 POSTING SIGNS. Appropriate signs shall be posted to show all through, stop and yield right-of-way streets, all one-way streets and alleys and all stop intersections. **(See 625 ILCS Sec. 5/11-304)**

ARTICLE IV - DRIVING RULES

24-4-1 ILLINOIS VEHICLE CODE; RULES OF THE ROAD ADOPTED.
The Illinois Vehicle Code, **Illinois Compiled Statutes, Chapter 625, Section 11**, entitled "**Rules of the Road**", as passed, approved and amended by the Illinois General Assembly is hereby adopted by the City and the provisions thereof shall be controlling within the corporate limits of the City except for the following changes, deletions and omissions:

(A)

Omissions:

- (1) Omit Sections 11-207, 11-208.1, 11-208.2, 11-209.1, 11-302, 11-303, 11-310(f), 11-313, 11-401 to and including 11-416, 11-500 to and including 11-502, 11-602, 11-603, 11-604, 11-606(b), 11-608, 11-1419, and 11-1422.

(B)

Changes and Additions:

- (1) Change 11-904(a) to read: "Preferential right-of-way at an intersection may be indicated by stop or yield signs as authorized by this Code."
- (2) Change 11-1416(a) to read: "Any person who shall willfully and unnecessarily attempt to delay, hinder or obstruct any

other person in lawfully driving and traveling upon or along any highway within this State or who shall offer for barter or sale, merchandise on said highway so as to interfere with the effective movement of traffic shall, upon conviction, be guilty of a violation of this Code."

24-4-2 DRIVING RULES.

(A) **Careless Driving.** It shall be unlawful to operate a vehicle in the City in a careless manner so as to interfere with the safe or lawful operation of any other vehicle or so as to interfere with or to injure, damage, or endanger persons or property engaged in the lawful use of the street.

(B) **Drag Racing Unlawful.** No person shall be a participant in drag racing as defined in **Section 5/11-504 of the Illinois Compiled Statutes.**

(C) **Fleeing or Attempting to Elude Police Officer.** Any driver or operator of a motor vehicle who, having been given a visual or audible signal by a police officer directing such driver or operator to bring his vehicle to a stop, willfully fails to or refuses to obey such direction, increases his speed, extinguishes his lights or otherwise flees or attempts to elude the officer is guilty of a violation of this Chapter. The signal given by the police officer may be by hand, voice, siren, red or blue light. Provided, however, the officer giving such signal shall be in police uniform and if driving a vehicle, such vehicle shall be marked showing it to be an official police vehicle.

(D) **Unlawful Possession of Highway Sign or Marker.** The Department of Local Authorities with reference to traffic-control signals, signs or markers owned by the Department of Local Authorities are authorized to indicate the ownership of such signs, signals or markers on the back of such devices in letters not less than **three-eighths of an inch (3/8")** or more than **three-fourths of an inch (3/4")** in height, by use of a metal stamp, etching or other permanent means and except for employees of the Department of Local Authorities, police officers, contractors and their employees engaged in highway construction, contract or work on the highway approved by the Department of Local Authorities, it is a violation of this Chapter for any person to possess such sign, signal or marker so identified. **(See 625 ILCS Sec. 5/11-313)**

(E) **Special Speed Limitations on Elevated Structures.** No person shall drive a vehicle over any bridge or other elevated structure constituting a part of a highway at a speed which is greater than the maximum speed which can be maintained with safety to such bridge or structure when such structure is sign-posted.

Upon the trial of any person charged with the violation of this section, proof of the determination of the maximum speed by the City and the existence of such signs is conclusive evidence of the maximum speed which can be maintained with safety to such bridge or structure. **(See 625 ILCS Sec. 5/11-608)**

(F) **General Speed Restrictions.** The speed limits on the various streets shall be approved by the City Council, but shall not exceed **twenty miles per hour (20 MPH)** in a school zone and not to exceed **twenty-five miles per hour (25 MPH)** on a residential street; otherwise, **thirty miles per hour (30 MPH)** on an arterial street unless otherwise posted. **See Schedule "E" for applicable speed zones. (See 625 ILCS Sec. 5/11-604)**

(G) **Special Speed Limit While Passing Schools.** No person shall drive a motor vehicle at a speed in excess of **twenty miles per hour (20 MPH)** while passing a school zone or while traveling upon any public thoroughfare on or across which children pass going to and from school during school days when school children are present.

This section shall not be applicable unless appropriate signs are posted upon streets and maintained by the City or State wherein the school zone is located. School crosswalk signals are hereby listed in **Schedule "F". (See 625 ILCS Sec. 5/11-605)**

(H) **Failure to Reduce Speed.** A vehicle shall be driven upon the streets and alleys of this City at a speed which is reasonable and proper with regard to traffic conditions and the use of the street or alley. The fact that the vehicle does not exceed the applicable maximum speed limit does not relieve the driver of the duty to decrease speed when approaching and crossing an intersection or when special hazard exists with respect to pedestrian or other traffic or by reason of weather or highway conditions. Speed must be decreased as may be necessary to avoid colliding with any person or vehicle on or entering the highway in compliance with legal requirements and the duty of all persons to use due care.

(I) **Traffic Lane Usage.** Whenever any roadway within the City has been divided into **two (2)** or more clearly marked lanes for traffic, a vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety.

(J) **U-Turns Prohibited.** No driver of a vehicle shall make a "U-turn" on any street or at any intersection of any streets in the City.

24-4-3 DUTY TO REPORT ACCIDENT. The driver of a vehicle which is in any manner involved in an accident within the City shall, without unnecessary delay, notify the Police Department and shall make a report of such action. Failure to report an accident within the City within **twenty-four (24) hours** shall result in arrests of the person or persons involved. **(See 625 ILCS Sec. 5/11-415)**

24-4-4 TRANSPORTING LIQUOR IN VEHICLES. No person shall transport, carry, possess or have any alcoholic liquor within the passenger area of any motor vehicle in this City except in the original container and with the seal unbroken. **(See 625 ILCS Sec. 5/11-502)**

24-4-5 EXCESSIVE NOISE - STOPPED VEHICLE. No operator of a motor vehicle shall, when the motor vehicle is stopped, unreasonably accelerate the engine thereof with the gears of the vehicle in neutral, thereby causing an unreasonably loud or excessive noise.

24-4-6 EXCESSIVE NOISE - WHEELS. No operator of a motor vehicle shall when the motor vehicle is stopped, accelerate the engine with the gears of such vehicle in neutral and while so accelerating the engine, shift the gears of the vehicle into a forward or reverse movement, thereby causing an unreasonably loud noise with the drive wheels of the vehicle.

24-4-7 EXCESSIVE NOISE - SQUEALING TIRES. No operator of a motor vehicle shall cause the wheels of such vehicle to spin violently, thereby causing an unreasonably loud or excessive noise. **(See 625 ILCS Sec. 5/11-505)**

24-4-8 RECKLESS, NEGLIGENT OR CARELESS DRIVING. It shall be unlawful to operate any vehicle in the City in a careless, reckless, negligent or wanton manner, or carelessly so as to endanger life or property.

24-4-9 EXCESSIVE NOISE WHILE DRIVING. No operator of a motor vehicle shall, when operating the vehicle, accelerate the vehicle or rapidly stop the vehicle causing an unreasonably loud noise.

ARTICLE V - EQUIPMENT OF VEHICLES

24-5-1 ILLINOIS VEHICLE CODE; EQUIPMENT OF VEHICLES ADOPTED. The Illinois Vehicle Code, **Illinois Compiled Statutes, Chapter 625, Section 12**, entitled "**Equipment of Vehicles**", as passed, approved, and amended by the Illinois General Assembly is hereby adopted by the City and the provisions thereof shall be controlling within the corporate limits of the City. **(See 625 ILCS Secs. 5/12-605, 5/12-605.1; and 5/12-605.2)**

24-5-2 MUFFLER. No motor vehicle shall be operated on any street unless such vehicle is provided with a muffler in efficient actual working condition; and the use of a cut-out is prohibited. No muffler shall cause an unreasonably loud or excessive noise. **(See 625 ILCS Sec. 5/12-602)**

ARTICLE VI - PARKING RULES

24-6-1 TIME LIMIT PARKING. It shall be unlawful to park any vehicle for a period of time in excess of the amount of time designated by law and so posted.

24-6-2 PARKING FOR SALE, REPAIR OR PEDDLING PROHIBITED.
No person shall park a vehicle upon any street for the purpose of:
 (A) displaying such vehicle for sale; or
 (B) washing, greasing or repairing such vehicle, except when emergency repairs are necessary; or
 (C) peddling merchandise.

24-6-3 STOPPING, STANDING OR PARKING PROHIBITED IN SPECIFIED PLACES.

 (A) Except when necessary to avoid conflict with other traffic, or in compliance with law or the directions of a police officer or official traffic-control devices, no person shall:

(1) **Stop, Stand or Park a Vehicle:**

- (a) On the roadway side of any vehicle stopped or parked at the edge or curb of a street.
- (b) On a sidewalk.
- (c) Within an intersection.
- (d) On a crosswalk.
- (e) Between a safety zone and the adjacent curb or within **thirty (30) feet** of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by signs or markings.
- (f) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic.
- (g) Upon any bridge or other elevated structure upon a highway or within a highway tunnel.
- (h) On any railroad tracks.
- (i) At any place where official signs prohibit stopping.
- (j) On any controlled-access highway.
- (k) In the area between roadways of a divided highway, including crossovers.
- (l) In any alley that is open and maintained.

(2) **Stand or Park a Vehicle** (whether occupied or not, except momentarily to pick up or discharge passengers):

- (a) In front of a public or private driveway.
- (b) Within **fifteen (15) feet** of a fire hydrant.

- (c) Within **twenty (20) feet** of a crosswalk at an intersection.
 - (d) Within **thirty (30) feet** upon the approach to any flashing signal, stop sign, yield sign or traffic-control signal located at the side of the roadway.
 - (e) Within **twenty (20) feet** of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within **seventy-five (75) feet** of such entrance (when properly sign-posted).
 - (f) At any place where official signs prohibit standing or parking.
- (3) **Parking a Vehicle** (whether occupied or not, except temporarily for the purpose of and while actually engaged in loading or unloading property or passengers):
- (a) within **fifty (50) feet** of the nearest rail of a railroad crossing;
 - (b) at any place where official signs prohibit parking;
 - (c) in yellow zones.
- (B) No person shall move a vehicle not lawfully under his control into any such prohibited area or away from a curb such distance as is unlawful.
- (C) Schedules "G", "H" and "I" shall list all applicable no-parking zones, in addition to the no parking provisions of **Section 24-6-3(D). (Ord. No. 03-04; 04-01-03)**
- (D) No motor vehicle weighing in excess of **eight thousand (8,000) pounds** gross weight or semi-tractor trailer of any weight shall stand or park, whether occupied or not, on any City or City-maintained street or alley, except to momentarily pick up or discharge passengers or to make deliveries. Signs prohibiting such parking shall not be required. **(Ord. No. 03-04; 04-01-03)**
(See 625 ILCS Sec. 5/11-303)

24-6-4 PARKING FOR THE HANDICAPPED.

- (A) **Designated Parking.** Certain parking spaces within the confines of the City shall be designated for use by handicapped persons' vehicles only and will be posted with appropriate signs to that effect.
- (B) **Use of Designated Handicapped Parking.** The use of designated handicapped parking locations, duly posted and signed shall to that effect, be open to any vehicle which bears the appropriate handicapped Illinois Registration Plate issued by the Secretary of State for the State of Illinois, or a valid handicapped parking permit issued by another governmental agency or which bears a handicapped card furnished in accordance with **Illinois Compiled Statutes, Chapter 625; Section 5/11-1301.1, et. seq.** furnished by the City.
- (C) **Application for Illinois Handicapped Registration Plate.** The issuance of an Illinois Handicapped Motor Vehicle Registration Plate shall be made with the Secretary of State of the State of Illinois at any facility provided and approved for that purpose by the Secretary of State. **(See 625 ILCS Sec. 5/11-1301.2)**
- (D) **Penalty.** Any vehicle parked in violation of this Article in a posted designated handicapped space which does not bear an Illinois Handicapped Registration Plate, or a valid handicapped parking permit issued by another governmental agency or a City Handicapped Registration Card will be ticketed and the vehicle will be removed in accordance with departmental policies and in accordance with **Section 5/11-1302, Chapter 625 of the Illinois Compiled Statutes.** The registered owner of the vehicle as ascertained by the

registration plates of the vehicle will be presumed to be in control of the vehicle and will be fined **One Hundred Dollars (\$100.00)**. The same registered owner will be held liable for the cost of removal of the vehicle and must pay that cost, plus storage charges, if any, prior to the release of the vehicle.

(E) **Handicapped Parking Areas.** Those places designated as "Handicapped Parking Spaces" are listed in **Schedule "J"**.

24-6-5 LOAD LIMITS.

(A) **Established.** There is hereby established "gross load limit" of **eight (8) ton** on all City streets except those listed in **Schedule "K"**. The term "gross load limit" shall mean the total weight of a vehicle and the load it is carrying.

(B) **Exceptions.** This Chapter shall not include pickup trucks, trucks operated by the City maintenance and repairs on the street or the operation of a vehicle owned by the U.S. government or State of Illinois while on lawful business of these agencies.

Any vehicle weighing in excess of **ten thousand (10,000) pounds** gross weight shall not be permitted to park or stop for the purpose of delivery in Main Street; such vehicles shall be required to use the rear entrances of the business buildings located on said street for the purpose of pickup and delivery.

24-6-6 TOWING CARS AWAY. The Police Department and all members thereof assigned to traffic duty are hereby authorized to remove and tow away, or have removed and towed away by commercial towing service, any car, boat, trailer, or other vehicle illegally parked in any place where such parked vehicle creates or constitutes a traffic hazard, blocks the use of a fire hydrant or obstructs or may obstruct the movement of any emergency vehicle; or any vehicle which has been parked in any public street or other public place for a period of **twenty-four (24) hours**.

Vehicles towed away shall be stored on any City property or in a public garage or parking lot and shall be restored to the owner or operator thereof after payment of the expense incurred by the City in removing and storing such vehicle(s).

24-6-7 PARKING VIOLATIONS. Any person accused of a violation of an ordinance prohibiting parking a vehicle in a designated area or restricting the length of time a vehicle may be there parked, may settle and compromise the claim against him or her for such

illegal parking by paying to the City **Ten Dollars (\$10.00)** for each such offense and if such fine or fines are not paid within five (5) days, the following additional penalties shall be due, which shall be in addition to the fines provided herein:

<u>Overdue Period</u>	<u>Additional Penalty</u>
5-10 days	\$10.00 plus \$10.00
11-15 days	20.00 plus 10.00
16-25 days	30.00 plus 10.00

Such payment may be made at the Police Station and a receipt shall be issued for all money so received and such money shall be promptly turned over to the Treasurer to be credited to the General Fund. The members of the Police Department are hereby authorized to refrain from instituting a prosecution for the alleged offense involved for at least **five (5) days**.

Provided, this Section shall not apply to persons parking a vehicle so as to obstruct an entrance or exit of any place where Police and Fire Department apparatus or other emergency equipment is housed or kept, or so as to block an emergency entrance in a hospital. Nor shall this Section apply to any person charged with parking a vehicle so as to entirely obstruct traffic in any street or alley or parking in such a way as to reduce traffic on an arterial street to one-way traffic only; nor to any person who refuses to remove a vehicle illegally parked at the request of any member of the Police Department.

(A) **Removal - Time Limit.** Any vehicle illegally parked for a period in excess of **one (1) hour** may be removed by a towing service authorized by the Police Department of the municipality. In any emergency, any vehicle may be removed by any means when authorized by the Police Department of the municipality.

(B) **City Parking Lots.** No person shall park a motor vehicle on a City parking lot unattended for more than **five (5)** consecutive days.

(C) **Parking Violation Ticket.** The parking violation ticket shall be as provided in Appendix "A".

24-6-8 PRIMA FACIE PROOF. The fact that a vehicle which is illegally parked or operated is registered in the name of a person shall be considered prima facie proof that such person was in control of the vehicle at the time of such violation.

24-6-9 SNOW ROUTES. It shall be unlawful to park a vehicle on streets at any time within **eighteen (18) hours** after a snowfall of **three (3) inches** or more, unless the street has been cleared of snow as designated in **Schedule "L"**.

24-6-10 PARKING TICKETS - STATE STATUTE. The City Council intends to utilize **Illinois Compiled Statutes, Chapter 625; Section 5/6-306.5** and the procedure set forth therein.

The appropriate authorities are hereby authorized to utilize the statute and the procedure set forth therein.

ARTICLE VII - ABANDONED VEHICLES

24-7-1 **DEFINITIONS.** For the purpose of this Code, the following words shall have the meanings ascribed to them as follows:

"ABANDONED VEHICLE" shall mean all motor vehicles or other vehicles in a state of disrepair, rendering the vehicle incapable of being driven in its condition; or any motor vehicle or other vehicle that has not been moved or used for **seven (7) consecutive days** or more and is apparently deserted.

"ANTIQUE VEHICLE" means any motor vehicle or other vehicle **twenty-five (25) years** of age or older.

"COMPONENT PART" means any part of a vehicle other than a tire having a manufacturer's identification number or an identification number issued by the Secretary of State.

"DERELICT VEHICLE" means any inoperable, unregistered, or discarded motor vehicle, regardless of title, having lost its characteristic as a substantial property and left unattended without justification on the owner's, lienholder's or other legally entitled person's land contrary to the public policy expressed in this Code.

"HIGHWAY" means any street, alley or public way within this municipality.

"REMOVE" means to remove, deface, cover, or destroy.

"VEHICLE" means every device in, upon or by which any person or property is or may be transported or drawn upon a street or highway, whether subject to or exempt from registration, excepting, however, bicycles, snowmobiles and devices used exclusively upon stationary rails or tracks. **(See 625 ILCS Sec. 5/4-201)**

24-7-2 **ABANDONMENT.**

(A) **Highway.** The abandonment of a motor vehicle or other vehicle or part thereof on any highway in this municipality is unlawful and subject to penalties as set forth herein.

(B) **Private Property.** The abandonment of a vehicle or any part thereof on private or public property other than a highway in view of the general public anywhere in this municipality is unlawful, except on property of the owner, or bailee of such abandoned vehicle.

(C) **Owner's Property.** A vehicle or any part thereof so abandoned on private property shall be authorized for removal by the police department, after a waiting

period of **seven (7) days** or more, or may be removed immediately if determined to be a hazardous dilapidated motor vehicle under **Ch. 65 Sec. 5/11-40-3.1 of the Illinois Compiled Statutes**. A violation of this section is subject to penalties as set forth in **Section 1-1-20** of the City Code. **(See 625 ILCS Sec. 5/4-201)**

24-7-3 POSSESSION OF VEHICLE BY OTHER PARTY; TOWING.

Where an abandoned, lost, stolen or unclaimed motor vehicle or other vehicle comes into the temporary possession or custody of a person in this municipality who is not the owner, lienholder or other legally entitled person of the vehicle, such person shall immediately notify the Police Department when the vehicle is within the corporate limits of the municipality. Upon receipt of such notification, the Police Department or designated representative shall authorize a towing service to remove and take possession of the abandoned, lost, stolen or unclaimed motor vehicle or other vehicle. The towing service will safely keep the towed vehicle and its contents, maintain a record of the tow, as set forth in **Section 24-7-5**, until the vehicle is claimed by the owner, lienholder, or any other person legally entitled to possession thereof or until it is disposed of as provided in this Chapter. **(See 625 ILCS Sec. 5/4-202)**

24-7-4 REMOVAL OF MOTOR VEHICLES OR OTHER VEHICLES - TOWING OR HAULING AWAY.

(A) When a vehicle is abandoned or left unattended on a highway in an urban district for **ten (10) hours** or more, its removal by a towing service may be authorized by the Police Department.

(B) When an abandoned, unattended, wrecked, burned or partially dismantled vehicle is creating a traffic hazard because of its position in relation to the highway or its physical appearance is causing the impeding of traffic, its immediate removal from the highway or private property adjacent to the highway by a towing service may be authorized by the Police Department.

(C) When a vehicle removal from either public or private property is authorized by the Police Department, the owner, lienholder or other legally entitled person of the vehicle shall be responsible for all towing costs.

(D) The remaining provisions of **Section 4-203 of Chapter 95 1/2**, of the **Illinois Compiled Statutes** are hereby adopted by reference and the provisions thereof shall be controlling within the corporate limits of this municipality. **(See 625 ILCS Sec. 5/4-203)**

24-7-5 POLICE RESPONSIBILITIES. When a vehicle is authorized to be towed away as provided herein, the Police Department shall keep and maintain a record of the vehicle towed, listing by color, year of manufacture, manufacturer's trade name, manufacturer's series name, body style, vehicle identification number and license plate year and number displayed on the vehicle. The record shall also include the date and hour of tow, location towed from, location towed to, reason for towing and the name of the officer authorizing the tow. **(See 625 ILCS Sec. 5/4-204)**

24-7-6 UNKNOWN OWNER. When the Police Department does not know the identity of the registered owner, lienholder or other legally entitled person, they will cause the motor vehicle registration records of the State of Illinois to be searched by a directed communication to the Secretary of State for the purpose of obtaining the required ownership information.

The Police Department authorizing the impoundment shall cause the stolen motor vehicle files of the Illinois State Police to be searched by a directed communication to the Illinois State Police for stolen or wanted information of the vehicle. The information determined from these record searches shall be used by the Police Department in sending notification by certified mail to the owner, lienholder or legally entitled person advising where the vehicle is held, requesting a disposition to be made and setting forth public sale information. **(See 625 ILCS Sec. 5/4-205)**

24-7-7 IDENTIFYING AND TRACING VEHICLE. When the registered owner, lienholder, or other person legally entitled to the possession of a motor vehicle or other vehicle cannot be identified from the registration files of this State or from the registration files of a foreign state, if applicable, the Police Department shall notify the Illinois State Police for the purpose of identifying the vehicle's owner, lienholder, or other person legally entitled to the possession of the vehicle. The information obtained by the Illinois State Police shall be immediately forwarded to the Police Department having custody of the vehicle for notification purposes as set forth in **Section 24-7-6** of this Chapter. **(See 625 ILCS Sec. 5/4-206)**

24-7-8 RECLAIMED VEHICLES - EXPENSES. Any time before a motor vehicle or other vehicle is sold at public sale or disposed of as provided in **Section 24-7-9**, the owner, lienholder, or other person legally entitled to its possession may reclaim the vehicle by presenting to the Police Department proof of ownership or proof of the right to possession of the vehicle. No vehicle shall be released to the owner, lienholder, or other legally entitled person under this section until all towing and storage charges have been paid. **(See 625 ILCS Sec. 5/4-207)**

24-7-9 DISPOSAL OF UNCLAIMED VEHICLE. Whenever an abandoned, lost, stolen, or unclaimed motor vehicle or other vehicle **seven (7) years** of age or newer remains unclaimed by the registered owner, lienholder, or other person legally entitled to its possession for a period of **thirty (30) days** after notice has been given as provided herein, the Police Department having possession of the vehicle shall cause it to be sold at public auction to a person licensed as an automatic parts recycler, rebuilder or scrap processor under **Chapter 5 of Chapter 95 1/2, of the Illinois Compiled Statutes**. Notice of the time and place of the sale shall be posted in a conspicuous place for at least **ten (10) days** prior to the sale on the premises where the vehicle has been impounded. At least **ten (10) days** prior to the sale, the Police Department shall cause a notice of the time and place to be sent by certified mail to the registered owner, lienholder, or

other person known by the Police Department or towing service to be legally entitled to the possession of the vehicle. Such notice shall contain a complete description of the vehicle to be sold and what steps must be taken by any legally entitled person to reclaim the vehicle.

In those instances where the certified notification specified herein has been returned by the postal authorities to the Police Department due to the addressee having moved or being unknown at the address obtained from the registration records of this State, the sending of a second certified notice shall not be required.

24-7-10 DISPOSAL OF UNCLAIMED VEHICLES WITHOUT NOTICE.

(A) **New Car.** When the identity of the registered owner, lienholder, or other person legally entitled to the possession of an abandoned, lost, or unclaimed vehicle of **seven (7) years** of age or newer cannot be determined by any means provided for in this Chapter, the vehicle may be sold as provided for in **Section 24-7-9** of this Code without notice to any person whose identity cannot be determined.

(B) **Old Car.** When an abandoned vehicle of more than **seven (7) years** of age is impounded as specified by this Code, it shall be kept in custody for a minimum of **ten (10) days** for the purpose of determining the identity of the registered owner and lienholder and contacting the registered owner and lienholder by the U.S. Mail, public service or in person for a determination of disposition; and an examination of the Illinois State Police stolen motor vehicle files for theft and wanted information. (At the expiration of the **ten (10) day** period without the benefit of disposition information being received from the registered owner, lienholder or other legally entitled person, the Chief of Police shall authorize the disposal of the vehicle as junk.)

(C) **Antique Vehicle.** A vehicle classified as an antique vehicle may, however, be sold to a person desiring to restore it. **(See 625 ILCS Sec. 5/4-209)**

24-7-11 POLICE RECORD FOR DISPOSED VEHICLE. When a motor vehicle or other vehicle in the custody of the Police Department is reclaimed by the registered owner, lienholder, or other legally entitled person or when the vehicle is sold at public sale or otherwise disposed of as provided in this Chapter, a report of the transaction shall be maintained by the Police Department for a period of **one (1) year** from the date of the sale or disposal. **(See 625 ILCS Sec. 5/4-210)**

24-7-12 PUBLIC SALE PROCEEDS. When a vehicle located within the corporate limits of this municipality is authorized to be towed away by the Police Department and disposed of as set forth in this Code, the proceeds of the public sale or disposition, after the deduction of towing, storage and processing charges, shall be deposited in the municipal treasury. **(See 625 ILCS Sec. 5/4-211)**

24-7-13 LIABILITY. A law enforcement officer or agency, towing service owner, operator or employee shall not be held to answer or be liable for damages in any action brought by the registered owner, former registered owner or his legal representative, lienholder, or any other person legally entitled to the possession of a vehicle when the vehicle was processed and sold or disposed of as provided by this Code. **(See 625 ILCS Sec. 5/4-213)**

24-7-14 PENALTY.
(A) All persons who violate, aid and abet in the violation of this Article, upon conviction, shall be fined as provided in Section 1-1-20 of this Code, and
(B) shall be required by the Court to make a disposition on the abandoned or unclaimed vehicle and pay all towing and storage charges pursuant to this Article. **(See 625 ILCS Sec. 5/4-214)**

ARTICLE VIII – GROSS LOAD LIMITS

24-8-1 MAYOR DECLARES. Whenever the Mayor shall decide that the condition of the weather is such that heavy traffic will cause substantial damage to the streets of the City it shall be the duty of the Mayor to issue an order that no vehicle having a gross weight of **sixteen thousand (16,000) pounds** or more, including load, shall be operated on any of the streets.

24-8-2 ORDER IN WRITING. The order shall be in writing, signed by the Mayor, and bearing the corporate seal, and shall be filed with the City Clerk.

24-8-3 TIME PARAMETERS OF ORDER. The order shall be in effect from and after such filing and the posting of signs hereinafter mentioned, until a further order canceling the order shall be made and filed with the City Clerk by the Mayor, or by the City Council, and the signs are removed pursuant to such further order. The total period of time such order(s) shall be in effect shall not exceed **ninety (90) days** in any **one (1) calendar year**.

24-8-4 POSTING OF ORDER. The order shall be made known to the public by the posting of a sign which sign shall read: **“Traffic gross weight limit 8 tons – strictly enforced – By order of City of Newton”**.

24-8-5 SIGN PURCHASE. The signs shall be procured, as needed, by the Mayor, at the expense of the City, and shall be posted and removed by the Street Department, as directed by the Mayor.

24-8-6 UNLAWFUL WEIGHT. It shall be unlawful to drive any vehicle having a gross weight, including load, of **sixteen thousand (16,000) pounds** or more on any street at the entrance to which one of said signs is posted as aforesaid from the time said sign is posted as aforesaid until the same is removed by proper authority, unless the driver shall possess a valid permit as hereafter provided for.

24-8-7 DEFACE SIGN. It shall be unlawful to willfully deface or remove any of said signs without proper authority.

24-8-8 ILLINOIS VEHICLE CODE. That so much of the Illinois Vehicle Code as authorizes and regulates the application for an issuance of special permits; fee schedules with regards thereto and the prerequisite posting of security necessary and adequate to compensate for any injury to any roadway or road structure, be, and hereby is, adopted in its entirety by this local authority, after careful deliberation, as the standard for issuing special permits in exception to existing vehicle weight restrictions in this City, **625 ILCS 5/11-208(a), (7) and (15).**

24-8-9 SPECIAL PERMITS. Pursuant to said authorization and regulations, the Street Department Head, as the local official charged with the responsibility for maintaining the roads of this City in good condition, shall have the power, in his discretion, upon application and for good cause shown, to issue special permits authorizing the applicants to operate or move vehicles or combinations of vehicles of a size or weight of vehicle or load exceeding the maximum authorized by this Article or otherwise.

24-8-10 SPECIAL PERMIT FROM CITY. The City Collector is authorized to collect in advance, and as a prerequisite to the issuance of a special permit, security deposits according to the following schedule:

<u>AMOUNT</u>	<u>MILES OF CITY STREET TRAVERSED</u>
\$600.00	2 blocks or less
\$1,200.00	More than 2 blocks, bur less than 4 blocks
\$2,400.00	4 blocks or more

24-8-11 STREET DAMAGE. In the event the damage done to the street is in excess in the amount deposited, nothing in this Section precludes the City from seeking compensation for the full amount of damage by the overweight vehicle.

24-8-12 PENALTIES. The penalties for violation of this Article be assessed as follows:

For violation of gross weight limits:

(A) Exceeding the posted or permit gross vehicle weight by not more than **three thousand (3,000) pounds: Six Cents (6¢)** per pound of excess weight.

(B) Exceeding the posted or permit gross vehicle weight by **three thousand (3,000) pounds** but not more than **four thousand (4,000) pounds: Eight Cents (8¢)** per pound of excess weight.

(C) Exceeding the posted or permit gross vehicle weight by **four thousand (4,000) pounds** but not more than **five thousand (5,000) pounds: Ten Cents (10¢)** per pound of excess weight.

(D) Exceeding the posted or permit gross vehicle weight by **five thousand (5,000) pounds** or more: **Twelve Cents (12¢)** per pound of excess weight.

Additionally, whenever any vehicle is operated in violation of gross weight limits, whether regular or special, the violator, in addition to penalties as set forth herein, shall be subject to a fine of not to exceed **Seven Hundred Fifty Dollars (\$750.00)** and for damages to road occasioned by said violation.

24-8-13 JAMES ADDITION – 8 TON LIMIT. All streets in James Addition to the City of Newton, Illinois, shall be permanently posted for an **eight (8) ton** load limit thereon, so as to limit the weight of trucks or other commercial vehicles thereon.

24-8-14 SPECIAL TRUCK ROUTES – 40 TONS.

(A) **Gregory Drive.** South Gregory Drive from Illinois Route 33 South approximately 0.125 miles in the City is herewith designated as a 80,000 pound truck route, Class II as defined by the Illinois Department of Transportation. **(Ord. No. 99-1; 06-01-99)**

(B) **Morgan Street.** Morgan Street from Illinois Route 33/130 West to Scott Street all in the City is herewith designated as an 80,000 pound truck route, Class II as defined by the Illinois Department of Transportation. **(Ord. No. 98-5; 03-17-98)**

(C) **Industrial Drive and Commercial Avenue.** Industrial Drive and Commercial Avenue approximately 0.641 miles all in the City are herewith designated as an 80,000 pound truck route, Class II as defined by the Illinois Department of Transportation. **(Ord. No. 2000-2; 03-21-00)**

(Ord. No. 97-18; 11-18-97)

ARTICLE IX - GOLF CARTS AND NEIGHBORHOOD VEHICLES

24-9-1 DEFINITIONS.

(A) For purposes of this Article, a "golf cart" is defined in **625 ILCS 5/11-1428(d)** and means a vehicle specifically designed and intended for the purposes of transporting **one (1)** or more persons and their golf clubs or maintenance equipment while engaged in the playing of golf, supervising the play of golf, or maintaining the condition of the grounds on a public or private golf course.

(B) For purposes of this Article, a "neighborhood vehicle" shall be defined as provided in **625 ILCS 5/11-1426.1(a)** and shall mean a self-propelled, electronically powered four-wheeled motor vehicle (or a self-propelled-gasoline powered four-wheeled motor vehicle with an engine displacement under 1200 cubic centimeters) which is capable of obtaining in **one (1) mile** a speed of more than **twenty (20) miles per hour**, but not more than **twenty-five (25) miles per hour**, and which conforms to Federal Regulations under Title 49 C.F.R. Part 571.500.

(C) For purposes of this Article, a "golf cart" and a "neighborhood vehicle" specifically does not include all-terrain vehicles, off-highway motorcycles and any other vehicle which is not described within the foregoing definitions of "golf carts" or "neighborhood vehicles".

(D) "City Streets" shall mean only those City Streets designated on Exhibit "A" attached hereto and incorporated herein by this reference located within the boundaries of the City.

(E) "State roads" include Illinois Route 33 and Illinois Route 130.

(F) "County roads" include any roads outside the boundaries of the City limits.

24-9-2 REQUIREMENTS. All persons operating a golf cart or neighborhood vehicle on the designated streets of the City must comply with the following requirements:

- (A) Proof of liability insurance.
- (B) Must display City decal on front and rear.
- (C) Must be inspected by City Police Chief or designated representative.
- (D) Must have valid driver's license.
- (E) Must be equipped with seatbelts, a windshield, horn, brakes, turn signals, a steering wheel apparatus, tires, a rearview mirror, red reflectorized warning devices in the front and rear, a slow moving vehicle emblem (as required of other vehicles in **625 ILCS 5/12-709**) on the rear of the vehicle, a headlight that emits a white light visible from a distance of **five hundred (500) feet** to the front, a tail lamp that emits a red light visible from at least **one hundred (100) feet** from the rear, brake lights and turn signals. When operated on a roadway, a golf cart or a neighborhood vehicle shall have its headlight and tail lamps lighted.

- (F) Must obey all traffic laws of State of Illinois and City.
- (G) Must be **twenty-one (21) years** of age or older.
- (H) Can be driven on only those streets designated on Exhibit A attached hereto.
- (I) No modification to the suspension of the golf cart or the neighborhood vehicle.
- (J) Must not exceed **twenty (20) miles per hour**.
- (K) Crossing of State highway when authorized by the State of Illinois Department of Transportation.
- (L) May only operate on City Streets designated on Exhibit A with the exception of authorized crossing of State and County Roads.
- (M) May only be operated between the hours of **one (1) hour** before sunrise and **one (1) hour** after sunset. The time of sunrise and/or sunset on any particular day of the year shall be as designated by the National Weather Service for Jasper County, Illinois.
- (N) Golf carts and neighborhood vehicles shall not be operated in inclement weather nor when visibility is impaired by weather, smoke, fog, or other conditions, or at anytime when there is insufficient light to clearly see persons and vehicle on the roadway at a distance of **five hundred (500) feet**.
- (O) A person who drives or is in actual physical control of a golf cart or a neighborhood vehicle on a roadway while under the influence of alcohol or drugs is subject to Section 11-500 through 11-502 of **Illinois Compiles Statutes (625 ILCS 5/11-500 through 11-502)**.
- (P) Golf carts and neighborhood vehicles may not be operated on sidewalks or other public property not accessible to or authorized to vehicular traffic.
- (Q) Golf carts and neighborhood vehicles may not be operated on streets and highways and roads under the jurisdiction of the Illinois Department of Transportation (Illinois Route 33 and 130) or the County Highway Department.
- (R) Golf carts and neighborhood vehicles may not be operated on State or County roads except to cross at designated streets when authorized by the State of Illinois Department of Transportation or County Highway Department as applicable.

24-9-3 PERMITS.

- (A) No person shall operate a motorized golf cart or a neighborhood vehicle without obtaining a permit from the City Clerk as provided herein. Permits shall be granted for a period **one (1) year** and may be renewed annually. The cost of a permit is **Fifty Dollars (\$50.00)**. Insurance coverage is to be verified in effect by the City Clerk when renewing the permits.
- (B) Every application for a permit shall be made on a form supplied by the City and shall contain the following information:
 - (1) The name and address of applicant.
 - (2) Name of liability insurance carrier.

- (3) The serial number, make, model and description of the golf cart or neighborhood vehicle.
 - (4) Signed waiver of liability by applicant releasing the City from neighborhood vehicle pursuant to this Article or any other Ordinance of the City.
 - (5) Photostatic copy of applicable liability insurance coverage card specifically for the golf cart or neighborhood vehicle to be operated on City Streets.
 - (6) Such other information as the City may require.
- (C) No permit shall be granted unless the following conditions are met:
- (1) The golf cart or neighborhood vehicle must be inspected by the Chief of Police (or designee) to insure that the vehicle is safe to operate on City streets and is in compliance with the requirements of this Article.
 - (2) Any handicapped applicant must submit a certificate signed by a physician, that he is handicapped applicant and is able to safely operate a motorized golf cart on the roadways designated.
 - (3) The applicant must provide evidence of insurance in compliance with the provisions of Illinois Statutes regarding minimum liability insurance for passenger motor vehicles to be operated on the roads of the State of Illinois.

(D) A golf cart or neighborhood vehicle will be allowed to be driven to the police department to have the vehicle inspected and permitted.

The City Council may suspend or revoke a permit granted hereunder upon a finding that the holder thereof has violated any of the provisions of this Article or if there is evidence that the permittee cannot safely operate the motorized golf cart or neighborhood vehicle on the designated roadways.

Every person operating a golf cart or neighborhood vehicles pursuant to permit hereunder on designated City streets has all the rights and duties applicable to a driver of any other vehicle pursuant to the State highway traffic laws and regulations except when those provisions cannot reasonably be applied to motorized golf carts or neighborhood vehicles.

Any person who violates any provision of this Article shall upon conviction be subject to a fine of not less than **Seventy-Five Dollars (\$75.00)** nor more than **Seven Hundred Fifty Dollars (\$750.00)**, and the costs of prosecution.

(Ord. No. 08-20; 09-16-08)

ARTICLE X – VEHICLE IMPOUNDMENT

24-10-1 IMPOUNDMENT. Any motor vehicle which is used in connection with the following illegal activities shall be subject to seizure and impoundment:

- (A) Violation of any provision of the Illinois Cannabis Control Act **(720 ILCS 550/1 et seq.)**;
- (B) Violation of any of the provisions of the Illinois Controlled Substances Act **(720 ILCS 570/1 et seq.)**;
- (C) Violation of Sections 11-14, 11-15, 11-15.1, 11-16, 11-18, 11-18.1, 11-19, or 11-19.1 of the Illinois Criminal Code of 1961 **(725 ILCS 5/11-14; 11-15.1; 11-16; 11-18; 11-18.1; 11-19; 11-19.1)**;
- (D) Violation of any provision of Article 24 of the Illinois Criminal Code of 1961 (deadly weapons);
- (E) Violation of Sections 6-303 or 11-501 of the Illinois Vehicle Code (driving while license suspended/revoked, driving under the influence);
- (F) Arrested on an outstanding warrant for failure to appear in court on charges of driving while license suspended/revoked or driving under the influence.

24-10-2 PENALTIES. The owner of any motor vehicle seized and impounded under this Section shall be liable to the City for an administrative penalty not to exceed **Five Hundred Dollars (\$500.00)**, plus any towing and storage fees hereinafter provided.

24-10-3 EXCEPTIONS. This Section shall not apply if the motor vehicle used in connection with the violation was stolen at the time and the theft was reported to the appropriate police authorities within **seventy-two (72) hours** after the theft was discovered.

24-10-4 IMPOUNDMENT HEARING.

(A) Whenever a police officer has probable cause to believe that a motor vehicle is subject to seizure and impoundment pursuant to **Section 24-10-1** the police officer shall provide for the towing of a vehicle to a facility controlled or designated by the City or its agents. Before or at the time the vehicle is towed, the police officer shall notify any person identifying himself as the owner of the vehicle or any person who is found to be in control of the vehicle at the time of the alleged violation, of the fact of the seizure and of the vehicle owner's right to request a vehicle impoundment hearing to be conducted under this Section.

(B) If the owner of record of a vehicle seized pursuant to **Section 24-10-1** desires to appeal the seizure, said owner must make a request for said hearing within **seventy-two (72) hours** of the seizure. Said request shall be in writing and filed with the Chief of Police or his designee. If an appeal is timely filed a hearing officer of the City shall conduct such hearing within **seventy-two (72) hours** after the request, excluding Saturdays, Sundays and holidays. All interested persons shall be given a reasonable opportunity to be heard at the hearing. The formal rules of evidence will not apply at the hearing and hearsay evidence shall be admissible. The hearing officer will determine whether there is probable cause to believe the vehicle is subject to seizure and impoundment pursuant to **Section 24-10-1**. In those cases where probable cause exists, the hearing officer shall order the continued impoundment of the vehicle, unless the owner of the vehicle posts a cash bond in the amount of **Five Hundred Dollars (\$500.00)**, plus any applicable towing and storage fees. In those cases where probable cause does not exist, the hearing shall order the immediate release of the vehicle.

(C) Unless a hearing is held pursuant to (B) above, within **ten (10) days** after a motor vehicle is seized and impounded pursuant to **Section 24-10-1**, the City shall notify by

certified mail, return receipt requested, the owner of record of the date and location of hearing to be conducted. The hearing shall be scheduled and held, unless continued by order of the hearing officer, no later than **forty-five (45) days** after the vehicle was seized. All interested persons shall be given a reasonable opportunity to be heard at the hearing. The formal rules of evidence will not apply at the hearing and hearsay evidence shall be admissible. The hearing officer will determine whether there is probable cause to believe the vehicle is subject to seizure and impoundment pursuant to **Section 24-10-1**. If the hearing officer determines by a preponderance of evidence that the vehicle was used in connection with a violation and that no exception applies, the hearing officer shall enter an order finding the owner of record of the vehicle civilly liable to the City and an administrative penalty in an amount not to exceed **Five Hundred Dollars (\$500.00)**. If the owner of the record fails to appeal at the hearing, the hearing officer shall enter a default order in favor of the city requiring the payment to the City of an administrative penalty in an amount not to exceed **Five Hundred Dollars (\$500.00)**. If the hearing officer finds the vehicle was not used in connection with a violation or that an exception applies, the hearing officer shall order the immediate return of the vehicle or posted cash bond.

(D) If an administrative penalty is imposed pursuant to this Section, such penalty shall constitute a debt due and owing to the City. If a cash bond has been posted pursuant to this Section, the bond shall be applied to the penalty. If a vehicle has been impounded when such a penalty is imposed, the City may seek to obtain a judgment on the debt and enforce such judgment against the vehicle as provided by law. Except as provided otherwise in this Section, a vehicle shall continue to be impounded until:

- (1) the penalty, plus any applicable towing and storage fees, is paid to the City, in which case possession of the vehicle shall be given to the person who is legally entitled to possess the vehicle; or
- (2) the vehicle is sold or otherwise disposed of to satisfy a judgment to enforce a lien as provided by law.

If the administrative penalty and applicable fees are not paid within **thirty (30) days** after an administrative penalty is imposed under this Section against an owner of record who is in default for failing to appear at the hearing, the vehicle shall be deemed unclaimed and shall be disposed of in the manner provided by law for the disposition of unclaimed vehicles. In all other cases, if the administrative penalty and applicable fees are not paid within **thirty (30) days** after the expiration of time at which administrative review of the hearing officer's determination may be sought or within **thirty (30) days** after an action seeking administrative review has been resolved in favor of the City, whichever is applicable, the vehicle shall be deemed unclaimed and shall be disposed of in the manner provided by law for the disposition of unclaimed vehicles under Section 4-208 of the Illinois Vehicle Code (**625 ILCS 5/14-208**). Except as otherwise specifically provided by law, no owner, lien holder or other person shall be legally entitled to take possession of a vehicle impounded under this Section until the civil penalty and fees applicable under this Section have been paid. However, whenever a person with a lien of record against an impounded vehicle has commenced foreclosure proceedings, possession of the vehicle shall be given to that person if he or she agrees in writing to refund

the City the amount of the net proceeds of any foreclosure sale, less any amounts required to pay all lien holders of record, not to exceed **Five Hundred Dollars (\$500.00)**, plus any applicable fees.

(E) For purposes of this Section, the "owner of record" of a vehicle is the record titleholder as registered with the Illinois Secretary of State.

24-10-5 HEARING OFFICER. The Chairman of the City's Police Committee shall serve as the hearing officer for purposes of these sections. Whenever any reference to a hearing officer is used, herein, those hearing officers are appointed for purposes for the adjudication system and pursuant to said applicable ordinance, shall be and are hereby deemed to be authorized to act as hearing officers, pursuant to these sections.

24-10-6 IMPOUNDMENT FEE AND PENALTY.
(A) **Impoundment Fee.** In addition to the penalties provided for in **Section 24-10-6(B)** there shall be an initial Impoundment Fee of **Seventy-Five Dollars (\$75.00)** plus **Thirty Dollars (\$30.00)** per day thereafter while impounded, up to a maximum of **Five Hundred Dollars (\$500.00)**. Said Impoundment Fee shall be paid to the City of Newton, Illinois by the owner of record of the impounded vehicle.

(B) **Penalty.** Any person, firm or corporation violating any provision in this title, for which another penalty is not provided, shall for a first conviction be fined not less than **Seventy-Five Dollars (\$75.00)** nor more than **Seven Hundred Fifty Dollars (\$750.00)**, for a second conviction within **one (1) year** thereafter, the person, firm or corporation shall be fined not less than **One Hundred Dollars (\$100.00)** nor more than **Seven Hundred Fifty Dollars (\$750.00)** and for a third or subsequent conviction within **one (1) year** after the first conviction, the person, firm or corporation shall be fined not less than **Two Hundred Fifty Dollars (\$250.00)** nor more than **Seven Hundred Fifty Dollars (\$750.00)**. A separate offense shall be deemed committed on each day during or which a violation occurs or continues.

(Ord. No. 12-18; 11-06-12)

APPENDIX "A"
CITATION FORM

NO. _____

DATE _____ TIME _____

LICENSE NO. _____ STATE _____

LICENSE EXPIRES _____ MAKE OF VEHICLE _____

METER NUMBER _____ OFFICER _____

YOU ARE CHARGED WITH THE VIOLATION MARKED BELOW:

- | | | | |
|----|-------------------------------------|---------|-----|
| 1. | Overparked, Two Hour Zone | \$10.00 | [] |
| 2. | Double Parked | \$10.00 | [] |
| 3. | Parked at Fire Plug | \$10.00 | [] |
| 4. | Blocking Driveway or Alley | \$10.00 | [] |
| 5. | Parked Where Official Signs Erected | \$10.00 | [] |
| 6. | Improper Parking | \$10.00 | [] |
| 7. | Yellow Line | \$10.00 | [] |
| 8. | Each Additional Hour Violation | \$10.00 | [] |
| 9. | Parking on Sidewalk | \$10.00 | [] |

NAME _____

ADDRESS _____

CITY _____ STATE _____ ZIP CODE _____

You may settle and compromise a claim for illegal parking by paying the sum set forth above for the first particular violation and the same sum shall apply for the same particular offense for the second and each subsequent violation within 5 days after the time set out above. If not paid within this time limit, an **Enforcement Warrant** will be issued and additional penalties will be collected as provided by the City Code. **(See 24-6-7)**

FOR YOUR CONVENIENCE

After detaching your Ticket Stub, place the fine in the envelope and deposit it in the utility collection box at the City Hall.

EXHIBIT "A"

All City Streets in the City of Newton, EXCEPT for East Jourdan Street, West Jourdan Street and South Van Buren Street.

SCHEDULE "A"

THROUGH STREETS

In accordance with Section 24-3-1, the following streets and parts of streets are hereby designated and declared to be through streets unless otherwise provided in this Chapter:

Jourdan St.		East city limits to West city limits
Washington St.	From	West Ave. east to the railroad, except at Van Buren St. and West End Ave.
Van Buren St.	From	Water St. south to city limits
Liberty Ave.	From	Washington St. south to city limits, except at Martin St.

SCHEDULE "B"

ONE-WAY STREETS

In accordance with the provisions of Section 24-3-2 the following streets and alleys are hereby declared to be one-way; to-wit:

I. STREETS

STREET - DIRECTION		LOCATION
E. Decatur St. - West	Between	Van Buren St. and First Ave. (#95-19)
Maxwell St. - West	Between	Barton St. and Van Buren St. (#95-19)
West End Ave. – South	Between	Jourdan St. to Washington St. (#12-1)

II. ALLEYS

The alley in block **three (3)** in the original Town, between N. Jackson St. and N. Lafayette St., lying between lots 1, 2, 3, and 4 to the North, and lots 5, 6, 7 and 8 to the South shall be a one-way alley and traffic shall travel only in a westwardly direction. **(#96-16)**

The alley running South from Washington St. to the first alley running East and West South of Washington St. and being further located between the First National Bank in Newton and the Grace United Methodist Church parking lot shall be a one-way alley and traffic on said alley shall travel only in a South direction. **(#95-19)**

SCHEDULE "C"

STOP INTERSECTIONS

In accordance with Section 24-3-3, the following intersections are stop intersections as designated:

I. ONE AND TWO-WAY STOPS.

<u>THROUGH STREET</u>		<u>STOP STREET (DIRECTION)</u>
1st St.	at	Decatur St.
S. 1st St.	at	Harris St.
Carriage Ln.	at	Illinois (West Bd.) (#00-17)
Carriage Ln.	at	Museum (East Bd.) (#00-17)
Church St.	at	Sainte Marie St.
N. Church St.	at	W. Marion St.
N. Church St.	at	Water St. (Both) (#93-9)
Curtis St.	at	Barton St.
Curtis St.	at	Charles St.
Curtis St.	at	Jackson St.
Curtis St.	at	Stevens St.
W. Curtis	at	S. Jackson St.
Decatur St.	at	Elizabeth Ave.
Decatur St.	at	Stanley Ave. (North Bd.) (#09-14)
E. Decatur St.	at	S. 3rd St.
E. Decatur St.	at	Park St.
W. Decatur St.	at	S. Church St.
Eaton St.	at	ALCO Dr. (#00-17)
Eaton St.	at	Clayton St. (East Bd.) (#00-17)
Eaton St.	at	Driveway Behind IGA (#00-17)
Eaton St.	at	IGA Dr. (#00-17)
Edwards St.	at	Clayton St.
Fairground Ave.	at	Stanley Ave.
Fairground Ave.	at	Sycamore Ave.
Foster St.	at	Elm St.
Foster St.	at	Hutton Rd.
Foster St.	at	Sycamore Ave.
Foster St.	at	West End Ave.
Goble St.	at	Hickory Dr.
Goble St.	at	Marion St.
Halley St.	at	Orchard St.
Henry St.	at	Clayton St.
Henry St.	at	College Ave.
Hutton Rd.	at	Decatur St.
Hutton Rd.	at	Fairground Ave.

SCHEDULE "C" (CONTINUED)

STOP INTERSECTIONS

THROUGH STREET		STOP STREET (DIRECTION)
Iva St.	at	Halley St. (Both) (#86-2)
Iva St.	at	Lafayette St. (South Bd.) (#86-2)
Jackson St.	at	Decatur St.
Jackson St.	at	Henry St.
Jackson St.	at	James St.
Jackson St.	at	Marion St.
Jackson St.	at	Orchard St.
Jackson St.	at	Sainte Marie St.
Kennedy Dr.	at	Illinois (West Bd.) (#00-17)
Kennedy Dr.	at	Museum (East Bd.) (#00-17)
Lafayette St.	at	Curtis St.
Lafayette St.	at	Decatur St.
Lafayette St.	at	Marion St.
Lafayette St.	at	Sainte Marie St.
Liberty Ave.	at	Grant St.
Liberty Ave.	at	Iva St.
Maple St.	at	Decatur St. (Both) (#93-11)
Maple St.	at	Morgan St.
Maple St.	at	Sainte Marie St.
Marion St.	at	N. 2nd St.
Marion St.	at	Peterson Park Rd.
Marion St.	at	Scott St.
Martin St.	at	Halley St.
Martin St.	at	Jackson St.
Martin St.	at	Lafayette St.
Martin St.	at	Stevens St.
Maxwell St.	at	Barton St.
Morgan St.	at	1st Ave.
Morgan St.	at	2nd St. (Both) (#93-9)
Morgan St.	at	3rd St. (Both) (#93-9)
E. Morgan St.	at	N. 2nd St. (Both)
E. Morgan St.	at	N. 3rd St. (Both)
Neese Ave.	at	Marshall Ave. (West Bd.)
Orchard Dr.	at	Halley Dr.
Owens St.	at	Clayton St.
Owens St.	at	College Ave.

SCHEDULE "C" (CONTINUED)

STOP INTERSECTIONS

THROUGH STREET		STOP STREET (DIRECTION)
Reynolds St.	at	3rd St.
Reynolds St.	at	Absher St.
Reynolds St.	at	Charles St.
Reynolds St.	at	David St.
Reynolds St.	at	Harris St.
Reynolds St.	at	Jackson St.
Reynolds St.	at	Maple St.
Reynolds St.	at	Park Ave.
Reynolds St.	at	Stevens St.
Reynolds St.	at	Walnut St.
Road 1200 East	at	Road 850 North (Both) (#01-05)
Scott St.	at	Decatur St.
Scott St.	at	Hillcrest Dr.
Scott St.	at	Morgan St.
Scott St.	at	Rest Haven Dr.
Scott St.	at	Reynolds St.
Scott St.	at	Washington Ave.
Scott St.	at	Wilson St.
Sycamore St.	at	Decatur St. (#13-4)
Sycamore St.	at	Grant St.
Sycamore St.	at	Lincoln St.
Van Buren St.	at	Henry St.
Van Buren St.	at	Water St. (East Bd.)
Walnut St.	at	Curtis Ave.
Walnut St.	at	Decatur St.
Walnut St.	at	Marion St.
Walnut St.	at	Morgan St.
Walnut St.	at	Sainte Marie St.
Water St.	at	Goble St.
Water St.	at	Jackson St.
Water St.	at	Lafayette St.
Water St.	at	Maple St.
Water St.	at	Van Buren St. (North Bd.)
Water St.	at	Walnut St.
West Ave.	at	Decatur St.
Wilson St.	at	Barton St.

SCHEDULE "C" (CONTINUED)

STOP INTERSECTIONS

II. TWO AND THREE-WAY STOP INTERSECTIONS.

STREET	STREET
Lafayette St. (South Bd.)	Orchard St. (Both) (#86-2)
Washington St. (East Bd.)	Jackson St. (Both)

III. FOUR-WAY STOP INTERSECTIONS.

Barton St.	and	Curtis St. (#10-7)
Fairground Ave.	and	West End Alley (#86-5)
Lafayette St.	and	Reynolds St.
S. Lafayette St.	and	W. Curtis St. (#96-7)
Liberty Ave.	and	Martin St.
E. Marion St.	and	Scott St.
Washington St.	and	West End Ave.
Water St.	and	Van Buren St.

SCHEDULE "D"

YIELD INTERSECTIONS

In accordance with Section 24-3-4, the following are designated yield intersections:

<u>THROUGH STREET</u>		<u>YIELD STREET - DIRECTION</u>
3rd St.	at	Marion St. (Both)
Barton St.	at	Curtis St. (Both)
Church St.	at	Morgan St. (Both)
Church St.	at	Water St. (Both)
Decatur St.	at	Sycamore St. (#13-4)
Jackson St.	at	Marion St. (Both)
Jackson St.	at	Morgan St. (Both)
Lafayette St.	at	Morgan St. (Both)
Maple St.	at	Decatur St. (Both)
Maple St.	at	Marion St. (Both)
Morgan St.	at	2nd St. (Both)
Morgan St.	at	3rd St. (Both)
S. Van Buren	at	Russell Ave. (East Bd.)
Reynolds St.	at	1st Ave. (Both)
Scott St.	at	Morgan St. (Both)

SCHEDULE "E"

SPEED ZONES

In accordance with the provisions of Section 24-4-2(F) the following speed zones are hereby established, to-wit:

<u>STREET - MPH</u>		<u>LOCATION</u>
S. Jackson St. - 20 MPH	Between	Reynolds St. and Curtis St. (#93-17)
Maxwell St. - 20 MPH	Between	Van Buren St. and Absher St. on school days
E. Reynolds St. - 20 MPH	Between	Van Buren St. and Harris St. on school days
W. Washington - 20 MPH	Between	Walnut St. and Lafayette St. on school days

SCHEDULE "F"

SCHOOL CROSSING SIGNALS

In accordance with the provisions of Section 24-4-2(G) the following streets are designated as school signal crosswalks:

S. Van Buren St. at Maxwell St. **(Sec. 41-24)**

W. Jourdan at Church St.

SCHEDULE "G"

NO PARKING ZONES

In accordance with the provisions of Section 24-6-3(C) the following streets are hereby designated as "no parking zones"; to-wit:

STREET (DIRECTION)		LOCATION
Commercial Ave.		All directions (#04-2)
S. Gregory Dr.		All directions (#04-2)
Absher St. (Both)	From	Reynolds St. to Maxwell St. (#12-1)
Homestead Dr. (Both)	From	Jourdan St. north 200 feet (#95-15)
Industrial Park Dr. IL 33 (Jourdan Ave.)	From	All directions (#04-2) West corporate limits to 100 feet west of West Ave. (#10-3)
Jourdan St. (North)		At the intersection of Goble St.
Jourdan St. (South)		At the intersection of Liberty Ave.
Jourdan St. (South)		At the intersection of Sycamore St.
Jourdan St. (Both)	From	1st Ave. to Ill. Central-Gulf R.R.
Jourdan St. (Both)	From	1st Ave. to Scott St. (#94-28)
Jourdan St. (South)	From	Lafayette St. east 40 feet (#93-2)
Jourdan St. (North)	From	Lafayette St. east 60 feet (#93-2)
Jourdan St. (Both)	From	West End Ave. to Maple St. (#94-33)
W. Jourdan St. (North)	From	Jackson St. to a point 50 feet west and from a point 122 feet west of the west line of Jackson St. west to the alley running north from Jourdan St.
Maple St. (West)	From	Jourdan St. south 60 feet. (93-15)
Marshall St. (South)	From	Rte. 130 south to Factory
Maxwell St. (North)	From	A point 50 feet east to a point 50 feet west of the South exit drive of Newton Consolidated Grade School.
Maxwell St. (South)	From	Van Buren St. to Charles St. (#93-16)
Morgan St. (Both)	From	First St. and Second St. (#98-15)
Reynolds St. (North)	From	Lafayette St. to Jackson St. (#03-08)
Van Buren St. (West)	From	Henry St. south
Van Buren St. (West)	From	Martin St. south

SCHEDULE "H"

LIMITED PARKING ZONES

In accordance with the provisions of Section 24-6-3(C) the following streets are hereby designated as "Limited Parking Zones", to-wit:

I. GENERALLY

STREET - SIDE		LOCATION
W. End Ave. (East)	From	Washington St. to Fairground St. from 7:00 A.M. to 4:00 P.M. Monday through Friday (#02-12)
W. End Ave. (West)	From	Decatur St. to Fairground St. from 7:00 A.M. to 4:00 P.M. Monday through Friday (#02-12)
Decatur St. (Both)	From	Stanley St. to Hutton Dr. from 7:00 A.M. to 4:00 P.M. (#02-12)
W. Jourdan St. (South)	Between	The center of the intersection with West End Ave. west a distance of 150 feet from 3:00 P.M. to 4:00 P.M. on school days.
E. Reynolds St. (Both)	From	West of S. 1st St. from 7:00 A.M. to 9:00 A.M. and from 2:00 P.M. to 4:00 P.M. on school days. (#87-11)
Washington St. (Both)	Between	Sycamore St. to West End Ave. from 8:00 A.M. to 9:00 A.M. and 3:00 P.M. to 4:00 P.M.
S. Van Buren St. (East)	From	Maxwell St. and Reynolds St. shall be limited to and designated as "Fifteen Minute Parking". (#98-15)

II. TWO HOURS, 8:00 A.M. TO 5:00 P.M. EXCEPT SATURDAYS AND SUNDAYS.

Barton St.	From	Maxwell St. to Curtis St.
Maxwell St. (Both)	From	Van Buren St. to Charles St.
S. Van Buren St. (Both)	From	Reynolds St. to Maxwell St.

SCHEDULE "H" (CONTINUED)
LIMITED PARKING ZONES

III. THREE MINUTES.

W. Jourdan St. (North side) (in front of Post Office)	From	A point 50 feet west of the west line of the intersection with Jackson St. to a point 72 feet west thereof.
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SCHEDULE "I"

NO PARKING TRUCKS

In accordance with Section 24-6-3(C) the following streets are hereby designated as no-parking zones for any bus or vehicle having a license classification higher than "B" to-wit:

STREET - SIDE		LOCATION
W. Jourdan St. (South)	From	Liberty Ave. to 50 feet west of Sycamore St.
S. Van Buren St. (West)	From	Martin St. to 50 feet south.
S. Van Buren St. (West)	From	Henry St. 40 feet north.
S. Van Buren St. (East)	From	Curtis St. 50 feet south.
S. Van Buren St. (East)	From	Owens St. 40 feet south.
W. Jourdan St. (South)	From	West End Ave. to Homestead Dr.

SCHEDULE "J"

HANDICAPPED PARKING ZONES

In accordance with the provisions of Section 24-6-4 the following streets, etc. are hereby designated and posted as "handicapped parking zones" to-wit:

STREET	LOCATION
S. Jackson St.	Parking place south of the mid-block alley of the first block.
E. Jourdan St.	Parking place north of the mid-block alley of the first block.
E. Van Buren St.	Parking place east of the mid-block alley of the first block.
S. Van Buren St.	Parking place north of the mid-block alley of the first block.
W. Washington St.	Parking place east of the mid-block alley of the first block.

SCHEDULE "K"

LOAD LIMIT STREETS

STREET	LOCATION
N. Church St.	All
Commercial Dr.	All
E. Decatur	All
W. Decatur	West End Ave. to Hutton Dr.
Fairground St.	All
Fifth St.	Rt. 130/33
First Ave.	E. Morgan to E. Reynolds
Foster St.	All
Goble	Rt. 33 200' North
S. Gregory Dr.	Ill. 33 to S. End of Gregory Dr.
Henry St.	S. Jackson to College Ave.
Hutton Dr.	All
Liberty Ave.	All
Industrial Dr.	All
N. Jackson	Rt. 33 145' North
S. Jackson St.	Martin to Russell St.
S. Jackson St.	W. Washington to Decatur
E. Jourdan St.	Fifth Street
S. Lafayette	Rt. 33 to Decatur
Maple St.	W. Decatur to W. Jourdan
N. Maple	Rt. 33 230' North
E. Marion	N. Van Buren St. 303' East
Marshall Dr.	All
Martin St.	All
E. Morgan	Scott St. to Ill. 33/130
E. Morgan	N. Van Buren to First Ave.
E. Reynolds	All
Russell St.	to S. Van Buren St.
Scott St.	Rt. 130/33 to Wilson St.
N. Scott St.	Rt. 130/33 215' North
Second Ave.	Ill 33/130 to Washington St.
N. Second Ave.	Rt. 130/33 to Morgan St.
Stanley St.	W. Jourdan to W. Washington St.
Sycamore St.	Rt. 33 to Washington St.
Third Ave.	E. Decatur to E. Reynolds
N. Third Ave.	Rt. 130/33 to Morgan St.
S. Third Ave.	Rt. 130/33 to Washington St.
N. Van Buren St.	Jourdan St. to Water St.
S. Van Buren St.	All
Walnut St.	W. Decatur to W. Jourdan
Washington St.	West End Ave. to Second Ave.
E. Washington St.	E. Decatur
West End Ave.	Fairground to W. Jourdan

Wilson St.

All

(Ord. No. 10-6; 03-16-10)

SCHEDULE "L"

SNOW ROUTES

In accordance with the provisions of Section 24-6-9 the following streets are hereby designated as Snow Routes to-wit:

STREET	LOCATION
S. Lafayette St.	Entire Length
W. Reynolds St.	Entire Length
W. Washington St.	Between Jackson St. and West End Ave.

CHAPTER 25

NUISANCES

ARTICLE I - GENERALLY

25-1-1 PUBLIC NUISANCES PROHIBITED. No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the City or its police jurisdiction.

25-1-2 PUBLIC NUISANCES DEFINED.
(A) **Generally.** A public nuisance is a thing, act, occupation, condition or use of property which shall continue for such length of time as to:

- (1) Substantially annoy, injure or endanger the comfort, health, repose or safety of public;
- (2) In any way render the public insecure in life or in the use of property;
- (3) Unlawfully and substantially interfere with, obstruct or tend to obstruct or render dangerous for passage any street, alley, highway, navigable body of water or other public way.

(B) **Prohibition.** The following acts, conduct and conditions are hereby declared and defined to be nuisances, and when committed, performed or permitted to exist by any individual, firm, association or corporation within the territorial limits of the City, are hereby declared to be unlawful and prohibited.

(1) Any act or offense which is a nuisance according to the Common Law of the State of Illinois, or declared or defined to be a nuisance by the ordinances of the City of Newton, In addition, the officials of the municipality shall be authorized to abate any nuisance which, while not specifically defined within this ordinance, shall constitute the unreasonable, unwarrantable, or unlawful use by a person of property, real or personal, or from his own improper, indecent or unlawful personal conduct which works an obstruction or injury to a right of another, or of the public and produces such material annoyance, inconvenience, discomfort, or hurt that the law will presume an actionable nuisance. Nuisances may be abated which are public or which are both public and private in nature.

- (2) To own, lease, use, occupy, or be in charge of any premises while maintaining or keeping any nuisance thereon. For the purpose of this Code, the term "premises" shall be defined to include but not be limited to building exteriors. **(Ord. No. 93-23; 11-02-93)**

- (3) To cause or suffer the carcass of any animal or any offal, filth or noisome substance to be collected, deposited or to remain in any place under his ownership or control to the prejudice of others.
- (4) To throw or deposit any offal or other offensive matter, or the carcass of any dead animal in any water course, lake pond, spring, well or common sewer, street or public highway.
- (5) To corrupt or render unwholesome or impure the water of any spring, river, stream, pond or lake, to the injury or prejudice of others.
- (6) To obstruct or encroach upon public highways, private ways, streets, alleys, commons, landing places, and ways to burying places.
- (7) To erect, continue or use any building or other place for occasioning noxious exhalations, offensive smells or otherwise, is offensive or dangerous to the health of individuals, or of the public.
- (8) To advertise wares or occupation by painting notices of the same on, or affixing them to fences, walls, windows, building exteriors, utility poles, or on hydrants, other public or private property, or on rocks or other natural objects, without the consent of the owner, or, if in the highway or other public place, without permission of the proper authorities.
- (9) To harass, intimidate or threaten any person who is about to sell or lease or has sold or leased a residence or other real property or is about to buy or lease or has bought or leased a residence or other real property, when the harassment, intimidation or threat relates to a person's attempt to sell, buy or lease a residence, or other real property, or refers to a person's sale, purchase or lease of a residence or other real property.
- (10) To dump, abandon, deposit, dismantle or burn upon any public property or right-of-way, highway, park, street or parkway anywhere in the City of Newton, any trash, garbage, ashes, junk, junked or wrecked motor vehicles or parts thereof, or miscellaneous waste.
- (11) To store, keep, maintain or park outside of a closed building, any junk, parts, machinery, appliances, equipment not in an operable condition, or any motor vehicle not having and bearing a valid and current state registration and license, provided, however, that this provision shall not apply to a properly state licensed junk yard nor shall it apply to a properly licensed motor vehicle dealership. **(Ord. No. 03-05; 04-15-03)**
- (12) To own, maintain or keep a dwelling unit unfit for human habitation, or dangerous or detrimental to life, safety or health because of lack of repair, structural deficiencies, defects in plumbing, lighting or

ventilation systems, or other unsanitary conditions. **(Ord. No. 93-23; 11-02-93)**

- (13) To store or place any materials in a manner which may harbor rats, skunks, raccoons, or other varmints. **(Ord. No. 93-23; 11-02-93)**
- (14) To produce or permit to be produced, whether on public or private property, any offensive noise to the disturbance of the peace or quiet of any person residing in the vicinity.
- (15) Any nuisance described in the Illinois Compiled Statutes.
- (16) To burn any rubbish or garbage. Permitted burning is for residential uses and purposes and not for commercial uses and purposes. **(Ord. No. 93-23; 11-02-93)**

25-1-3 ABATEMENT OF PUBLIC NUISANCES.

(A) **Non-Summary Abatement - Notice.** Except where otherwise provided by the Ordinances of the City of Newton, an officer of the City of Newton possessing police powers may serve or cause to be served a notice, in writing, upon the owner, agent, occupant or person in possession, charge or control of any lot, building or premises or item of personalty in or upon which any nuisance, requiring them, or either or both of them, to abate the same within **ten (10) days**, in such manner as the notice shall direct. **(Ord. No. 93-23; 11-02-93)**

(B) **Non-Summary Abatement.** If the person so served and notified does not abate the nuisance within the specified reasonable time, the corporate authorities may proceed to abate the nuisance in any or all manner allowable by law, including, without limiting the generality thereof, the following:

- (1) Seeking to impose a monetary penalty as defined by **Section 1-1-20** of this Code by instituting an ordinance enforcement action.
- (2) Seeking to enjoin the continuation of the nuisance by the filing of a lawsuit in a court of competent jurisdiction.

(C) **Summary Abatement.** Whenever, in the opinion of an officer of the City possessing police powers, the maintenance or continuation of a nuisance creates an imminent threat of serious injury to persons or serious damage to personal or real property, or if the nuisance can be abated summarily without or with only minor damage to the items or premises which are creating the nuisance, and the continuation of the nuisance poses a substantial threat of injury to persons or property or a substantial interference with the quiet enjoyment of life normally present in the community, such officer shall proceed to abate such nuisance; provided, further, that whenever the owner, occupant, agent or person in possession, charge or control of the real or personal property which has become a nuisance is unknown or cannot readily be found, the municipal officer with police power may proceed to abate such nuisance without notice. Where the abatement of the nuisance requires continuing acts by the corporate authorities beyond the initial summary abatement and any other additional emergency abatement, it shall seek abatement of such nuisance on a permanent basis through judicial process as soon as reasonably possible.

25-1-4 COST OF ABATEMENT. In addition to any other penalty or remedy imposed for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the City and/or the costs of enforcing this Code, which costs shall specifically include but not be limited to attorney fees, engineering fees, abstractor fees and witness fees, shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance, and if notice to abate the nuisance has been given to the owner, such cost shall be assessed against the real estate as other special taxes.

ARTICLE II - WEEDS

25-2-1 WEEDS - DECLARED A NUISANCE. Any weeds such as jimson, burdock, ragweed, thistle, cocklebur, or other weeds of a like kind, found growing in any lot or tract of land in the City are hereby declared to be a nuisance, and it shall be unlawful to permit any such weeds to grow or remain in any such place.

25-2-2 HEIGHT. It shall be unlawful for anyone to permit any weeds, grass or plants, other than trees, herbs, fruits, vegetables, bushes, flowers, or other ornamental plants, to grow to a height exceeding **eight (8) inches** anywhere in the City; any such plants or weeds exceeding such height are hereby declared to be a nuisance.

25-2-3 REMOVAL - NOTICE. It shall be the duty of the Chief of Police to serve or cause to be served a notice upon the owner or occupant of any premises on which weeds or plants are permitted to grow in violation of the provisions of this Section and to demand the abatement of the nuisance within **ten (10) days** from the date of the service of such notice. **(Ord. No. 93-23; 11-02-93)**

25-2-4 ABATEMENT. If the person so served does not abate the nuisance within said **ten (10) day** period, the City of Newton may proceed to abate such nuisance, and all costs and expenses, but not less than the sum of **Two Hundred Fifty Dollars (\$250.00)**, plus attorney's fees shall be charged to and paid by such owner or occupant on receipt of the City's charges. If the owner or occupant cannot be found then notice of the City's charges shall be posted on the premises. **(Ord. No. 11-6; 06-21-11)**

25-2-5 LIEN. Charges for such weed removal shall be a lien upon the premises. Whenever a bill for such charges remains unpaid for **sixty (60) days** after it has been rendered, the Clerk may file with the recorder of deeds of Jasper County a statement of lien claim. This statement shall contain a legal description of the premises, the expenses and costs incurred and the date the weeds were cut, and a notice that the City claims a lien for this amount.

Notice of such lien claims shall be mailed to the owner of the premises if his address is known.

25-2-6 FORECLOSURE OF LIEN. Property subject to a lien for unpaid weed cutting 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 in equity in the name of the City.

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 matter against any property for which such bill has remained unpaid **sixty (60) days** after it has been rendered.

ARTICLE III - INOPERABLE VEHICLES

25-3-1 DEFINITIONS. The following definitions shall apply in the interpretation and enforcement of this Section:

"Vehicle": A machine propelled by power other than human power designed to travel along the ground by use of wheels, treads, runners, or slides and transport persons or property or pull machinery and shall include, without limitation, automobile, truck, trailer, motorcycle, tractor, buggy and wagon.

"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.

"Property": Any real property within the City which is not a street or highway.

"Inoperable Motor Vehicle": Any motor vehicle from which, for a period of at least **thirty (30) days**, the engine, wheels or other parts have been removed, or on which the engine, wheels or other parts have been altered, damaged, or otherwise so treated that the vehicle is incapable of being driven under its own motor power. "Inoperable Motor Vehicle" shall not include a motor vehicle which has been rendered temporarily incapable of being driven under its own power in order to perform ordinary services or repair operations for a period of time not to exceed **two (2) consecutive weeks**, nor to any motor vehicles that are kept within a building when not in use, or to a motor vehicle on the premises of a place of business engaged in wrecking or junking of motor vehicles or to operable historic vehicles over **twenty-five (25) years** of age, if the owner of such historic vehicle over **twenty-five (25) years** of age attains from the City a historic vehicle sticker for each such vehicle. Charge for each such sticker shall be **Fifty Dollars (\$50.00). (Ord. No. 93-23; 11-02-93)**

"Abandoned Vehicle": Any vehicle which is left at any place for such time and under such circumstances as to cause such vehicle reasonably to appear to have been abandoned.

25-3-2 ABANDONMENT. No person shall abandon any vehicle within the City and no person shall leave any vehicle at any place within the City for such time and under such circumstances as to cause vehicle reasonably to appear to have been abandoned.

25-3-3 LEAVING ON STREET. No person shall leave any partially dismantled, non-operating, wrecked, or junked vehicle on any street or highway in the City.

25-3-4 NUISANCE. Inoperable motor vehicles, whether on public or private property, are hereby declared to be a nuisance.

25-3-5 NOTICE TO DISPOSE OF VEHICLE. All persons are required to dispose of any inoperable motor vehicles under their control within **ten (10) days** of written notice received from the Chief of Police or any member of the Police Department designated by him commanding such disposition of the inoperable motor vehicle. **(Ord. No. 93-23; 11-02-93)**

25-3-6 IMPOUNDING. The Chief of Police or any member of the Police Department designated by him is hereby authorized to remove any vehicle left at any place within the City which reasonably appears to be in violation of this Section or which reasonably appears to be lost, stolen or unclaimed, or which is an inoperable vehicle as defined herein. Such vehicle shall be impounded until lawfully claimed or disposed of in accordance with **Chapter 625, Illinois Compiled Statutes**, as revised.

25-3-7 PENALTY. Any person or persons violating any provision of this Chapter or any rule or regulation adopted or issued in pursuance thereof, or any provision of any code adopted herein by reference, shall, upon conviction, be subject to a fine of not less than **Seventy-Five Dollars (\$75.00)** nor more than **Seven Hundred Fifty Dollars (\$750.00)** for each violation. Each day that a violation is allowed to exist shall constitute a separate offense. **(Ord. No. 94-35; 03-01-94)**

CHAPTER 27

OFFENSES

ARTICLE I - DEFINITIONS

27-1-1 MEANINGS OF WORDS AND PHRASES. For the purpose of this Chapter the words and phrases of the **Illinois Compiled Statutes, Chapter 720, Sections 2-1 through 2-11; 2-13 through 2-16; 2-19 and 2-20**, as approved, adopted and amended are hereby adopted by the City, as fully as if set out herein. **(See 65 ILCS Sec. 5/1-3-2)**

27-1-2 CRIMINAL CODE ADOPTED. The **Illinois Criminal Code, Illinois Compiled Statutes, Chapter 720**, as passed, approved and amended by the Illinois General Assembly is hereby adopted by the City; the provisions thereof shall be controlling within the corporate limits of the City; provided, however, the penalties as provided by this Code shall apply. **(See 65 ILCS Sec. 5/1-3-2 and 5/11-1-1)**

ARTICLE II - GENERALLY

27-2-1 DISTURBING POLICE OFFICER. No person shall, by violent conduct, disturb any police officer in the discharge of his duties; nor shall any person assault, strike, or fight with any police officers in the discharge of his/her duties or permit such conduct in or upon any house or premises in the City owned or possessed by him/her or under his/her management and control. Abusive or vulgar language in the presence of an officer does not evoke into a crime unless the language provokes a breach of the peace or constitutes fighting words evoking some violent response. **(See 65 ILCS Sec. 5/11-1-1)**

27-2-2 IMPERSONATION OF OFFICER. No person in the City shall falsely represent himself to be an officer of the City or shall, without being duly authorized by the City, exercise or attempt to exercise any of the duties, functions or powers of the City officer, or hinder, obstruct, resist or otherwise interfere with any City officer in the discharge of the duties of his office, or attempt to prevent any such officer from arresting any person, either by force or by giving notice to such person, or attempt to rescue from such officer any person in his custody, or impersonate any of the members of the Police Force of this City, or maliciously or with the intention of deceiving any person, wear the

uniform of or a uniform similar to that worn by the members of the Police Department, or use any of the signs, signals or devices adopted and used by the Police Department. **(See 65 ILCS Sec. 5/32-5.1)**

27-2-3 DISTURBING LAWFUL ASSEMBLIES. It shall be unlawful for any person to willfully interrupt or disturb any funeral assembly, funeral procession, school, any assembly met for the worship of God or any other assembly met for a lawful purpose by any offensive behavior, or by any disorderly conduct. **(See 65 ILCS Sec. 5/11-5-2)**

27-2-4 UNLAWFUL ASSEMBLY. It shall be illegal for persons to assemble unlawfully in the following situations:

- (A) The use of force or violence disturbing the public peace by **two (2)** or more persons acting together and without authority of law; or
- (B) The assembly of **two (2)** or more persons to do an unlawful act; or
- (C) The assembly of **two (2)** or more persons, without authority of law, for the purpose of doing violence to the person or property of any one supposed to have been guilty of a violation of the law, or for the purpose of exercising correctional powers or regulative powers over any person by violence. **(See 720 ILCS Sec. 5/25-1) (See 65 ILCS Sec. 5/11-5-2)**

27-2-5 DISTURBING THE PEACE. No person shall disturb the good order of society, or the peace of any private family, or of any congregation within the City by any noise or amusement, or by vulgar or profane language, or by any disorderly or immoral conduct. **(See 65 ILCS Sec. 5/11-5-2)**

27-2-6 BARBED WIRE AND ELECTRIC FENCES. It shall be unlawful for any person to erect or maintain any electrically-charged fence or barbed wire or other such sharp, pointed fence below **eight feet (8')** in height, except in an agricultural or conservation zone district.

27-2-7 ADMISSION FEES: FRAUDULENTLY AVOIDING PAYMENT OF. It shall be unlawful for any person to fraudulently enter, without payment of the proper admission fee, any theater, ballroom, lecture, concert or other place where admission fees are charged; provided, however, that nothing herein contained shall be deemed to prohibit or restrict the free admission of police officers engaged in the performance of police duties to any place of public entertainment or amusement.

27-2-8 SALE OF CIGARETTES OR TOBACCO TO MINORS. No minor under **eighteen (18)** years of age shall buy any cigar, cigarette, smokeless tobacco or tobacco in any of its forms. No person shall sell, buy for, distribute samples of or furnish

any cigar, cigarette, smokeless tobacco or tobacco in any of its forms, to any minor under **eighteen (18) years of age.**

For the purpose of this Section, "smokeless tobacco" means any tobacco products that are suitable for dipping or chewing. **(See 720 ILCS Sec. 675/1)**

27-2-9 SMOKELESS TOBACCO.

(A) **Definition.** For the purposes of this Section, the term "smokeless tobacco" means any finely cut, ground, powdered, or leaf tobacco that is intended to be placed in the oral cavity.

(B) **Sales of Smokeless Tobacco Products to Persons Under Eighteen (18).** No person shall sell any smokeless tobacco product to any person under the age of **eighteen (18).**

(C) **Distribution.** No person shall distribute or cause to be distributed to any person under the age of **eighteen (18)**, without charge or at a nominal cost, any smokeless tobacco product. **(See 720 ILCS Sec. 680-1 et seq.)**

27-2-10 UNLAWFUL CONDUCT ON A PUBLIC WAY.

(A) It shall be unlawful for a pedestrian to stand upon any sidewalk or public way, except as near as reasonably possible to the building line or curb line if such standing interferes with the use of said sidewalk by other pedestrians.

(B) It shall be unlawful to impede or interfere with another person's use of a public way.

27-2-11 AID IN ESCAPE. It shall be unlawful to rescue or attempt to rescue or shall abet or encourage the rescue or escape of any person from the custody of any officer or other person legally having him in charge, or shall molest or interfere with any officer or other person so legally having him in charge, or shall, in any manner, aid, abet or encourage the rescue or the attempt to escape from any person legally committed thereto, or shall supply or attempt to supply any such person with any weapon or with any implement or means whereby an escape might be affected, or with any intoxicating liquors, drugs or other article(s) without the consent of the officer in charge. **(See 720 ILCS Sec. 5/31-7)**

27-2-12 ESCAPES. It shall be unlawful for any person convicted of any offense or in lawful custody to escape or attempt to escape from custody. **(See 720 ILCS Sec. 5/31-6(C))**

27-2-13 FALSE PRETENSES. It shall be unlawful for any person to obtain any food, drink, goods, wares, or merchandise under false pretenses, or to enter public places and call for refreshments or other articles and receive and refuse to pay for same,

or to depart without paying for or satisfying the person from whom he received the food, goods, wares, and/or merchandise.

27-2-14 RENTING PREMISES FOR UNLAWFUL PURPOSES. It shall be unlawful for any person to rent, use, or allow to be used, any building or property owned by him, for any purpose whereby riotous or disorderly persons are gathered.

27-2-15 AID TO AN OFFENSE. It shall be unlawful for any person, in any way or manner, to aid, abet, counsel, advise or encourage any other person in the commission of any of the acts mentioned herein or in any manner encourage the commission of such offense hereby defined.

27-2-16 POSTING BILLS. It shall be unlawful for any person to paste, post, paint, print or nail any handbill, sign, poster, advertisement, or notice of any kind on any curbstone, flagstone, or any other portion or part of any sidewalk, or upon any tree, lamppost, utility pole, hydrant, or upon any private wall, door, or gate without the consent, in writing, of the owner of the wall, door or gate; provided, however, that this Section shall not prevent posting by proper City and County officials of election signs, polling place signs and other signs or placards necessary under the law to the conduct of elections, except they may not be attached to a tree.

27-2-17 INTOXICATION IN PUBLIC. No person shall, in the City, be found in a state of intoxication or drunk in any street or other public place, or shall be found drunk lying or roving about the streets, alleys, or sidewalks of this City or the private grounds of any of the inhabitants thereof, or being drunk as aforesaid, shall disturb the peace, order and quiet of the City, or the peace and quiet of the citizens thereof by loud and unusual noises, disorderly conduct, indecent language or behavior or in any other manner. **(See 65 ILCS Sec. 5/11-5-3)**

27-2-18 BEGGING. No person shall beg or solicit alms within the City without having obtained permission in writing from the Mayor. **(See 65 ILCS Sec. 5/11-5-4)**

27-2-19 CONCEALED WEAPONS. No person shall, within the City, carry or wear under his clothes, or concealed about his person, any pistol or colt, or sling-shot, or cross knuckles or knuckles of lead, brass or other metal, or any switchblade knife or razor, bowie knife, dirk knife or dirk, dagger or any other dangerous or deadly weapon. This Section does not apply to the officers or members of the Police Department, nor to any sheriff or deputy sheriff or constable of this State, nor to any United States Marshal.

27-2-20 DISCHARGE OF FIREARMS OR BOW AND ARROW. It shall be unlawful to discharge any firearm, bow and arrow or air gun in the City or so that the bullet, arrow, missile or projectile therefrom enters the City without written permission from the Mayor, provided that this Section shall not be construed to prohibit any officer of the law to discharge a firearm in the performance of his duty; nor to any citizen to discharge a firearm when lawfully defending his personal property.

27-2-21 GAMES IN STREET. No person shall, upon any City street, fly any kite or play any game of ball or engage in any amusement or practice having a tendency to injure or annoy any person passing in the streets or on the sidewalks.

27-2-22 STORAGE OF EXPLOSIVES.
(A) **Nitroglycerine; Dynamite, Etc.** No person shall have, keep, possess, or store at or in any place within the City, any nitroglycerine, dynamite or giant powder, or any form or combination of any of them.
(B) **Blasting Powder, Etc.** No person shall keep, possess or store any gun or blasting powder or any gun or explosive cotton at or in any one place in the City in any quantity exceeding **five (5) pounds.** (See 65 ILCS Sec. 5/11-8-4)

27-2-23 THROWING ROCKS. No person in the City shall throw or cast any rock or stone or any other missile upon or at any building, tree, or other public or private property, or at any person in any street, avenue, alley or public place.

27-2-24 DESTRUCTION OF PUBLIC PROPERTY. No person in the City shall deface, destroy, or in any way, injure any public property, or any other apparatus of the City.

27-2-25 FORTUNE TELLING. No person in the City shall pursue the calling of a fortune teller or practice fortune telling, soothsaying, or the like and receive payment in any manner therefor.

27-2-26 ABANDONED REFRIGERATORS OR ICEBOXES. It shall be unlawful for any person to abandon or discard in any place accessible to children any refrigerator, icebox or ice chest, of a capacity of **one and one-half (1 1/2) cubic feet** or more, which has an attached lid or door which may be opened or fastened shut by means of an attached latch. The owner, lessee, or manager of such place, who knowingly permits such abandoned or discarded refrigerator, icebox or ice chest to remain there in such condition, shall be guilty of violating this Code. (See 720 ILCS Sec. 505/1)

27-2-27 HALLOWEEN CURFEW. It shall be illegal for any person to engage in Halloween practice, commonly called "**Trick or Treat**", by calling at the homes or dwelling

places within the City, either masked or unmasked, except on a date and at a time approved by the City Council. **(See 65 ILCS Sec. 5/11-1-5)**

27-2-28 CURFEW.

(A) **Established.** It shall be unlawful for a person less than **seventeen (17) years of age** to be present at or upon any public assembly, building, place, street or highway at the following times, unless accompanied and supervised by a parent, legal guardian or other responsible companion at least **eighteen (18) years of age**, approved by a parent or legal guardian or unless engaged in a business or occupation which the laws of this State authorize a person less than **seventeen (17) years** of age to perform:

- (1) Between 11:00 P.M. on Sunday to Thursday, inclusive and 6:00 A.M. on the following day.
- (2) Between 12:00 Midnight on Friday and Saturday, inclusive and 6:00 A.M. on the following day.

(B) **Responsibility of Parents and Guardians.** It shall be unlawful for a parent, legal guardian or other person to knowingly permit a person in his custody or control to violate subsection (A) of this Section. **(See 65 ILCS Sec. 5/11-1-5)**

(C) Each member of the police force while on duty is hereby authorized to detain any person willfully violating the provisions of subsection (A) of this Section until the parent or legal guardian of the child shall take him or her into custody; but such officer shall immediately upon taking custody of the child communicate with the parent or legal guardian.

(D) Any person or persons violating any provision of this Section, or any rule or regulation adopted or issued in pursuance thereof, or any provision of any Code adopted herein by reference, shall, upon conviction, be subject to a fine of not less than **One Hundred Dollars (\$100.00)** and not more than the statutory maximum fine. **(Ord. No. 95-12; 07-05-95)**

27-2-29 THEFT OF RECYCLABLES UNLAWFUL. It shall be unlawful for any person to collect, obtain, possess or pickup any recyclable item(s) from any receptacle or collection point where service is provided by an authorized waste hauler licensed by the municipality or from any specified recycling center within the City limits unless said person is acting as an agent for the City or acting as an agent for a waste hauler licensed by the City.

27-2-30 FLAMMABLE LIQUIDS. It shall be unlawful for any person to keep or store any petroleum, naphtha, benzene, gasoline, coal-oil, kerosene, or any of the products of petroleum, or any flammable or explosive liquids within the space of **one thousand (1,000) feet** of any dwelling house, store room, building, barn, shed, or other like structure, within the corporate limits of the City in a quantity greater than **five (5) barrels of fifty (50) gallons** each at one time.

27-2-31 STORAGE OF DANGEROUS CHEMICALS.

(A) It shall be unlawful to store liquid propane or butane gas in a tank having a capacity of more than **one thousand (1,000) gallons** and to have more than **one (1) storage tank** at any **one (1) location** within the corporate limits of the City.

(B) It shall be unlawful to store anhydrous ammonia and low pressure nitrogen solution in aboveground storage tanks within the corporate limits of the City.

27-2-32 TOBACCO PRODUCTS PROHIBITED. No minor under the age of **eighteen (18) years** shall use or knowingly possess cigarettes or other tobacco products in any form at any time within the City limits. **(Ord. No. 07-14; 08-07-07)**

27-3-33 SCHOOL SAFETY. It shall be unlawful for any person within **one thousand (1,000) feet** of St. Thomas School or Jasper County Alternative Education/Safe School Program or any Jasper Community Unit School property to:

(A) Fail to obey a lawful order to disburse by a police officer when one or more persons are committing acts of disorderly conduct in the immediate vicinity; or

(B) Fail to obey a lawful order of disbursement by a person known to be a peace officer under circumstances under which one or more persons are committing acts of disorderly conduct in the immediate vicinity that is likely to cause harm or serious inconvenience, annoyance, or alarm; or

(C) Make or assist in the making of any noise or diversion that disturbs or tends to disturb the peace or good order of a school session or class while school or any class is in session; or

(D) Engage in any violent, offensive, or disorderly conduct by threatening, quarreling, challenging to fight, or fighting or using obscene, offensive, profane, or unseemly language to the annoyance, disturbance or vexation of another, or is guilty of any conduct calculated to breach the peace or to incite violence; or

(E) Do or make any unreasonably or offensive act, utterance, gesture, or display that under the circumstances provokes, makes or aids in the making a breach of peace or act of violence.

(F) Violate any traffic or pedestrian rule, law or regulation of the City or the State of Illinois.

For purposes of this Section, "public place" shall mean public areas and any other locations open to the public whether publicly or privately owned. **(Ord. No. 07-05; 05-15-07)**

ARTICLE III

OFFENSES AGAINST PROPERTY

27-3-1 PETTY THEFT. A person commits a petty theft when the value of the property is under **Three Hundred Dollars (\$300.00)** and he knowingly:

(A) obtains or exerts unauthorized control over property of the owner;
or

(B) obtains by deception, control over property of the owner; or

(C) obtains by threat, control over property of the owner; or

(D) obtains control over stolen property knowing the property to have been stolen by another or under such circumstances as would reasonably induce him to believe that the property was stolen; and

(1) intends to deprive the owner permanently of the use or benefit of the property;

(2) knowingly uses, conceals or abandons the property in such a manner as to deprive the owner permanently of such use or benefit;

(3) uses, conceals or abandons the property, knowing such use, concealment or abandonment probably will deprive the owner permanently of such use or benefit.

(E) It shall be unlawful to commit a petty theft.

(See 720 ILCS Sec. 5/16-1)

27-3-2 CRIMINAL DAMAGE TO PROPERTY. Any of the following acts by a person shall be a violation of this Code.

(A) To knowingly damage any property of another without his consent; or

(B) recklessly, by means of fire or explosive, damage property of another;
or

(C) knowingly start a fire on the land of another without his consent; or

(D) knowingly injure a domestic animal of another without his consent; or

(E) knowingly deposit on the land or in the building of another, without his consent, any stink bomb or any offensive smelling compound and thereby, intend to interfere with the use by another of the land or building. **(See 720 ILCS Sec. 5/21-1)**

27-3-3 CRIMINAL DAMAGE TO FIRE-FIGHTING APPARATUS, HYDRANTS OR EQUIPMENT. No person shall willfully and maliciously cut, injure, damage, tamper with or destroy or deface any fire hydrant or any fire hose or any fire engine, or other public or private fire-fighting equipment or any apparatus appertaining to such equipment, or to intentionally open any fire hydrant without proper authorization. **(See 720 ILCS Sec. 5/21-1.1)**

27-3-4 INJURY TO UTILITY WIRES AND POLES. It shall be unlawful to willfully, maliciously, or negligently break, deface, injure or destroy any telegraph or telephone pole, post or wire, or any electric lightpost, pole, or electric conductor, wire or lamp or any other thing connected with the same or belonging thereto, or any water main, gas main, pipe or hydrant or lamp or lamppost, or anything belonging to or connected therewith or with any of them.

27-3-5 STREET SIGNS; MOLESTING OF PROHIBITED. It shall be unlawful for any person or persons, in any manner or form, to deface, disfigure, damage or molest any of the street signs or parts thereof located in the City.

27-3-6 TAMPERING WITH PUBLIC NOTICE. It shall be unlawful for a person to knowingly and without lawful authority alter, destroy, deface, remove or conceal any public notice, posted according to law, during the time for which the notice was to remain posted. **(See 720 ILCS Sec. 5/32-9)**

27-3-7 USE OF BICYCLES, SCOOTERS, SKATEBOARDS, AND ROLLER SKATES.

(A) No person shall roller skate, ride a skateboard, ride or operate a scooter or bicycle on any part of the following locations during the scheduled annual events of the Newton Fall Festival, Newton Homecoming, Newton Arts Festival, and Newton Strawberry Fest, to-wit: **(Ord. No. 95-5; 05-16-95)**

- (1) The Courthouse lawn;
- (2) The 100 block of S. Jackson St. (located west of Courthouse Square) and that part of the 200 block of S. Jackson St. to the north edge of the first east/west alley, and any part of the adjoining sidewalks;
- (3) The 100 block of W. Washington St. (located south of the Courthouse Square) and that part of the 200 block of W. Washington St. to the east edge of the first north/south alley, and any part of the adjoining sidewalks;
- (4) Any part of the sidewalk located on the east edge of the 100 block of S. Van Buren St. (located east of Courthouse Square).

(B) The City shall post notice of the restrictions and prohibitions of this Section to inform the public of their existence.

(C) It is the duty of parents of any person under the age of **sixteen (16)** to cause such person to comply with the terms of this Section.

ARTICLE IV

PUBLIC HEALTH, SAFETY AND DECENCY

27-4-1 DISORDERLY CONDUCT; ELEMENTS OF THE OFFENSE. A person commits disorderly conduct when he knowingly:

(A) does any act in such an unreasonable manner as to alarm or disturb another and to provoke a breach of the peace; or

(B) transmits in any manner to the Fire Department of any city, town, village or fire protection district, a false alarm of fire, knowing at the time of such transmission that there is no reasonable ground for believing that such fire exists; or

(C) transmits in any manner to another a false alarm to the effect that a bomb or other explosive device of any nature is concealed in such a place that its explosion would endanger human life, knowing at the time of such transmission that there is no reasonable ground for believing that such bomb or explosive device is concealed in such a place; or

(D) transmits in any manner to any peace officer, public officer or public employee a report to the effect that an offense has been committed, knowing at the time of such transmission that there is no reasonable ground for believing that such an offense has been committed; or

(E) enters upon the property of another and for a lewd or unlawful purpose, deliberately looks into a dwelling on the property through any window or other opening in it;

(F) while acting as a collection agency as defined in the "Collection Agency Act" or as an employee of such collection agency, and while attempting to collect an alleged debt, makes a telephone call to the alleged debtor which is designed to harass, annoy or intimidate the alleged debtor; or

(G) transmits a false report to the Department of Children and Family Services.

(See 720 ILCS Sec. 5/25-1)

27-4-2 RESISTING OR OBSTRUCTING A PEACE OFFICER. A person commits an offense when that person knowingly resists or obstructs the performance of any authorized act of one known to the person to be a peace officer within that peace officer's official capacity. **(See 720 ILCS Sec. 5/31-1)**

27-4-3 REFUSING TO AID AN OFFICER. A person who refuses or knowingly fails, upon command, to reasonably aid a person known by him to be a peace officer in the following commits a misdemeanor:

(A) apprehending a person whom the officer is authorized to apprehend; or

(B) preventing the commission by another of any offense.

(See 720 ILCS Sec. 5/31-8)

27-4-4 ASSEMBLING AT PUBLIC PLACES AND BUSINESSES.

(A) **Drive-in Business.** A drive-in business within the meaning of this Code shall be deemed to be any business where meals, sandwiches, cold drinks, beverages, ice cream, food, drink, or consumer services are served directly to or are permitted to be consumed by patrons in or upon automobiles, motorcycles, or other vehicles parked on the premises.

(B) **Declared Public Places.** For the purpose of preserving public peace, health and safety, the entire premises occupied by a drive-in business, together with means of ingress or egress, are hereby declared to be a public place;

(1) No person on the premises of a drive-in business shall race the motor of any motor vehicle, needlessly bring to a sudden start or stop, any motor vehicle, blow any horn of any motor vehicle, or cause to be made any loud or unseemly noise, nuisance or disturbance whereby the quiet and good order of the premises or the neighborhood are disturbed.

(2) The following acts or conduct of any persons entering a drive-in business or premises are hereby declared to be unlawful, and any person found guilty of any such acts shall be guilty of a violation of this Article:

(a) Entering the premises of any drive-in business with any motor vehicle of any description and parking such vehicle and leaving the premises (thereby leaving such vehicle parked and unoccupied), without express consent of the owner or operator of such business, in which event, such motor vehicle shall be subject to a parking citation or may be impounded subject to the usual impounding charges.

(b) Entering the premises in or upon a motor vehicle and using said premises for cruising, racing as a shortcut to another street or to annoy or endanger any person or persons or other vehicle or vehicles lawfully on said premises.

(c) For three (3) or more persons to congregate on the pre-mises and linger or loiter at any location on the premises of any drive-in business, other than in the building or in a legally parked motor vehicle.

(d) For any person who, while on the premises of any drive-in business, in the presence or hearing of another, to curse or abuse such person or use any violently abusive language under circumstances reasonably calculated to provoke a breach of the peace.

(C) **Posting Sign.** It shall be the responsibility of the business operator to post on the premises in a conspicuous location, one (1) or more signs bearing the following legend in letters at least two inches (2") or more in height and readable:

"CRUISING IN OR CONGREGATING AND LOITERING OUTSIDE A MOTOR VEHICLE IS UNLAWFUL. NO UNOCCUPIED MOTOR VEHICLES MAY BE LEFT ON THE PREMISES WITHOUT THE CONSENT OF THE OWNER."
(See 65 ILCS Sec. 5/11-5-2)

27-4-5 EXCAVATIONS. It shall be unlawful for any person who owns, maintains, uses, abandons, any open well, cesspool, cistern, quarry, recharging basin, catch basin, sump, excavation for the erection of any building structure or excavation created by the razing or removal of any building structure without covering or surrounding such installation with protective fencing. This Section shall not apply during the course of repair, construction, removal or filling of any of the structures or conditions herein described while any worker is present at the location thereof either performing services thereon or as a watchman to guard such location. **(See 720 ILCS Sec. 605/1)**

ARTICLE V - ANTI-LITTER

27-5-1 DEFINITIONS. For the purpose of this Article, the following terms, phrases, words, and their derivations shall have the meanings given herein:

"AUTHORIZED PRIVATE RECEPTACLE" is a container of water-tight construction with a tight-fitting lid or cover capable of preventing the escape of contents within. Such receptacles shall have handles or other means for safe and convenient handling and be of such size or sufficient capacity to hold all litter generated between collection periods and shall be in compliance with the regulations promulgated.

"CONSTRUCTION SITES" means any private or public property upon which repairs to existing buildings, construction of new buildings or demolition of existing structures is taking place.

"HANDBILL" is any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed matter of literature which is not delivered by the United States Mail Service, including, but not limited to those which:

- (A) advertise for sale any merchandise, product, commodity or thing; or
- (B) direct attention to any business or mercantile or commercial establishment, or other activity for the purpose of either directly or indirectly promoting the interest thereof by sales; or
- (C) direct attention to or advertise any meeting, theatrical performance, exhibition, or event of any kind for which an admission fee is charged for the purpose of private gain or profit.

"LITTER" is garbage, refuse and rubbish and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety and welfare.

"LOADING AND UNLOADING DOCK" means any dock space or area used by any moving vehicle for the purpose of receiving, shipping and transporting goods, wares, commodities and persons located on or adjacent to any stream, river or land.

"PRIVATE PREMISES" means all property including, but not limited to, vacant land or any land, building or other structure designed or used for residential, commercial, business, industrial, institutional or religious purposes, together with any yard, grounds, walk, driveway, fence, porch, steps, vestibule, mailbox, and other structure(s) appurtenant thereto.

"PUBLIC PLACE" means any and all streets, sidewalks, boulevards, alleys or other public ways, lakes, rivers, watercourses, or fountains and any and all public parks, squares, spaces, grounds, and buildings.

"PUBLIC RECEPTACLES" means any receptacles provided by or authorized by the City.

"VEHICLE" is every device in, upon or by which any person or property is or may be transported or drawn upon land or water, including devices used exclusively upon stationary rails or tracks.

27-5-2 LITTERING PROHIBITED. No person shall deposit any litter within the City except in public receptacles, in authorized private receptacles for collection, or in any duly licensed disposal facility.

27-5-3 PREVENTION OF SCATTERING. Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent litter from being carried or deposited by the elements upon any public place or private premises.

27-5-4 RECEPTACLES - UPSETTING OR TAMPERING. No person shall upset or tamper with a public or private receptacle designed or used for the deposit of litter or cause or permit its contents to be deposited or strewn in or upon any public place or private premises.

27-5-5 RESERVED.

27-5-6 OWNER TO MAINTAIN PRIVATE PREMISES.
(A) The owner or person in control of any private premises shall, at all times, maintain the premises free of litter.
(B) The owner or person in control of private premises shall, if public receptacles are unavailable, maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any public place or private premises.

27-5-7 LITTERING FROM VEHICLES.
(A) No person, while the operator of or passenger in a vehicle, shall deposit litter upon any public place or private premises.
(B) No person shall drive or move any loaded or partly loaded truck or other vehicle within the City unless such vehicle is so constructed or so loaded as to prevent any part of its load, contents or litter from being blown or deposited upon any public place or private premises. Nor shall any person drive or move any vehicle or truck within the City, the wheels or tires of which carry onto or deposit in any public place or private premises, mud, dirt, sticky substances, litter or foreign matter of any kind.

(C) **Throwing Objects From Motor Vehicles.** Pursuant to the Police powers in **65 ILCS Sec. 5/11-1-1** it shall be unlawful for any person occupying or

driving a motor vehicle, whether moving or not, to shoot, throw, cast, launch or drop any object, liquid or substance at any person, animal or object wherein the possibility of harm, injury or damage may occur as a result of such actions. **(Ord. No. 98-1; 01-06-98)**

27-5-8 LITTERING FROM AIRCRAFT. No person in an aircraft shall throw out, drop or deposit any litter within the City.

27-5-9 LITTER IN PARKS. No person shall deposit litter in any park within the City except in receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any other public place or private premises. Where receptacles are not provided, all such litter shall be removed from the park by the person responsible for its presence and properly disposed of elsewhere in a lawful manner.

27-5-10 HANDBILLS.

(A) **Public Places.** No person shall deposit or sell any handbill in or upon any public place, provided, however, that it shall not be unlawful on any public place for any person to hand out or distribute without charge to the receiver, any handbill to any person willing to accept it.

(B) **Private Premises.** No person shall deposit or unlawfully distribute any handbill in or upon private premises, except by handing or transmitting any such handbill directly to the occupant of such private premises. Provided, however, that in case of private premises which are not posted against the receiving of handbills or similar material, such person, unless requested by anyone upon such premises not to do so, may securely place any such handbill in such a manner as to prevent such handbill from being deposited by the elements upon any public place or other private premises, except mailboxes may not be so used when prohibited by federal postal law or regulations.

(C) **Exemptions for Newspapers and Political Literature.** The provisions of this Section shall not apply to the distribution upon private premises only of newspapers or political literature; except that newspapers and political literature shall be placed in such a manner as to prevent their being carried or deposited by the elements upon any public place or other private premises.

(D) **Placing Handbills on Vehicles.** No person shall deposit any handbill in or upon any vehicle unless the occupant of the vehicle is willing to accept it.

(E) **Cleanup.** It shall be the responsibility of any person distributing handbills to maintain the area which they are utilizing free of any litter caused by or related to said handbill distribution.

27-5-11 POSTING NOTICES PROHIBITED. No person shall post or affix any notice, poster, or other paper or device, calculated to attract the attention of the public upon any public place, except as may be authorized or required by law. No person,

except the owner or tenant shall post any such notice on private property without the permission of the owner or tenant.

27-5-12 CONSTRUCTION SITES.

(A) Each contractor shall be responsible for the job site so that litter will be prevented from being carried or deposited by the elements upon any public place or other private premises.

(B) Litter or other debris, including dirt and mud, deposited as the result of normal construction process upon any public place or private premises, shall be removed by the contractor.

27-5-13 LOADING AND UNLOADING DOCKS. The person owning, operating, or in control of a loading or unloading dock shall maintain private receptacles for collection of litter, and shall, at all times, maintain the dock area free of litter in such a manner that litter will be prevented from being carried or deposited by the elements upon any public place or other private premises.

27-5-14 PARKING LOTS.

(A) **Litter Receptacles Required.** Any public place or private premises containing any provision for parking vehicles shall be equipped with litter receptacles in compliance with this Section. Such premises shall include, but not be limited to such places as shopping centers, outdoor theaters, drive-in restaurants, gasoline service stations, apartment developments, parking lots, and any other place where provision is made for vehicles to stop or park in a designated area for any purpose.

(B) **Number of Receptacles.** All premises having parking lots shall provide in an easily accessible location a minimum of **one (1) refuse container** for every **fifty (50) parking spaces**.

(C) **Specifications.** Litter receptacles shall have tight-fitting lids or tops and shall be weighted or attached to the ground or other fixed structures as necessary to prevent spillage. A minimum container size of **twenty (20) gallons** or **75.7 liters** shall be used.

(D) **Cleanliness.** Premises used for the purpose designated herein shall be kept in a litter-free condition and all litter shall be removed periodically from the receptacles.

(E) **Obligation to Use Receptacles.** It shall be the duty and obligation of all persons using parking areas to use such litter receptacles as hereinabove provided for the purposes intended and it shall be unlawful for any person or persons to deposit any litter upon any such parking lot.

27-5-15 CLEARING OF LITTER FROM OPEN PRIVATE PROPERTY BY THE CITY. The procedure for the removal of litter from private premises and the charging of expense(s) thereof as a lien upon such property to be collected shall be in

accordance with the state statutes. The Mayor or his designated representative shall be responsible for the implementation of this enforcement program.

(See 65 ILCS Sec. 5/11-80-15)

ARTICLE VI - TRESPASS

27-6-1 TRESPASSES PROHIBITED. It shall be unlawful for any person, firm, or corporation to commit a trespass within this municipality upon either public or private property.

27-6-2 SPECIFICALLY ENUMERATED TRESPASSES - SUPPRESSION. Without constituting any limitation upon the provisions of **Section 27-6-1** hereof, any of the following acts by any person, firm, or corporation shall be deemed included among those that constitute trespasses in violation of the provisions of **Section 27-6-1**, and appropriate action may be taken hereunder at any time, or from time to time, to prevent or suppress any violation or violations of this Article; the aforesaid enumerated acts so included, being as follows, to-wit:

(A) An entry upon the premises of another, or any part thereof, including any public property, in violation of a notice posted or exhibited at the main entrance to the premises, or at any point of approach or entry or in violation of any notice, warning or protest given orally or in writing, by any owner or occupant thereof; or

(B) the pursuit of a course of conduct or action incidental to the making of an entry upon the land of another in violation of a notice posted or exhibited at the main entrance to the premises or at any point of approach or entry, or in violation of any notice, warning or protest given orally or in writing by any owner or occupant thereof; or

(C) a failure or refusal to depart from the premises of another in case of being requested, either orally or in writing to leave by any owner or occupant thereof; or

(D) an entry into or upon any vehicle, aircraft or watercraft made without the consent of the person having the right to leave any such vehicle, aircraft or watercraft after being requested to leave by the person having such right.

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

ARTICLE VII

PARENTAL RESPONSIBILITY REGULATIONS

27-7-1 **DEFINITIONS.** For the purpose of this Article, the following definitions shall apply:

"ACTS OF VANDALISM AND SIMILAR OFFENSES" shall include any of the following acts:

(A) Maliciously, recklessly, negligently, or knowingly damaging or destroying or defacing any property within the City, whether such property is owned by the State, County or governmental body or owned by any private person, firm, partnership, or association; or

(B) maliciously, recklessly, or knowingly, by means of fire or explosive device, damaging, debasing, or destroying any property of another person; or

(C) maliciously, recklessly, negligently or knowingly starting a fire on land of another person without his consent; or

(D) maliciously, recklessly or knowingly depositing on land or in the building of another person, without his consent, any stink bomb or any offensive smelling compound and thereby interfering with the use and occupancy by another of the land or building; or

(E) maliciously, recklessly, or knowingly, and without authority, entering into or obtaining control over any building, house trailer, motor vehicle, aircraft or watercraft or any part thereof of another person without his consent.

"LEGAL GUARDIAN" shall include a foster parent, a person appointed guardian of a person or given custody of a minor by a Circuit Court of this State, but does not include a person appointed guardian only to the estate of a minor, or appointed guardian, or given custody of a minor under the **Illinois Juvenile Court Act**.

"MINOR" shall include a person who is above the age of **eleven (11) years**, but not yet **eighteen (18) years** of age.

"PARENT" shall include the lawful father and mother of a minor child whether by birth or adoption.

"PROPERTY" shall include any real estate including improvements thereon and tangible personal property.

27-7-2 **PARENTS AND GUARDIANS RESPONSIBLE FOR ACTS.** The parent or legal guardian of an unemancipated minor residing with such parent or legal guardian shall be presumed, in the absence of evidence to the contrary to have failed to

exercise proper parental responsibility and said minor shall be deemed to have committed the acts described herein with the knowledge and permission of the parent or guardian in violation of this Article upon the occurrence of the events described in (A), (B) and (C) below:

(A) An unemancipated minor residing with said parent or legal guardian shall either be adjudicated to be in violation of any ordinance, law, or statute prohibiting willful and malicious acts causing injury to a person or property, or shall have incurred non-judicial sanctions from another official agency resulting from an admission of guilt of a violation of any ordinance, law, or statute prohibiting willful and malicious acts causing injury to a person or property; and

(B) Said parent or legal guardian shall have received a written notice thereof, either by certified mail, return receipt requested, or by personal service, with a certificate of personal service returned from the City, following said adjudication or non-judicial sanctions; and

(C) If, at any time within **one (1) year** following receipt of notice set forth in paragraph (B) above, said minor is either adjudicated to be in violation of any ordinance, law, or statute as described in (A) above, or shall have incurred nonjudicial sanctions from another official agency resulting from an admission of guilt of violation of any ordinance, law, or statute as described in (A) above.

ARTICLE VIII - OBSCENITY

27-8-1 OBSCENITY.

(A) **Elements of the Offense.** A person commits an obscenity when, with the knowledge of the nature or content thereof or recklessly failing to exercise reasonable inspection which would have disclosed the nature or content thereof, he:

- (1) sells, delivers or provides or offers or agrees to sell, deliver or provide any obscene writing, picture, record or other representation or embodiment of the obscene; or
- (2) presents or directs an obscene play, dance, or other performance or participates directly in that portion thereof which makes it obscene; or
- (3) publishes, exhibits or otherwise makes available anything obscene; or
- (4) performs an obscene act or otherwise presents an obscene exhibition of his body for gain; or
- (5) creates, buys, procures or possesses obscene matter or material with intent to disseminate it in violation of this Section, or of the penal laws or regulations of any other jurisdiction; or
- (6) advertises or otherwise promotes the sale of material represented or held out by him to be obscene, whether or not it is obscene.

(B) **Obscene Defined.** Any material or performance is obscene if:

- (1) the average person, applying contemporary adult community standards, would find that, taken as a whole, it appeals to the prurient interest; and
- (2) the average person, applying contemporary adult community standards, would find that it depicts or describes, in a patently offensive way, ultimate sexual acts or sadomasochistic sexual acts, whether normal or perverted, actual or simulated, or masturbation, excretory functions or lewd exhibition of the genitals; and
- (3) taken as a whole, it lacks serious literary, artistic, political or scientific value.

(C) **Interpretation of Evidence.** Obscenity shall be judged with reference to ordinary adults except that it shall be judged with reference to children or other specially susceptible audiences if it appears from the character of the material or the circumstances of its dissemination to be specially designed for or directed to such an audience.

Where circumstances of production, presentation, sale, dissemination, distribution, or publicity indicate that material is being commercially exploited for the sake of its prurient appeal, such evidence is probative with respect to the nature of the matter and can justify the conclusion that the matter is lacking in serious literary, artistic, political or scientific value.

In any prosecution for an offense under this section, evidence shall be admissible to show:

- (1) the character of the audience for which the material was designed or to which it was directed;
- (2) what the predominant appeal of the material would be for ordinary adults or a special audience, and what effect, if any, it would probably have on the behavior of such people;
- (3) the artistic, literary, scientific, educational or other merits of the material, or the absence thereof;
- (4) the degree, if any, of public acceptance of the material in this State;
- (5) appeal to prurient interest or absence thereof in advertising or other promotion of the material;
- (6) purpose of the author, creator, publisher or disseminator.

(D) **Prima Facie Evidence.** The creation, purchase, procurement or possession of a mold, engraved plat or other embodiment or obscenity, specially adapted for reproducing multiple copies, or the possession of more than **three (3) copies** of obscene material shall be prima facie evidence of an intent to disseminate. **(See 65 ILCS Sec. 5/11-5-1)**

27-8-2 HARMFUL MATERIAL.

(A) **Elements of the Offense.** A person who, with knowledge that a person is a child; that is, a person under **eighteen (18) years** of age, or who fails to

exercise reasonable care in ascertaining the true age of a child, knowingly distributes to, or sends or causes to be sent to, or exhibits to or offers to distribute or exhibit any harmful material to a child is guilty of a violation of this Code.

(B)

Definitions.

- (1) Material is harmful if, to the average person applying contemporary standards, its predominant appeal, taken as a whole, is to prurient interest; that is, shameful or morbid interest in nudity, sex, or excretion which goes substantially beyond customary limits of candor in description or representation of such matters and is material, the redeeming social importance of which is substantially less than its prurient appeal.
- (2) **"Material"** as used in this Code means any writing picture, record or other representation or embodiment.
- (3) **"Distribute"** means to transfer possession of material whether with or without consideration.
- (4) **"Knowingly"** as used in this Section means having knowledge of the contents of the subject matter or recklessly failing to exercise reasonable inspection which would have disclosed the contents thereof.

(C)

Interpretation of Evidence. The predominant appeal to prurient interest of the material shall be judged with reference to average children of the same general age of the child to whom such material was offered, distributed, sent or exhibited unless it appears from the nature of the matter or the circumstances of its dissemination, distribution or exhibition that it is designed for specially susceptible groups, in which case, the predominant appeal of the material shall be judged with reference to its intended or probable recipient group.

In prosecutions under this section where circumstances of production, presentation, sale, dissemination, distribution, or publicity, indicate the material is being commercially exploited for the sake of its prurient appeal, such evidence is probative with respect to the nature of the material and can justify the conclusion that the redeeming social importance of the material is, in fact, substantially less than its prurient appeal.

(D)

Affirmative Defenses.

- (1) Nothing in this Section shall prohibit any public library or any library operated by an accredited institution of higher education from circulating harmful material to any person under **eighteen (18) years** of age, provided such circulation is in aid of a legitimate scientific or educational purpose, and it shall be an affirmative defense in any prosecution for a violation of this Section that the act charged was committed in aid of legitimate scientific or educational purposes.
- (2) Nothing in this Section shall prohibit any parent from distributing to his child any harmful material.
- (3) Proof that the defendant demanded, was shown and acted in reliance upon any of the following documents as proof of the

age of a child shall be a defense to any criminal prosecution under this Section:

- (a) A document issued by the federal government or any state, county or municipal government, or subdivision or agency thereof, including, but not limited to a motor vehicle operator's license, a registration certificate issued under the Federal Selective Service Act or an identification card issued to a member of the armed forces.
- (4) In the event an advertisement of harmful material as defined in this Section culminates in the sale or distribution of such harmful material to a child, under circumstances where there was no personal confrontation of the child by the defendant, his employees or agents as where the order or request for such harmful material was transmitted by mail, telephone, or similar means of communication and delivery of such harmful material to the child was by mail, freight, or similar means of transport, it shall be a defense in any prosecution for a violation of this Section that the advertisement contained the following statement or a statement substantially similar thereto, and that the defendant required the purchaser to certify that he was not under the age of **eighteen (18) years** and that the purchaser falsely stated that he was not under the age of **eighteen (18) years**:

"NOTICE: It is unlawful for any person under eighteen (18) years of age to purchase the matter herein advertised. Any person under eighteen (18) years of age who falsely states that he is not under eighteen (18) years of age for the purpose of obtaining the material advertised herein is guilty of a misdemeanor."

(E) **Child Falsifying Age.** Any person under **eighteen (18) years** of age who falsely states, either orally or in writing that he is not under the age of **eighteen (18) years**, or who presents or offers to any person any evidence of age and identity which is false or not actually his own for the purpose of ordering, obtaining, viewing or otherwise procuring or attempting to procure or view any harmful material is guilty of a misdemeanor. **(See 65 ILCS Sec. 5/11-5-1)**

27-8-3 TIE-IN SALES OF OBSCENE PUBLICATIONS TO DISTRIBUTORS.

Any person, firm or corporation, or any agent, officer or employee thereof engaged in the business of distributing books, magazines, periodicals, comic books or other publications to retail dealers who shall refuse to furnish to any retail dealer such quantity of books, magazines, periodicals, comic books or other publications as such retail dealer normally sells because the retail dealer refuses to sell, or offer for sale, any books, magazines, periodicals, comic books or other publications which are obscene, lewd, lascivious, filthy or indecent is guilty of an offense. Each publication sold or delivered in violation of this Section shall constitute a separate offense. **(See 720 ILCS Sec. 5/11-22)**

27-8-4 PUBLIC NUDITY.

(A) **Purpose and Additional Findings.** It is the purpose of this Section to regulate public nudity in order to promote the health, safety, morals, and general welfare of the citizens of the City. The provisions of this Section have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this Section to restrict or deny access by adults to, sexually oriented materials protected by the First Amendment. Neither is it the intent nor effect of this Section to condone or legitimize the distribution of obscene material.

(B) **Definitions.** As used in this Section:

- (1) **"Entity"** means any business, commercial enterprise, proprietorship, partnership, corporation, association, business trust, joint venture, joint-stock company, or other for profit or not for profit organization.
- (2) **"Nude" or "Nudity" or "State of Nudity"** means the showing of:
 - (a) Human male or female genitals or pubic area with less than a fully opaque covering; or
 - (b) Any portion of the anal cleft or cleavage of the male or female buttocks. Attire that is insufficient to comply with this requirement includes, but is not limited to, G-strings, T-backs, thongs, and any other clothing or covering that does not completely and opaquely cover the anal cleft or cleavage of the male or female buttocks; or
 - (c) The portion of the human female breast directly or laterally below a point immediately above the top of the areola with less than a fully opaque covering; this definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other clothing, provided the areola is not exposed; or
 - (d) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- (3) **"Person"** means any live human being.
- (4) **"Place Provided or Set Apart for Nudity"** means enclosed single sex public restrooms, enclosed single sex functional shower, locker and/or dressing room facilities, enclosed motel rooms and hotel rooms designed and intended for sleeping accommodations, doctor's offices, portions of hospitals, and similar places in which nudity or exposure is necessarily and customarily expected outside of the home and sphere of privacy constitutionally protected therein. This term shall not be deemed to include places where a person's conduct of being

nude is used for his or her profit or where being nude is used for the promotion of business or is otherwise commercially exploited.

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

(C) **Prohibition.** It shall be unlawful for any person to knowingly or intentionally appear nude in a public place or in any other place that is readily visible to the public, except a place provided or set apart for nudity. It shall also be unlawful for any person or entity maintaining, owning, or operating any public place to operate and to knowingly, or with reason to know, permit or allow any person to appear nude in such public place, except a place provided or set apart for nudity.

(D) **Penalty.** A person or entity violating this Section shall upon conviction be punished by a fine not exceeding **Seven Hundred Fifty Dollars (\$750.00)**. Each day of violation shall constitute a separate offense.

(E) **Injunction.** A person or entity violating this Section shall be subject to a suit for injunction as well as for criminal violations.

(F) **Limitation.** This Section shall not be deemed to address photographs, movies, video presentations, or any other non-live performances.

(Ord. No. 97-14; 09-30-97)

ARTICLE IX - OPEN BURNING

27-9-1 DEFINITIONS. Unless the context otherwise requires the words and phrases herein defined are used in this Article in the sense given them in the following definitions:

"AGRICULTURAL WASTE" means any refuse, except garbage and dead animals, generated on a farm or ranch by crop and livestock production practices including such items as bags, cartons, dry bedding, structural materials, and crop residues but excluding landscape waste.

"GARBAGE OR HOUSEHOLD TRASH" means refuse resulting from the handling, processing, preparation, cooking and consumption of food or food products, including plastic containers.

"LANDSCAPE WASTE" means any vegetable or plant refuse, except garbage and agricultural waste. The term includes trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery, and yard trimmings.

"OPEN BURNING" means the combustion of any matter in such a way that the products of the combustion are emitted to the open air without originating in or passing through equipment for which a permit could be issued under Section 9(b) of the Environmental Protection Act of the State of Illinois.

27-9-2 BURNING PROHIBITED. It shall be unlawful to cause or allow open burning of agricultural waste, household trash or garbage.

27-9-3 RESTRICTIONS ON BURNING OF LANDSCAPE WASTE. The open burning of landscape waste shall be permitted only on the following conditions:

(A) Landscape waste shall be burned on the premises on which such waste is generated; and

(B) Landscape waste shall be burned only when atmospheric conditions shall readily dissipate contaminants; and,

(C) Landscape waste may be burned only if such burning does not create a visibility hazard on roadways, walkways, or railroad tracks; and,

(D) Open burning of landscape waste may only take place during daylight hours with a person over **eighteen (18) years** of age in attendance during the entire period of burning; and,

(E) No open burning of landscape waste shall be permitted on any streets or roadways; and,

(F) No open burning shall occur during periods of time when the Fire Chief or the Chief of Police have determined that atmospheric conditions or local circumstances make such fires hazardous and dangerous.

ARTICLE X – TRUANCY CODE

27-10-1 DEFINITIONS. As used in this Article unless the context requires otherwise the following words or phrases shall meanless the context otherwise requires the words and phrases herein defined are used in this Article in the sense given them in the following definitions:

"COURT" means the Fourth Judicial Circuit; Jasper County, Illinois.

"CUSTODIAN" means (1) the person who under court order is the custodian of the person of a minor or (2) a public or private agency with which the court has placed a minor or (3) a person acting in the role of a parent by reason of a private agreement, arrangement, custom, or habit.

"EMERGENCY" means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, fire, natural disaster, automobile accident, medical emergency, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

"ESTABLISHMENT" means any privately owned place of business to which the public is invited, including, but not limited to, any place of amusement or entertainment.

"GUARDIAN" means (1) parent or (2) a person who under court order is the guardian of the person of a minor; or (3) a public or private agency with which court has placed a minor.

"MINOR" means a person **seventeen (17) years** of age or younger. **(Ord. No. 05-02; 01-18-05)**

"PARENT" means a person who is a natural parent, adoptive parent, or step-parent of another person.

"PUBLIC PLACE" means any place to which the public or substantial group of the public has access and includes, but is not limited to, streets, highways, public ways, sidewalks, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

"RESPONSIBLE ADULT" means a person at least **eighteen (18) years** of age, authorized by a parent, guardian, or custodian to have the care and custody of a minor.

"SERIOUS BODILY INJURY" means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

"TRUANCY CURFEW HOURS" means the period of the day when the school the minor would normally attend is in session, on days when the school the minor would normally attend is in session.

"TRUANT OFFICER" means any officer, appointee, employee, or other agent of any school district or any federal, state, or local government entity or any agency thereof performing the duties of a truant officer under the Illinois Compulsory Attendance Statute **(105 ILCS 5/26-1 et seq.)**.

"TRUANCY REVIEW BOARD" means any agency or entity established by any school district or any federal, state, or local governmental entity or any counseling or

social agency or any combination thereof recognized by the City and/or the court as an agency which provides service to improve education performance and/or attendance.

"UNINCORPORATED AREA" means any area within Jasper County, Illinois, that is not included within the geographical area of an incorporated municipality.

27-10-2 TRUANCY RESTRICTIONS.

(A) It is unlawful for any minor who is subject to compulsory education or to compulsory alternative education by statute or court order to be present in any public place or on the premises of any establishment within the City during truancy curfew hours.

(B) It is unlawful for any parent, custodian, or guardian of a minor to knowingly permit, or by insufficient control to allow, the minor to be present in any public place or on the premises of any establishment within the City during truancy curfew hours.

It is a defense to prosecution under **Section 27-10-2(A)** or **27-10-2(B)** or **27-10-3** (hereinafter) that the minor was:

- (1) accompanied by a parent, guardian or responsible adult;
- (2) involved in an emergency;
- (3) going to or returning from medical appointment without any detour or stop;
- (4) engaged in, going to, or returning home from an employment activity pursuant to a cooperative school vocational program without any detour or stop;
- (5) in possession of valid proof that the minor is a student who has permission to leave the school campus;
- (6) a bona fide participant in an alternate education or home schooling program;
- (7) engaged in or subject to an authorized or excused absence from the school which the minor attends, including but not limited to lunch periods.

27-10-3 ESTABLISHMENT RESTRICTIONS. Owners, operators or employees of establishments are encouraged to not allow a minor to be present or to remain upon the premises of the establishment in violation of **Section 27-10-2** above during truancy hours.

27-10-4 ENFORCEMENT RESTRICTIONS.

(A) Every member of the City Police Department while on duty is hereby authorized as follows:

- (1) For the first offense of any minor violating the provisions of this Article, to issue to the minor a citation, in writing, in the same form as described in paragraph (C) below.
- (2) For a second offense, the law enforcement officer is authorized to temporarily detain any minor violating the provisions of this Article (regardless of whether a citation is immediately issued) until the parent, custodian or guardian of the minor shall take him or her into custody, but such officer shall immediately upon taking custody of the minor reasonably attempt to communicate with the parent, custodian, or guardian of the minor unless subparagraph (C) herein is applicable. A parent, custodian or guardian must take custody of the minor within **one (1) hour** of the time of notice or be subject to a charge of **Twenty-Five Dollars (\$25.00)** per hour as hereinafter provided.

(B) Whenever a police officer or truant officer witnesses or has knowledge based on reasonable grounds of violation of this Article by any person, such person may be issued a citation. A citation or complaint may be made to a police officer or truant officer by any person.

- (C) A citation issued hereunder this shall be in writing and shall:
- (1) state the name of the person being cited and the person's address, if known;
 - (2) set forth the specific section of this Article that was violated, the date of the violation, and a brief description of the violation;
 - (3) be signed by the issuing police officer, truant officer, or complaining party.

In each instance where a citation is issued to a minor for violation of this Article, a minor's parent, custodian, or guardian shall be provided a copy of the citation notifying the parent, custodian, or guardian of the charge made against the minor.

(D) A minor cited for a citation under this Article must attend a court hearing or Truancy Review Board hearing on the citation and must be accompanied at the hearing by his or her parent, guardian, custodian, or other adult person having the legal care and custody of the minor. If any such person fails to attend any court hearing with the minor, and unless the interest of justice would otherwise be served, the court may continue the hearing and shall issue a Notice or a Rule to Show Cause to the person directing that said person to appear at the continued hearing with the minor. Failure of the person to thereafter appear shall subject said person to sanctions for contempt of court as determined by the court.

(E) Every member of the Police Department while on duty is hereby authorized to temporarily detain any minor violating the provisions of **Section 27-10-2** of this Article, regardless of whether a citation is issued, and to deliver and surrender the minor to the lawful authorities of the school that the minor would normally attend.

27-10-5 PENALTY.

(A) Any person who violates any provision of this Article shall upon conviction thereof be fined not less than **Seventy-Five Dollars (\$75.00)** nor more than **Seven Hundred Fifty Dollars (\$750.00)**; and a separate offense shall be deemed to have been committed upon each day on which such violation occurs or continues.

(B) In lieu of or in addition to a fine, a minor may be ordered to attend counseling or to perform **ten (10) hours** of court approved community service during times other than the minor's hours of school attendance and/or the minor's parents, guardian, custodian, or other adult person having legal care or custody of the minor may be ordered to attend a parenting class or series of parenting classes or other counseling approved by the court or recommended by the Truancy Review Board or to attend any program directly related to improving school attendance and/or performance.

(C) In addition to any penalty imposed pursuant to (A) or (B) above, the minor's parents, guardian, custodian, or other adult person having legal care or custody of the minor may be ordered to pay all amounts imposed as civil liability under **Section 27-10-6** hereinafter.

27-10-6 CIVIL LIABILITY. If a minor is detained for a period of time in excess of **one (1) hour** which requires the supervision of the minor by personnel of the City Police Department, the parent, guardian, custodian, or other adult person having the legal care or custody of the minor shall be jointly and severally liable for the costs therefore. The parent, guardian, custodian, or other adult person having legal care or custody of a minor who has committed any offense of this Article shall be assessed and billed for the costs; the costs shall be recoverable in any action enforcing the provisions of this Article or in a separate civil action. In addition, the failure to pay the costs shall constitute a violation of this Article and subject the violator to the penalties described within **Section 27-10-5** above. In the event any action is filed, the liable party shall be responsible for all court costs and any reasonable attorney's fees incurred by the County in collecting.

(Ord. No. 04-14; 12-21-04)

ARTICLE XI - SYNTHETIC DRUGS

27-11-1 DEFINITIONS.

(A) As used in this Section, "Synthetic cannabinoid" means any laboratory-created compound that functions similar to the active ingredient in marijuana, tetrahydrocannabinol (THC), including but not limited to, any quantity of a natural or synthetic material, compound, mixture, preparation, substance and their analog containing a cannabinoid receptor agonist, such as:

JWH-007 (1-pentyl-2-methyl-3-(1-naphthoyl)indole);
JWH-015 ((2-Methyl-1-propyl-1H-indol-3-yl)-1-naphthalenylmethanone);
JWH-018 (1-entyl-3-(1-naphthoyl)indole);
JWH-019 (1-hexyl-3-(nephthalen-1-oyl)indole);
JWH-073 (naphthalene-1-yl-(1-butylinol-3-yl)methanone);
JWH-081 (4-methoxynaphthalen-1-yl-(1-pentylindol-3-yl)methanone);
JWH-098 (4-methoxynaphthalen-1-yl-(1-pentyl-2-methylindol-3-yl)methanone);
JWH-122 (1-Pentyl-3-(4-methyl-1-naphthoyl)indole);
JWH-164 (7-methoxynaphthalen-1-yl-(1-pentylindol-3-yl)methanone);
JWH-200 (1-(2-morpholin-4-ylethyl)indol-3-yl)-naphthalen-1-ylmethanone);
JWH-203 (2-(2-chlorophenyl)-1-(1-pentylindol-3-yl)ethanone);
JWH-210 (4-ethylnaphthalen-1-yl-(1-pentylindol-3-yl)methanone);
JWH-250 (1-pentyl-3-(2-methoxyphenylacetyl)indole);
JWH-251 (1- pentyl-3-(2-methylphenylacetyl)indole);
JWH-398 (1-pentyl-3-(4-chloro-1-naphthoyl)indole);
HU-210 ((6aR, 10aR)-9-(Hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a, 7, 10, 10a-tetrahydrobenzo[c]chromen-1-ol);
HU-211 ((6aS, 10aS)-9-(Hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a, 7, 10, 10a-tetrahydrobenzo[c]chromen-1-ol);
HU-308 ([[(1R,2R,5R)-2-[2,6-dimethoxy-4-(2-methyloctan-2-yl)phenyl]-7,7-dimethyl-4-bicyclo[3.1.1]hept-3-enyl]methanol);
HU-331 ((3-hydroxy-2-[(1R,6R)-3-methyl-6-(1-methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-1,2,5-cyclohexadiene-1,4-dione);
CP 55,940 (2-[(1R,2R,5R)-5-hydroxy-2-(3-hydroxypropyl) cyclohexyl]-5-(2-methyloctan-2-yl)phenol);
CP 47,497 (2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2yl)phenol) and its homologues;
WIN 55,212-2((R)-(+)-2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-nephthalenylmethanone);
RCS-4 ((4-methoxyphenyl)(1-pentyl-1H-indol-3-yl)methanone);
RCS-8 (1-(1-(2-cyclohexylethyl)-1H-indol-3-yl)-2-(2-methoxyphenyl)ethanone).
1-(5-fluoropentyl)-3-(2,2,3,3-tetramethylcyclopropoyl)indole (XLR11)

(B) "Synthetic stimulant" means any compound which is a federally controlled Schedule I substance such as cathinone, methcathinone, MDMA and MDEA, including, but not limited to, any quantity of a natural or synthetic material, compound, mixture preparation, substance which has a stimulant effect on the central nervous system. Upon banning, any of the following substances or substances which contain the described characteristics shall be considered a "synthetic stimulant":

3-Fluoromethcathinone;

4- Fluoromethcathinone (other name: flephedrone);
 3,4-Methylenedioxy methcathinone (other name: methylone, MDMC);
 3,4-Methylenedioxy pyrovalerone (other name: MDPV);
 4-Methylmethcathinon (other names: mephedrone, 4-MMC);
 4-Methoxymethcathinone (other names: methedrone, bk-PMMA, PMMC);
 4-Ethylmethcathinone (other name: 4-EMC);
 Ethcathinone;
 Beta-keto-N-methylbenzodioxylolpropylamine (other names: butylone, bk-MBDB);
 Naphthylpyrovalerone (other names: naphyrone, NRG-1);
 N,N-dimethylcathinone (other name: metamfepramone);
 Alpha-pyrrolidinopropiophenone (other name: alpha-PPP);
 4-methoxy-alpha-pyrrolidinopropiophenone (other name: MOPPPP);
 3,4-methylenedioxy-alpa-pyrrolidinopropiophenone (other name: MDPPP);
 Alpha-pyrrolidinovalerophenone (other name: alpha-PVP);
 6,7-kihydro-5H-indeno(5,6-d)-1,3-dioxal-6-amine) (other name: MDAI)

Any compound that is structurally derived from 2-amino-1-phenyl-1propanone by modification or substitution in any of the following ways:

In the phenyl ring to any extent with alkyl, alkoxy, alkylendioxy, haloalkyl or halide substituents, whether or not further substituted in the phenyl ring by one or more other univalent substituents, at the 3-position with an alkyl substituent;
 at the nitrogen atom with alkyl, dialkyl, benzyl or methoxybenzyl groups;
 or by inclusion of the nitrogen atom in a cyclic structure.

27-11-2 UNLAWFUL SALE OR DELIVERY OF SYNTHETIC SUBSTANCES. It shall be unlawful for any person to sell, offer for sale or deliver any product containing a synthetic cannabinoid or synthetic stimulant.

27-11-3 UNLAWFUL POSSESSION OF SYNTHETIC SUBSTANCES. It shall be unlawful for any person to knowingly possess a product containing a synthetic cannabinoid or synthetic stimulant.

27-11-4 PENALTIES FOR VIOLATION.
 (A) Any person found to be in violation of **Section 27-11-2** and/or **27-11-3** shall be subject to a fine of not less than **Two Hundred Fifty Dollars (\$250.00)** nor more than **Seven Hundred Fifty Dollars (\$750.00)** for each violation thereof.

(B) **Separate Violations.** Each violation of this Article, or every day a violation continues to exist, shall constitute a new and separate violation.

(Ord. No.13-5; 05-07-13)

CHAPTER 30

PUBLIC SAFETY

ARTICLE I - CIVIL EMERGENCY

30-1-1 DEFINITIONS.

"CIVIL EMERGENCY" is hereby defined to be:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE II - POLICE DEPARTMENT

DIVISION I - DEPARTMENT ESTABLISHED

30-2-1 DEPARTMENT ESTABLISHED. There is hereby established a department of the municipal government of the City which shall be known as the Police Department. The Police Department shall consist of the Chief of Police and of such number of patrolmen as may be provided from time to time by the City Council.

30-2-2 OFFICE OF CHIEF CREATED. There is hereby established the office of the Chief of Police. The Chief of Police shall be appointed by the Mayor with the advice and consent of the City Council for a term of **one (1) year**.

30-2-3 DUTIES OF CHIEF. The Chief of Police shall keep records and make reports concerning the activities of his department as may be required. The

Chief shall be responsible for the performance of the Police Department, of all its functions, and all persons who are members of the department shall serve subject to the orders of the Chief of Police.

30-2-4 APPOINTMENT OF PATROLMEN. A sufficient number of patrolmen shall be appointed by the Mayor, by and with the advice and consent of the City Council to serve for **one (1) year** or until his successor is appointed and qualified. A police officer may be appointed to office by the Mayor and City Council if he meets the necessary qualifications notwithstanding the fact that the policeman is not a resident of the City when appointed or when he is to serve as such an official.

30-2-5 SALARY. The police department shall receive such compensation as may be provided by ordinance or resolution of the City Council.

30-2-6 DUTIES. The policeman shall devote his entire time to the performance of the duties of his office and is hereby charged with the preservation of the peace, order and safety of the City and with the duty of protecting the rights of persons and property and of enforcing all laws and also all orders of the City Council. He shall take notice of all nuisances, obstructions and defects on the highways or other public places, and shall cause the same to be abated or removed, or immediate notice thereof given to the proper officer whose duty it may be to take action in relation thereto. When requested by the Mayor he shall attend, either in person or by deputy, all meetings of the City Council, execute all its orders and close the Council Chamber upon the adjournment of that body. He shall also execute all warrants or other legal process required to be executed by him under any ordinance of the City or laws of the State of Illinois.

30-2-7 MUTUAL AID CONTRACT. The Police Department, with the approval of the City Council, may enter into an agreement to provide police protection to neighboring municipalities.

30-2-8 SPECIAL POLICEMEN. The Mayor may, on special occasions when, in his judgment for public peace and order of the City shall require, appoint and commission any number of special policemen as may be necessary and shall fix in order of their appointment, the time during which each shall serve all such special policemen, during such time, shall possess the powers and exercise the duties of regular police patrolmen; provided that their appointment, if for more than **ten (10) days** shall be subject to the consent of the City Council in the manner that other appointments to office by the Mayor are subject. Auxiliary policemen shall not carry firearms, except with the

permission of the Chief of Police and then only when in uniform and in the performance of their duties.

30-2-9 LEGAL PROCESSES. All police shall have the power and authority to execute City warrants or other similar legal processes outside the corporate limits of the City and within such distance therefrom as authorized by law in all cases when any ordinance of the City Council made pursuant to law shall prescribe a penalty for the violation of any of its provisions by persons residing, acting or doing any business within the limits of the City.

30-2-10 ASSISTING POLICE OFFICER. Every police officer of the City may, at any time, call upon any able-bodied person(s) above the age of **eighteen (18) years** to aid him in the arresting, retaking or holding in custody of any person guilty of having committed any unlawful act or charged therewith, or to aid such officer in preventing the commission of any unlawful act.

30-2-11 AIDING FIRE DEPARTMENT. Every police officer shall aid the fire department by giving the alarm in case of fire and in clearing the streets or grounds in the immediate vicinity of any fire so that the firemen shall not be hindered or obstructed in the performance of their duties.

30-2-12 FAILURE TO PERFORM. Any member of the Police Department who shall neglect or refuse to perform any duty required of him by this Code or the rules and regulations of the Department, or who shall be, in the discharge of his official duties, guilty of any fraud, favoritism, extortion, oppressions or willful wrong or injustice, shall be subject to removal from office.

30-2-13 AIDING IN ESCAPE. It shall be unlawful for any person in this City to resist or obstruct any member of the Police Force in the discharge of his duty or to endeavor to do so, in any manner, assist any person in the custody of any member of the Police Department to escape or to attempt to escape from such custody or to attempt to rescue any such person in custody.

30-2-14 USE OF INTOXICATING LIQUOR. No member on an active tour of duty or while wearing the official policeman's badge of the City shall indulge in the use of intoxicating liquor of any kind and intoxication at any time shall be sufficient cause for removal.

30-2-15 WITNESS FEES. Any member of the Police Department shall appear as witness whenever this is necessary in a prosecution for a violation of an ordinance or of any state or federal law. No such member shall retain any witness fee for service as witness in any action or suit to which the City is a party; and fees paid for such services shall be turned over to the Chief of Police who shall deposit the same with the City Treasurer.

30-2-16 RULES AND REGULATIONS. The Chief of Police may make or prescribe such rules and regulations for the conduct and guidance of the members of the Police Department as he shall deem advisable and such rules, when approved by the Mayor, the City Council shall be binding on such members.

30-2-17 TRAINING. All policemen, prior to entering upon any of their duties, shall receive a course of training in the use of weapons and other police procedures by the proper authorities as established by the State of Illinois for firearms training. Such courses of training shall not be less than **four hundred (400) hours** in duration. Upon completion of the course of training, the applicant shall file with the Mayor a certificate attesting to the completion of the course.

30-2-18 STOLEN PROPERTY. The Chief of Police shall be the custodian of all lost and abandoned or stolen property in the City. **(See City Code, Chapter 4)**

30-2-19 ILLINOIS LAW ENFORCEMENT ALARM SYSTEM. It has determined that it is in the best interest of the City to enter into a certain Illinois Law Enforcement Alarm System – Mutual Aid Agreement which is attached hereto and incorporated herein by this reference as **Exhibit A. (Ord. No. 04-17; 12-21-04)**

30-2-20 - 30-2-32 RESERVED.

(See 65 ILCS Sec. 5/11-1-2)

DIVISION II – PART-TIME POLICE

30-2-33 EMPLOYMENT. The City may employ part-time police officers from time to time as it deems necessary.

30-2-34 DUTIES. A part-time police officer shall have all the responsibilities of a full-time police officer and such specific duties as delineated in the General Orders of the City Police Department, but the number of hours a part-time officer may work within a calendar year is restricted. Part-time police officers shall not be assigned to supervise or direct full-time police officers. Part-time police officers shall be trained in accordance with the Illinois Police Training Act (**50 ILCS 705/1 et seq.**) and the rules and requirements of the Illinois Law Enforcement Training and Standards Board.

30-2-35 HIRING STANDARDS. Any person employed as part-time police officer must meet the following standards:

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

30-2-36 DISCIPLINE. Part-time officers shall be under the disciplinary jurisdiction of the Chief of Police. Part-time police officers serve at the discretion of the City authorities, shall not have any property rights in said employment, and may be removed by the City authorities at any time. Part-time police officers shall comply with all applicable rules and General Orders issued by the Police Department.

(Ord. No. 12-3; 03-06-12)

ARTICLE III

EMERGENCY SERVICES AND DISASTER AGENCY (ESDA)

30-3-1 POLICY AND PROCEDURES.

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

- (1) To designate a liaison officer to the Emergency Services and Disaster Agency, (ESDA) of Jasper County, Illinois; **(Ord. No. 01-27; 12-04-01)**
- (2) To confer upon the Mayor the extraordinary power and authority set forth under Article I of this Chapter **(65 ILCS Sec. 5/11-1-6)**.
- (3) To provide for the rendering of mutual aid to other cities and political subdivisions with respect to the carrying out of emergency services and disaster operations.

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

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

30-3-2 LIMITATIONS. Nothing in this Code shall be construed to:

(A) Interfere with the course or conduct of a private labor dispute, except that actions otherwise authorized by this Code or other laws may be taken when necessary to forestall or mitigate imminent or existing danger to public health or safety;

(B) Interfere with dissemination of news or comment of public affairs; but any communications facility or organization (including but not limited to radio and television stations, wire services, and newspapers) may be requested to transmit or print public service messages furnishing information or instructions in connection with a disaster;

(C) Affect the jurisdiction or responsibilities of police forces, fire fighting forces, units of the armed forces of the United States, or of any personnel thereof, when on active duty; but state and local emergency operations plans shall place reliance upon the forces available for performance of functions related to disaster emergencies;

(D) Limit, modify, or abridge the authority of the Mayor and the City Council to exercise any other powers vested in them under the constitution, statutes, or common law of this State, independent of or in conjunction with any provisions of this Code.

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

(A) **Coordinator** means the staff assistant to the Mayor with the duty of carrying out the requirements of this Code.

(B) **Disaster** means an occurrence or threat of widespread or severe damage, injury or loss of life or property resulting from any natural or man-made cause, including but not limited to fire, flood, earthquake, wind, storm, hazardous materials spill or other water contamination requiring emergency action to avert danger or damage, epidemic, air contamination, blight, extended periods of severe and inclement weather, drought, infestation, explosion, critical shortages of essential fuels and energy, riot, or hostile military or paramilitary action.

(C) **Emergency Management** means the efforts of this municipality to develop, plan, analyze, conduct, implement and maintain programs for disaster mitigation.

(D) **Emergency Operations Plan** means the written plan of the municipality describing the organization, mission and functions of the government and supporting services for responding to and recovery from disasters.

(E) **Emergency Services** means the preparation for and the carrying out of such functions, other than functions for which military forces are primarily responsible, as may be necessary or proper to prevent, minimize, repair and alleviate injury and damage resulting from disasters caused by fire, flood, earthquake, or other man-made or natural causes. These functions including, without limitation, fire-fighting services, police services, emergency aviation services, medical and health services, rescue, engineering, warning services, communications, radiological, chemical and other special weapons defense, evacuation of persons from stricken areas, emergency assigned functions of plant protection, temporary restoration of public utility services and other functions related to civilian protection, together with all other activities necessary or incidental to protecting life or property.

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

30-3-4 **EMERGENCY SERVICES AND DISASTER AGENCY.**

(A) Pursuant to **20 ILCS Sec. 3305/10**, the City shall designate a Liaison Officer to facilitate the cooperation and protection of the City with Jasper County's Emergency Services and Disaster Agency in the work of disaster mitigation, preparedness, response, and recovery. The Liaison Officer shall be appointed by the Mayor with the advice and consent of the Council. The Liaison Officer shall serve at the pleasure of the Mayor. **(Ord. No. 01-27; 12-04-01)**

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

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

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

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

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

- (F) The Municipal Emergency Services and Disaster Agency shall:
- (1) Determine the requirements of the municipality for food, clothing and other necessities in the event of an emergency;
 - (2) Develop an Emergency Operations Plan that meets the standards promulgated by the Illinois Emergency Management Agency;
 - (3) Biannually review and revise the local Emergency Operations Plan;
 - (4) Establish a register of persons with types of training and skills in emergency prevention, preparedness, response and recovery;
 - (5) Establish a register of government and private response resources available for use in a disaster;
 - (6) Prepare, for issuance by the Mayor, ordinances, proclamations and regulations as necessary or appropriate in coping with disasters.
 - (7) Cooperate with the federal, state and county government and any public or private agency or entity in achieving any purpose of this Code and in implementing programs for disaster prevention, preparation, response and recovery;
 - (8) Initiate and coordinate planning for:
 - (a) The establishment of an emergency operating center;
 - (b) The implementation of a 911 system.
 - (9) Do all other things necessary, incidental or appropriate for the implementation of this Code.

30-3-5 EMERGENCY SERVICES AND DISASTER POWERS OF THE MAYOR.

(A) The Mayor shall have the general direction and control of the emergency services and disaster agency, and shall be responsible for the carrying out of the provisions of this Code.

(B) In performing his duties under this Code, the Mayor is authorized to cooperate with state and federal governments and with other municipalities and political subdivisions in all matters pertaining to emergency services and disaster operations defined in this Code.

(C) In performing his duties under this Code, the Mayor is further authorized:

- (1) To make, amend and rescind all lawful necessary orders, rules and regulations of the local disaster plan to carry out the provisions of this Code within the limits of the authority conferred upon him.
- (2) To cause to be prepared a comprehensive plan and program for the emergency management of this municipality which plan and program shall be integrated into and coordinated with disaster plans of the state and federal governments and other political subdivisions, and which plan and program may include:
 - (a) Prevention and minimization of injury and damage caused by disaster;
 - (b) Prompt and effective response to disaster;
 - (c) Emergency relief;
 - (d) Identification of areas particularly vulnerable to disasters;
 - (e) Recommendations for zoning, building and other land-use controls, safety measures for securing permanent structures and other preventive and preparedness measures designed to eliminate or reduce disasters or their impact;
 - (f) Assistance to local officials in designing local emergency action plans;
 - (g) Authorization and procedures for the erection or other construction of temporary works designed to protect against or mitigate danger, damage or loss from flood, conflagration or other disaster;
 - (h) Organization of municipal manpower and chains of command;
 - (i) Coordination of local emergency management activities;
 - (j) Other necessary matters.
- (3) In accordance with such plan and program for the emergency management of this municipality, and out of funds appropriated for such purposes, to procure and preposition supplies, medicines, materials and equipment to institute

training programs and public information programs, and to take all other preparatory steps, including the partial or full mobilization of emergency services and disaster organizations in advance of actual disaster to insure the furnishing of adequately trained and equipped forces for disaster operations.

- (4) Out of funds appropriated for such purposes, to make such studies and surveys of the industries, resources and facilities in this municipality as may be necessary to ascertain the capabilities of the municipality for the emergency management phases of preparedness, response, and recovery, and to plan for the most efficient emergency use thereof.

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

30-3-6 FINANCING.

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

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

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

30-3-7 LOCAL DISASTER EMERGENCIES.

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

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

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

30-3-8 TESTING OF DISASTER WARNING DEVICES. The testing of disaster devices including outdoor warning sirens shall be held only on the first Tuesday of each month at **10 o'clock** in the morning.

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

30-3-10 COMMUNICATIONS. The local Emergency Services and Disaster Agency shall ascertain what means exist for rapid and efficient communications in times of disaster emergencies. The agency shall consider the desirability of supplementing these communications resources or of integrating them into a comprehensive system or network. In studying the character and feasibility of any system or its several parts, the agency shall evaluate the possibility of multipurpose use thereof for general municipal and local governmental purposes. The agency shall make recommendations to the Mayor as appropriate.

30-3-11 IMMUNITY. Neither the municipality, the agency or any member thereof or any person acting at their direction, engaged in any emergency services and disaster operations or disaster activities, while complying with or attempting to comply with this Code or any rule or regulations promulgated pursuant to this Code is liable for

the death of or any injury to persons, or damage to property, as a result of such activity. This section does not, however, affect the right of any person to receive benefits to which he would otherwise be entitled under this act under the Worker's Compensation Act or the Worker's Occupational Diseases Act, or under any pension law, and this Section does not affect the right of any such person to receive any benefits or compensation under any Act of Congress.

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

30-3-13 APPROPRIATIONS AND LEVY OF TAX. The City Council may make appropriations for emergency services and disaster operations in the manner provided by law for making appropriations for the ordinary expenses of such political subdivision. The City Council may also levy for emergency services and disaster operations a tax not to exceed **.05%** of the full, fair cash value as equalized or assessed by the Department of Revenue on all taxable property in the municipality for the current year. However, the amount collectible under such a levy shall in no event exceed **Twenty-Five Cents (\$0.25)** per capita. The annual tax shall be in addition to and in excess of the amount authorized to be levied for general corporate purposes.

30-3-14 AUTHORITY TO ACCEPT SERVICES, GIFTS, GRANTS OR LOANS. Whenever the federal or state governments, or any agency or officer thereof, or whenever any person, firm or corporation shall offer to the municipality services, equipment, supplies, materials or funds by way of gift or grant for purposes of emergency management, the municipality, acting through the Mayor or through its City Council, may accept such offer and upon such acceptance the Mayor or the City Council may authorize any officer of the municipality to receive such services, equipment, supplies, materials or funds on behalf of the municipality.

30-3-15 ORDERS, RULES AND REGULATIONS.
(A) The Mayor shall file a copy of every rule, regulation or order and any amendment thereof made by him pursuant to the provisions of this Code in the office of

the Municipal Clerk. No such rule, regulation or order, or any amendment thereof, shall be effective until **ten (10) days** after such filing; provided, however, that upon the declaration of such a disaster emergency by the Mayor as is described in **Section 30-3-7**, the provision relating to the effective date of any rule, regulation order or amendment issued pursuant to this Code and during the state of such disaster emergency, is abrogated, and said rule, regulation, order or amendment shall become effective immediately upon being filed with the Municipal Clerk, accompanied by a certificate stating the reason for the emergency.

(B) The Emergency Services and Disaster Agency established pursuant to this Code, and the coordinator thereof, shall execute and enforce such orders, rules and regulations as may be made by the Governor under authority of the Illinois Emergency Management Agency Act. The local Emergency Services and Disaster Agency shall have available for inspection at its office all orders, rules and regulations made by the Governor, or under this authority. The State Emergency Management Agency shall furnish such orders, rules and regulations to the agency.

30-3-16 UTILIZATION OF EXISTING AGENCY, FACILITIES AND PERSONNEL. In carrying out the provisions of this Code, the Mayor and the coordinator of the emergency services and disaster agency are directed to utilize the services, equipment, supplies and facilities of existing departments, offices and agencies of the municipality to the maximum extent practicable, and the officers and personnel of all such departments, offices and agencies are directed, upon request, to cooperate with and extend such services and facilities to the coordinator and the emergency services and disaster agency.

30-3-17 SEVERABILITY. If any provision of this Code or the application thereof to any person or circumstances be held invalid, such invalidity shall not affect such other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Code are hereby declared to be severable.

30-3-18 NO PRIVATE LIABILITY.
(A) Any person owning or controlling real estate or other premises who voluntarily and without compensation grants a license or privilege, or otherwise permits the designation or use of the whole or any part or parts of such real estate or premises for the purpose of sheltering persons during an actual or impending disaster, or a mock or practice disaster response activity together with his successors in interest, if any, shall not be civilly liable for negligently causing the death of, or injury to, any person on or about such real estate or premises under such license, privilege or other permission, or for negligently causing loss of, or damage to, the property of such person.

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

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

30-3-19 SUCCESSION. In the event of the death, absence from the municipality or other disability of the Mayor preventing him from acting under this Code or for any other municipal purpose, and until the office is filled in the manner prescribed by law, the coordinator of the emergency services and disaster agency shall succeed to the duties and responsibilities of the Mayor.

30-3-20 COMPENSATION. The City Council, by its annual appropriations ordinance, may provide for the payment of the salary of the coordinator and such other office staff and personnel as may be expressly provided for in the ordinance. Nothing herein contained shall prohibit any member of the agency from receiving compensation from the State of Illinois Emergency Management Agency under any provisions of that agency.

30-3-21 PERSONNEL OATH. Each person, whether compensated or noncompensated, who is appointed to serve in any capacity in the municipal Emergency Service and Disaster Agency, shall, before entering upon his duties, take an oath, in writing, before the coordinator of the municipal Emergency Service and Disaster Agency before a person authorized to administer oaths in this municipality, which oath shall be filed with the coordinator of the Emergency Services and Disaster Agency, and which oath shall be substantially as follows:

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

30-3-22 EMERGENCY TERMINATION OR REDUCTION OF ELECTRICAL SERVICE.

(A) **Declaration of Emergency Condition.** When in the judgment of the Mayor or City Council, as provided herein in **Section 30-3-7(A)**, a local disaster emergency requires the termination or reduction of electrical service, the Mayor or City Council shall forthwith declare in writing the existence of the emergency condition and order the termination or reduction.

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

CHAPTER 31

RECREATION AND PARKS

31-1-1 CITY PARKS. There is hereby established parks known as the City Parks.

31-1-2 USE OF PARK. City Parks shall be kept open for public use at all times, provided that when the same is let out for any purpose it shall during such time be under the control of the person or organization that received the privilege. The park shall never be let out for such a purpose or period of time as to divert its use from that of a public park. It shall always be open for picnics and parties and the public shall be permitted to enjoy the accommodations and improvements thereon; provided this shall not operate to conflict with privileges which may have been granted by the Council to any organization or person.

31-1-3 PRIVILEGES. No person shall maintain or operate any stand, booth or other place where anything is sold in the park except on privilege granted by the Council and the payment of such fee as they may fix. No person shall be authorized at any time to sell any intoxicating liquor of any kind, or give the same away in the park, nor shall any gambling be permitted.

31-1-4 CLOSING HOURS IN PUBLIC PARKS. All City parks will be closed to the public between the hours of **10:30 P.M.** and **5:00 A.M.** It shall be unlawful to be in the parks after hours.

31-1-5 ALCOHOL PROHIBITED. No alcohol shall be consumed in City parks.

31-1-6 DUFRAIN PARK PARKING RESTRICTIONS. No motor vehicle weighing in excess of **seven thousand five hundred (7,500) pounds** gross weight or semi-tractor trailer of any weight shall stand or park, whether occupied or not, in Dufrain Park or at any other location where official signs prohibiting such standing or parking are erected. **(Ord. No. 00-08; 07-18-00)**

31-1-7 RESTRICTION OF USE OF IN-LINE SKATES, SCOOTERS, SKATEBOARDS AND ROLLER SKATES.

(A) No person shall roller skate, ride a skateboard, in-line skate, or operate a scooter within any park of the City of Newton, Illinois.

(B) The City shall post notice of the restrictions and prohibitions of this Section to inform the public of their existence.

(C) It is the duty of parents of any person under the age of **sixteen (16)** to cause such person to comply with the terms of this Section.

(D) The minimum penalty to be levied for violation of this Section shall be the sum of **One Hundred Dollars (\$100.00)** plus costs. **(Ord. No. 01-19; 07-17-01)**

CHAPTER 33

STREETS AND SIDEWALKS

33-1-1 DATUM PLANE. There shall be established a datum plane, within the City, by reference to which said datum plane, grades, elevations, and altitudes may be measured, reckoned, fixed and determined in and about the conduct of public and private work by or for the City and its inhabitants.

The datum plane herein established is sea level, being coincident with a horizontal plane passing through a point **534.80 feet** below the top surface of a certain geological monument, consisting of an iron post with a brass cap or plate thereon, placed in the Court House Square, in the City, near the northeast corner of the square, by the United States of America in cooperation with the State of Illinois, in the year **1910** and known as Station No. 8, which monument fixes the height above sea level at the point of said monument at 534.80 feet.

33-1-2 NUMBERING BUILDINGS AND LOTS. The following order of numbering homes, vacant lots and business buildings and other areas in the City shall be followed:

(A) All homes, vacant lots, business buildings and areas covered by railroad tracks should be sequentially numbered within the corporate limits of the City.

(B) All locations on the south side of East-West streets should bear even numbers.

(C) All locations on the north side of East-West streets should bear odd numbers.

(D) All locations on the east side of North-South streets should bear even numbers.

(E) All locations on the west side of North-South streets should bear odd numbers.

(F) All new areas annexed to the City should be sequentially numbered to denote proper location of residential and commercial locations in relation to the preceding block. Each lot in each block should be assigned a sequential number at the time of platting said lot and block to ensure compliance with these recommendations.

(G) Should there not be a block prior to the one being numbered, then the numbers allotted to the annexed block should take into consideration the void area to allow for proper numbering.

(H) All homes within the corporate limits of the City shall have the proper number affixed to the house and that number should be used as the mailing address for that location.

(I) Rural route designations for mailing addresses within the corporate limits of the City should not be used.

(J) Should a location encompass more than **one (1) lot space**, then a sequential number that is in the closest approximation to the point designated as the entrance shall be used as the address number for that house or building.

(K) Should there be more than **one (1) dwelling** located on **one (1) lot**, or should a dwelling have an apartment located therein with a separate entrance, then the dwelling shall be properly numbered sequentially, with the apartment bearing a number the same as the primary dwelling plus a number of **one-half (1/2)** added to the major or primary dwelling number.

(L) Should an apartment complex contain more than **one (1) apartment**, then only the major dwelling should bear the proper sequential number and the apartments should be internally numbered from one to the highest number of units within the complex, on the front door of each apartment.

(M) The base streets in all cases for numbering shall be Van Buren running in the north and south direction and Jourdan Street running in the east and west direction.

(N) It shall be the responsibility of the Jasper County Emergency Telephone System Board or their designee to assign house numbers on future developments.

33-1-3 DAMAGE TO STREETS. No person shall damage or deface any street, alley, sidewalk, public way, park or other public property, or any post, wire, lamp street sign, traffic sign, tree, grass, vegetation, gutter, drain, manhole or any other appurtenance thereon, except as may be authorized by the City.

33-1-4 ENCROACHMENTS ON STREET.

(A) Definitions of terms:

- (1) **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.
- (2) **Project Right-of-Way** is defined as those areas within the project right-of-way lines established jointly by the City, State and the United States Department of Transportation, which will be free of encroachments as herein defined.
- (3) **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.
- (4) **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 building.

- (5) **Construction Easement Area** is defined as the area lying between the project right-of-way limits and the platted street limits which the City, by concurrence in the establishment of the project right-of-way line, will permit the State to enter to perform all necessary construction operations.

(B) **Permit.** No person shall erect or maintain any structure or thing on, over or under any street, alley, sidewalk or public way except by permit from the Council. Application for such permit shall describe the nature of the encroachment in such detail as the Council shall require. The Council in its discretion may issue or deny the permit, and may impose any conditions to such permit it deems appropriate.

(C) **Restrictions.** It shall be unlawful for any person, firm, or corporation to erect or cause to be erected, to retain or cause to be retained, any encroachment (hereinabove defined), within the limits of the project right-of-way or roadway right-of-way where no project right-of-way lines have been established.

(D) Signs and awnings attached to a building and extending not less than **eight (8) feet** above the surface of the sidewalk may be erected and maintained without a permit.

(E) Any encroachment on any street, alley, sidewalk or public way shall be maintained so that it does not endanger or obstruct the public.

(F) Any encroachment maintained in violation of this Section is declared a nuisance and may be abated by the City.

(G) **Penalty.** (See Chapter 1; Article I)

33-1-5 OBSTRUCTING STREETS.

(A) No person shall obstruct or endanger the free passage or proper use of the public of any street, sidewalk, alley or public place, except as may be permitted by this Chapter.

(B) Goods, wares and merchandise may be placed on sidewalks for such reasonable time as may be necessary while loading and unloading, provided pedestrian traffic is not totally obstructed.

(C) Merchandise may be placed on a sidewalk within **three (3) feet** of a building by the merchant occupying the premises without a permit.

33-1-6 STREET EXCAVATIONS.

(A) It shall be unlawful to dig, tunnel or excavate in or under the streets and alleys of the City without first obtaining a permit therefore from the City Clerk.

(B) An application for such permit shall be accompanied by a deposit of **One Hundred Dollars (\$100.00)** and shall show the exact locations and the purposes, depth and direction of the digging, tunneling or excavating proposed. The application shall be referred to the Street Superintendent and no permit shall be issued without the prior approval of the Superintendent.

(C) All work shall be done in accordance with such regulations and directions as the City may impose.

(D) Upon completion of the work contemplated by the permit and approval of the same by the Street Department Superintendent, the deposit of **One Hundred Dollars (\$100.00)** shall be returned to the applicant.

33-1-7 PROTECTION OF WORK IN STREETS. Any person laying any street, sidewalk or other public place or making an excavation in the same shall maintain suitable barricades to prevent injury to any person or vehicle by reason of the work. Barricades shall be protected by suitable lights at night time. Any defect in any pavement shall be barricaded to prevent injury. Any person maintaining any opening or excavation in any such place shall guard such opening or excavation while the same remains open, by proper barricades, portable fencing and lights. No person shall interfere with or disturb any barricades, fencing or lights lawfully placed to protect or mark new pavement or excavation or opening in any street, alley or sidewalk. All persons shall comply with the Standard Specifications for Road & Bridge Construction of the State of Illinois, Department of Transportation.

33-1-8 MOVING STRUCTURES ON STREETS. No person shall move any building or structure on any street without a permit from the Mayor. The Mayor may issue the permit under such conditions as he may reasonably prescribe to protect the streets and City and private property and to minimize public inconvenience. He may require the permittee to execute a bond or insurance contract in behalf of the City in such amount as he deems appropriate, conditioned that the permittee will comply with the conditions of the permit and indemnify the City against any damage caused to City or private property or any person by removal of the building or structure.

33-1-9 ADVERTISING ON STREETS. No person shall paint or post any signs or bills on any streets, poles or other structures in any street or street right-of-way or on the surface of any street or sidewalk.

33-1-10 DEBRIS IN STREETS.

(A) No person shall litter or deposit any foreign matter on any street, alley, sidewalk, park or public place, except building materials and merchandise as permitted under this Chapter, or as may be permitted by the Council.

(B) Any person violating this Section shall be liable for the cost of removal of the foreign matter in addition to the penalty provided for violation of this Code.

33-1-11 SIDEWALKS.

(A) **Repair of Sidewalk by Abutting Owners.** All owners or agents of owners with property abutting and fronting upon any street or alley within the corporate limits of the City of Newton are required to keep the public sidewalks immediately abutting their property in good order and repair. Each such owner shall be liable to the City for all losses to the City or recoveries from the City for damages to person or property of others caused by his failure or that of his agents to repair and keep in good order and reasonable safe condition all such sidewalks abutting and fronting his property upon any street or alley within the corporate limits of the City. The City may, at its discretion, through the City Street and Alley Department, notify such owner that repairs are necessary to put such sidewalk in good order, and such owner shall, within **thirty (30) days** after such notification, under the supervision of the Department Head of the City Street and Alley Department, complete such repairs, as specified in such notice. If the person fails to make the required repairs, the City may repair same and the owner shall be liable to the City for the cost of the repairs.

(B) Sidewalks repaired under this Section shall be under the supervision of the Department Head of the City Street and Alley Department and in accordance with any specifications as established by the City Council.

(C) Nothing in this Section shall prohibit the City, by ordinance, to provide for the construction and repair of sidewalks within its corporate City limits and provide the payment of the cost thereof by special taxation of the lots, blocks, tracts or parcels of land touching upon the line where a sidewalk is ordered constructed or repaired as specified in **Chapter 65, Section 5/11-84-1, Illinois Compiled Statutes**, as amended.

33-1-12 BURNING LEAVES AND RUBBISH. No person shall burn any leaves, paper, rubbish or other substances upon any street, sidewalk or alley.

33-1-13 DRIVEWAYS.

(A) **Grade.** No driveway shall be constructed or graded as to leave a step, a sharp depression or other obstruction in the sidewalk. The grade shall be as nearly as possible the same as that of the adjoining sidewalk. It shall be unlawful to have the surface finish of any driveway where it crosses the sidewalk constructed of such materials as to render it slippery or hazardous to pedestrians, or to have the grade of such portion vary from the grade of the sidewalk or be other than level.

(B) **Specifications.** Driveways across sidewalks shall be constructed in compliance with specifications which have been adopted by the Council and which are on file in the office of the Clerk.

(C) **Repair.** The person maintaining a driveway shall keep it in good repair at the place where it crosses the sidewalk and free from any obstruction or other openings.

(D) **Culverts.** All culverts shall be installed in accordance with the requirements of the City and its Street Department. The property owners shall pay for the first driveway culvert. The City will replace existing culverts up to **twenty (20) feet** and any footage beyond **twenty (20) feet** of the existing culvert shall be paid for by the property owner at existing market rates for such pipe and rock. A property owner, at the property owner sole expense, may use concrete or hot mix on the surface of the driveway over the culvert to the City street so long as such concrete or hot mix does not damage or interfere with the City's use or maintenance of the street. Should the City need to thereafter replace that culvert after it has been covered over by concrete or hot mix, it shall be the property owner's expense to replace the concrete or hot mix.

All digging on any City property or City right-of-way shall require a permit which may be obtained from the City Clerk's office by depositing the sum of **One Hundred Dollars (\$100.00)** which is subject to being refunded to the property owner upon inspection and approval by the City of the digging. **(Ord. No. 06-04; 05-02-06)**

33-1-14 TREES.

(A) **Planting Permit.** No person shall plant any tree or shrub in any street or parkway or other public place without first having secured permission from the Council. Application for such permit shall be filed with the City, and shall be referred by him to the Council for approval. No tree or shrub shall be planted or permitted to grow within five (5) feet of any public sidewalk or in such a manner as to block view.

(B) **Removal Permit.** No person shall remove or cut down any tree or shrub in any street, parkway or other public place without having first secured the permission of the Council.

(C) **Injury.** No person shall injure any tree or shrub planted in any street, parkway or public place.

(D) **Advertisements or Notices.** No person shall attach any sign, advertisement or notice to any tree or shrub in any street, parkway or public place.

(E) **Dangerous Trees.** Any tree or shrub which overhangs any sidewalk, street or other public place in the City in such a way as to impede or interfere with traffic or travel on such public place shall be trimmed by the owner of the abutting premises on which such tree or shrub grows so that the obstruction shall cease. Any 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 the tree grows or stands.

(F) **Wires.** No person shall attach any wire or rope to any City property without the permission of the Council. Any person granted the right to maintain poles and wires in the streets, alleys or other public places in the City shall, in the absence of provision in the franchise concerning the subject, keep such wires and poles free from and away from any trees or shrubs in such places so far as may be possible and shall keep all such trees and shrubs properly trimmed, subject to the supervision of the Electric Department head, to insure that injury shall not be done to the poles, wire, shrubs and trees by contact with wires.

33-1-15 ALLEY IMPROVEMENT. No person shall improve an alley within the City until they have first complied with each of the following conditions:

(A) Secured at their sole expense and supplied to the City a Survey made by an Illinois Registered Land Surveyor to establish and mark the boundaries of the alley right-of-way.

(B) Supplied to the City their plans for the improvement of the alley together with their estimated cost of the labor and materials necessary to complete the improvement. Also such plans and completed improvements must include the following:

- (1) The improvement of the alley from street to street.
- (2) The clearing of the alley of all brush and trees.
- (3) The installation of a **six (6) inch** thick base of CA-6 stabilizer stone on the entire alley in accordance with **Exhibit A** attached.
- (4) The construction of the base shall not interfere with the natural flow of surface drainage unless side ditches are provided to drain the water along the alley.
- (5) The installation of suitably sized culvert pipe under the alley where required.

- (6) As an alternative to the installation of CA-6 as above specified, the black topping of the alley may be proposed and completed if:
- (a) the alley to be black-topped has been approved by the City Council before work begins.
 - (b) the alley to be black-topped has been City maintained with oil and chips at the time of the proposal.
 - (c) a minimum of **two and one-half (2 ½) inches** of black top must be applied when the alley is black-topped.
 - (d) the City's portion of the cost of black-topping shall be limited to what it would cost the City to maintain the alley over a **twenty (20) year** period. The cost to the City will be based on the current cost of one prime coat and four seal coats. The total of these five operations shall be the City's maximum participation in the cost of black topping the alley.

(C) Shall make a deposit with the City of an amount equal to the estimated cost of material and labor to improve the alley in accordance with the plans approved by the City Council. The deposit will remain with the City until the work is completed to the City's satisfaction.

(D) Obtain permission of the City Council to improve the alley in accordance with the plans submitted and deposits made with the City.

(Ord. No. 04-3; 05-18-04)

(This Chapter was Chapter 5 of old City Code)

CHAPTER 34

SUBDIVISION CODE

34-1-1 **SEWER REQUIREMENTS.** The following minimum standards are required for subdivision developments:

- (A) Minimum sewer main shall be at least **eight (8) inches** in diameter.
- (B) Mains shall be constructed on a bed of sand or pea gravel.
- (C) Mains shall have a minimum of **four (4) inches** of sand cover.
- (D) Mains shall not be laid in mud or water filled trench.
- (E) Manholes shall be no more than **three hundred fifty (350) feet** apart. (**Ord. No. 98-3; 02-05-98**)
- (F) Manholes shall be pre-case concrete and a minimum access diameter of **twenty-two (22) inches**.
- (G) Sewer lines must be tested by contractor and approved by City Sewer Department or City Engineer.
- (H) All joints and service tees shall be sealed or banded to prevent infiltration.
- (I) All service tees shall be put in at each lot and plug.
- (J) All service tees shall be set at least **forty-five degrees (45°)**.
- (K) All service tees shall be run to lots and marked for further use.
- (L) All PVC pipe shall conform to ASTM specification plastic pipe.
- (M) **Four (4) inch** minimum diameter plastic sewer line.

34-1-2 **WATERWORKS REQUIREMENTS.** The following minimum requirements shall apply for subdivision developments:

- (A) City engineer shall approve plans before construction is started.
- (B) All fittings shall be mechanical joints.
- (C) All water lines shall have **12 gauge** tracer wire run along with it.
- (D) There shall be **four (4) inches** of sand over the water lines and **four (4) inches** of sand under water lines.
- (E) Fire hydrants shall be “Mueller” type with 3-way openings.
- (F) Fire hydrants shall have gravel above drain back.
- (G) Valve boxes shall be brought up to ground or street level.
- (H) Water mains shall not be put on private land unless all other possible alternatives fail.
- (I) Pipes shall be buried at least **forty-two (42) inches** underground.
- (J) Whomever installs water line shall be responsible for the main **one (1) year** after City accepts it.
- (K) No work shall start until all state permits are approved and a copy is on file at City Clerk’s office.
- (L) No water taps shall be made until the water lines meet state standards.
- (M) If water mains are not looped there shall be a fire hydrant placed at the end of the line.

(N) Fire hydrants and mechanical joint fittings shall be staked with a minimum of **four (4) inch** channel iron **five (5) feet** long at each water valve and tee. The hydrant shall be inspected by the water department employees prior to being covered up.

(O) The contractor shall be responsible for replacing streets and ground back to original condition.

(P) City water department shall be allowed to inspect water lines before they are covered up.

(Q) City shall have the right to determine where valves shall be placed when contractors submit plans for approval.

(R) Every fire hydrant shall have a valve installed in front of it. **(Ord. No. 97-4; 02-18-97)**

34-1-3 **STREET DESIGN STANDARDS.** The following apply to all streets within any new subdivision, to-wit:

(A) No plan of subdivision will be approved for a proposed subdivision area which is subject to periodic flooding or which contains extremely poor drainage facilities and which would make adequate drainage of the streets impossible. However, if the subdivider agrees to make improvements which will in the opinion of the City Engineer, the City Street Superintendent, and the County Engineer where concerned, make the area completely safe for residential occupancy and provide adequate street drainage, the preliminary plan of the subdivision may be approved. **(Ord. No. 98-11; 08-04-98)**

(B) The arrangement of streets and lots shall give due regard to the topography and other physical features of the property and shall meet the following requirements and standards.

(C) The arrangement of streets in new subdivisions shall make provision for the continuation of the existing streets in adjoining areas (or their proper projection where adjoining land is not subdivided) insofar as they may be deemed necessary for public requirements. The street arrangement shall not be such as to cause hardship to owners of adjoining property in platting their own land and providing convenient access to it. The angle of intersection between minor streets and major street shall not vary by more than **ten degrees (10°)** from a right angle. Streets obviously in alignment with existing streets shall bear the names of the existing streets. Proposed street names that are in conflict with existing street names shall not be approved.

(D) The easement width for streets may be the same width as the streets to which they connect, but not less than **forty (40) feet** in width with a minimum surface width of **twenty-four (24) feet**. **(Ord. No. 95-13; 07-18-95)**

All streets shall be graded to their full width including side slopes and to the appropriate grade (as shown in Figure A), and shall be surfaced with one of the following alternates:

(1) Minimum **eight (8) inches** of compacted CA-6 crushed stone with an A-3 seal or a triple A-1 seal;

(2) **Six and one-half (6 1/2) inches** of soil cement base course with an A-3 seal, or

(3) **Six (6) inches** of Portland Cement Concrete pavement without mesh.

All improvements shall be in accordance with State of Illinois, Division of Highways Standard Specifications for Road and Streets, adopted **July 1, 1988**, and subsequent revisions thereto. It is the subdividers responsibility to maintain all streets within the subdivision for a **two**

(2) year period, calculated from the date initial construction is completed. The subdivider may, at his option, delay the application of A-3 or triple A-1 seal on the CA-6 base until the end of this **two (2) year** period.

(E) All surveying and engineering in preparation of the street plans shall be the responsibility of the developer of the subdivision. Engineering and inspection of the work during construction shall be paid by the developer. The engineer or inspector are to be approved by the City. Prior to the City taking over maintenance of the streets after the **two (2) year** period, the engineer will provide the City a certification that the streets were constructed according to the approved street plans, that the streets have been properly maintained during the **two (2) year** period, and that the streets meet the City's requirements.

(F) Poles for distribution lines should be located on right-of-way provided by developer, on property side of ditch if along road right-of-way.

(G) Street lights shall be placed by electric department according to City ordinance.

(H) Poles should be spaced **one hundred (100) to one hundred twenty (120) feet** apart on dividing lot line. If pole line is not along road right-of-way, a right-of-way should be provided for service of lines.

(I) Electric Department shall provide meter base at customer's expense, **five-eighths (5/8) inch** by **eight (8) foot** ground rod will be placed by customer at meter service.

(J) A disconnect shall be installed by customer when service entrance is **twelve (12) feet** or more from main breaker panel or when service line enters the ground. A **two (2) inch** steel pipe should be used when supporting service line and a **two and one-half (2 1/2) inch** steel pipe should be used when supporting service line across a roadway.

34-1-4 BOND REQUIREMENTS. The person seeking approval of a subdivision to the City shall post a good and sufficient surety bond or cash or other security with the Municipal Clerk in such amount as shall be determined by the City Council to insure that all improvements required by this Subdivision Code or other Codes of the City will be completed.

34-1-5 ENTRY FOR INSPECTION. Duly authorized employees of the City shall be permitted to enter upon all properties of the subdivision for the purpose of inspection, observation, measurement, and all other purposes necessary to determine compliance with this Code.

34-1-6 ACCEPTANCE OF SUBDIVISION. The City Council shall not accept any plat of subdivision or dedication of streets, sewers, or waterworks until compliance with all of the provisions of this Code have been determined to the City's satisfaction. (**Ord. No. 94-38; 03-15-94**)

34-1-7 CROSSINGS. Ductile Iron Pipe for sewer shall be extended a minimum of **five (5) feet** from the top of the slope (projected down) on each side of a creek crossing whenever the cover is less than **twelve (12) inches** from the flow line of the creek to the crown of pipe.

34-1-8 STORMWATER. Downstream property owners, water courses, channels or conduits shall not receive storm water runoff from any proposed upstream developments at a higher peak flow rate than would have resulted from the same storm event occurring over the site of the proposed development with the land in its natural, undeveloped conditions, nor shall storm water runoff exceed the capacity of the natural drainage system, and accordingly the City does hereby regulate storm water runoff as follows:

(A) Storm water runoff resulting from a proposed development shall be detained on-site:

- (1) By wet or dry bottom reservoirs;
- (2) By underground reservoirs;
- (3) On flat roofs, parking lots; or
- (4) By other detention methods approved by the City Engineer.

(B) Storm water detention facilities shall have sufficient capacity to store flows up to the 100-year **twenty-four (24) hour** rainstorm.

(C) For purposes of designing adequate on-site detention facilities, the Illinois State Water Survey rainfall data for this region shall be used.

(D) The provisions of this Section shall be applicable to the following areas:

- (1) Any residential development having a gross aggregate area of **ten (10) acres** or more; or
- (2) Any residential development of less than **ten (10) acres** with a **fifty percent (50%)** impervious surface including roads, buildings, utility rights-of-way, and other improvements;
- (3) Any commercial, industrial, institutional or utility development.

(E) Any development subject to the regulations herein imposed must, at developer's expense, be certified by the City Engineer as being in compliance herewith.

(F) Any person, firm or entity violating any provision of this Code may be enjoined by the City to prevent any further violation of this Section and shall be subject to a fine of not less than **Fifty Dollars (\$50.00)** nor more than **Seven Hundred Fifty Dollars (\$750.00)**. Each day that a violation is allowed to exist shall constitute a separate offense. **(Ord. No. 95-20; 12-05-95)**

CHAPTER 35

TAX INCREMENT FINANCING

ARTICLE I – INTERESTED PARTIES REGISTRY REGISTRATION RULES

35-1-1 DEFINITIONS. As used in these Registration Rules, the following terms shall have the definitions set forth below.

(A) **"Act"** shall mean the Tax Increment Allocation Redevelopment Act **65 ILCS Sec. 5/11-74.4-1 et seq.** as amended from time to time.

(B) **"City"** shall mean City of Newton, Jasper County, Illinois.

(C) **"Interested Party(s)"** shall mean (1) any organization(s) active within the City (2) any resident(s) of the City, and (3) any other entity or person otherwise entitled under the Act to register in a specific Registry who has been registered in such Registry and whose registration has not been otherwise terminated in accordance with these Registration Rules.

(D) **"Redevelopment Project Area"** shall mean a redevelopment project area that (1) is intended to qualify (or has subsequently qualified) as a "redevelopment project area" under the Act and (2) is subject to the "interested parties" registry requirements of the Act.

(E) **"Registration Application Form"** shall mean the form appended to these Registration Rules or such revised form as may be approved by the City consistent with the requirements of the Act.

(F) **"Registry" or "Registries"** shall mean each interested parties registry, and all such registries, collectively, established by the City pursuant to Section 11-74.4-4.2 of the Act for the Redevelopment Project Area.

35-1-2 ESTABLISHMENT OF REGISTRY. The City shall establish a separate interested parties registry for each Redevelopment Project Area being considered by the City or hereafter established. The City shall establish a new registry whenever it has identified an area for study and possible designation as a Redevelopment Project Area. In any event the process of establishing the new registry must be completed prior to the deadline for sending any of the notices required by **Section 35-1-11** of these rules or any other notices required by the Act with respect to the proposed Redevelopment Project Area.

35-1-3 MAINTENANCE OF REGISTRY. The City Clerk or his or her designee shall maintain the Registries. The Registry shall include the name, address, and telephone number of each registered resident; and for registered organizations, the name and phone number of a designated contact person.

35-1-4 REGISTRATION BY RESIDENTS. An individual seeking to register as an Interested Party with respect to a Redevelopment Project Area must complete and submit a Registration Application Form to the City Clerk. Such individual must also submit a copy of a current driver's license, lease, utility bill, financial statement, or such other evidence as may be acceptable to the Clerk to establish the individual's current residency in the City.

35-1-5 REGISTRATION BY ORGANIZATIONS. An organization seeking to register as an Interested Party with respect to a Redevelopment Project Area must complete and submit a Registration Application Form to the City Clerk. Such organization must also submit a copy of a one-page statement describing the organization's current operations in the City.

35-1-6 DETERMINATION OF ELIGIBILITY. All individuals and organizations whose Registration Application Form and supporting documentation complies with these Registration Rules shall be registered in the applicable Registry within **ten (10) business days** of the City Clerk's receipt of all such documents. If the City Clerk determines that an applicant's Registration Application Form and/or supporting documentation is incomplete or does not comply with these Registration Rules, the Clerk shall give written notice to the applicant specifying the defect(s). The applicant shall be entitled to correct any defects and resubmit a new Registration Application Form and supporting documentation.

35-1-7 NOTICES AND AVAILABILITY OF INFORMATION. Upon registration, Interested Parties shall be entitled to receive all notices required under the Act, including how to obtain information concerning the applicable Redevelopment Project Area. The City reserves the right to charge recipients for the cost of copies and postage/delivery charges for requested documents.

35-1-8 RENEWAL AND TERMINATION. An Interested Party's registration shall remain effective for a period of **three (3) years**. At any time after such **three (3) year** period, the City Clerk may provide written notice by regular mail to the Interested Party stating that such registration shall terminate unless the Interested Party renews such registration within **thirty (30) days** of the Clerk's mailing of written notice. To renew such registration, the Interested Party shall, within such **thirty (30) day** period, complete and submit the same Registration Application Form and supporting documentation then required of initial registrants in order to permit the Clerk to confirm such person's residency or such organization's operations in the City. The registration of all individuals and organizations whose Registration Application Form and supporting documentation is submitted in a timely manner and complies with these Regulation Rules

shall be renewed for an additional, consecutive **three (3) year** period. If the City Clerk determines that a registrant's renewal Registration Application Form and/or supporting documentation is incomplete or does not comply with these Registration Rules, the Clerk shall give written notice to the registrant at the address specified in the renewal Registration Application Form submitted, specifying the defect(s). The registrant shall be entitled to correct any defects and resubmit a new Registration Application Form and supporting documentation within **thirty (30) days** of receipt of the Clerk's notice. If all defects are not corrected within **thirty (30) days** of the Interested Party's receipt of the City Clerk's notice, the Interested Party's registration shall be terminated. Any Interested Party whose registration is terminated shall be entitled to register again as if a first-time applicant.

35-1-9 AMENDMENT TO REGISTRATION. An Interested Party may amend its registration by giving written notice to the City Clerk by certified mail for any of the following reasons: (1) a change in address for notice purposes; (2) in the case of organizations, a change in the name of the contact person; and (3) a termination of registration. Upon receipt of such notice, the Clerk shall revise the applicable Registry accordingly.

35-1-10 REGISTRIES AVAILABLE FOR PUBLIC INSPECTION. Each Registry shall be available for public inspection during the City's normal business hours.

35-1-11 NOTICES TO BE SENT TO INTERESTED PARTIES. Interested Parties shall be sent the following notices as well as any other notices required under the Act with respect to the applicable Redevelopment Project Area:

(A) pursuant to subsection 74-4-5(a) of the Act, notice of the availability of a proposed redevelopment plan and eligibility report, including how to obtain this information, such notice shall be sent by mail within a reasonable period of time after the adoption of the ordinance fixing a time and place for the public hearing for the proposed redevelopment plan;

(B) pursuant to subsection 74-4.5(a) of the Act, notice of changes to a *proposed* redevelopment plans that does not (1) add additional parcels of property to the proposed redevelopment project area, (2) substantially affect the general land uses proposed in the redevelopment plan, (3) substantially change the nature of or extend the life of the redevelopment project, or (4) increase the number of low or very low income households to be displaced from the redevelopment project area, provided that measured from the time of creation of the redevelopment project area the total displacement of households will exceed **ten (10)**. Such notice shall be sent by mail not later than **ten (10) days** following the City's adoption by ordinance of such changes.

(C) pursuant to subsection 74-4.5(c) of the Act, notice of amendments to a *previously approved* redevelopment plan that does not (1) add additional parcels of property to the redevelopment project area, (2) substantially affect the general land uses

in the redevelopment plan, (3) substantially change the nature of the redevelopment project, (4) increase the total estimated redevelopment project costs set out in the redevelopment plan by more than **five percent (5%)** after adjustment for inflation from the date the plan was adopted, (5) add additional redevelopment project costs to the itemized list of redevelopment project costs set out in the redevelopment plan, or (6) increase the number of low or very low income households to be displaced from the redevelopment project area, provided that measured from the time of creation of the redevelopment project area the total displacement of households will exceed **ten (10)**; such notice shall be sent by mail not later than **ten (10) days** following the City's adoption by ordinance of such amendment.

(D) pursuant to subsection 74-4.5(d)(9) of the Act for redevelopment plans or projects that would result in the displacement of residents from **ten (10)** or more inhabited residential units or that contain **seventy-five (75)** or more inhabited residential units, notice of the availability of the annual report described by subsection 74-4.5(d), including how to obtain the annual report; such notice shall be sent by mail within a reasonable period of time after completion of the certified audit report.

(E) pursuant to subsection 74-4.6(e) of the Act, notice of the public meeting required under the Act for a proposed Redevelopment Project Area that will result in the displacement of **ten (10)** or more inhabited residential units or which will contain **seventy-five (75)** or more inhabited residential units, such notice shall be sent by certified mail not less than **fifteen (15) days** before the date of such public meeting and shall include the information required under subsection 74-4.6(e) of the Act.

35-1-12 NON-INTERFERENCE. These Registration Rules shall not be used to prohibit or otherwise interfere with the ability of eligible organizations and individuals to register for receipt of information to which they are entitled under the Act.

35-1-13 AMENDMENT OF REGISTRATION RULES. These Registration Rules may be amended by the City subject to and consistent with the requirements of the Act.

(Ord. No. 2008-10; 04-01-08)

CHAPTER 36

TAXATION

ARTICLE I - REAL ESTATE

36-1-1 **CORPORATE RATE.** The maximum rate for general corporate purposes of the City shall be and the same is hereby established at a rate of **.25%**. (See 65 ILCS Sec. 5/8-3-1)

ARTICLE II

TAXPAYERS' RIGHTS CODE

36-2-1 **TITLE.** This Article shall be known as, and may be cited as, the "Locally Imposed and Administered Tax Rights and Responsibility Code".

36-2-2 **SCOPE.** The provisions of this Code shall apply to the City's procedures in connection with all of the City's locally imposed and administered taxes.

36-2-3 **DEFINITIONS.** Certain words or terms herein shall have the meaning ascribed to them as follows:

(A) **Act.** "Act" means the "Local Government Taxpayers' Bill of Rights Act".

(B) **Corporate Authorities.** "Corporate Authorities" means the City's Mayor and City Council.

(C) **Locally Imposed and Administered Tax or "Tax".** "Locally Imposed and Administered Tax" or "Tax" means each tax imposed by the City that is collected or administered by the City not an agency or department of the State. It does not include any taxes imposed upon real property under the Property Tax Code or fees collected by the City other than infrastructure maintenance fees.

(D) **Local Tax Administrator.** "Local Tax Administrator", the City's Treasurer, is charged with the administration and collection of the locally imposed and administered taxes, including staff, employees or agents to the extent they are authorized by the local tax administrator to act in the local tax administrator's stead. The local tax administrator shall have the authority to implement the terms of this Code to give full effect to this Code. The exercise of such authority by the local tax administrator shall not be inconsistent with this Code and the Act.

(E) **City.** "City" means the City of Newton, Jasper County, Illinois.

(F) **Notice.** "Notice" means each audit notice, collection notice or other similar notice or communication in connection with each of the City's locally imposed and administered taxes.

(G) **Tax Ordinance.** “Tax Ordinance” means each ordinance adopted by the City that imposes any locally imposed and administered tax.

(H) **Taxpayer.** “Taxpayer” means any person required to pay any locally imposed and administered tax and generally includes the person upon whom the legal incidence of such tax is placed and with respect to consumer taxes includes the business or entity required to collect and pay the locally imposed and administered tax to the City.

36-2-4 **NOTICES.** Unless otherwise provided, whenever notice is required to be given, the notice is to be in writing mailed not less than **seven (7) calendar days** prior to the day fixed for any applicable hearing, audit or other scheduled act of the local tax administrator. The notice shall be sent by the local tax administrator as follows:

- (A) First class or express mail, or overnight mail, addressed to the persons concerned at the persons’ last known address, or
- (B) Personal service or delivery.

36-2-5 **LATE PAYMENT.** Any notice, payment, remittance or other filing required to be made to the City pursuant to any tax ordinance shall be considered late unless it is:

- (A) physically received by the City on or before the due date, or
- (B) received in an envelope or other container displaying a valid, readable U.S. postmark dated on or before the due date, properly addressed to the City, with adequate postage prepaid.

36-2-6 **PAYMENT.** Any payment or remittance received for a tax period shall be applied in the following order:

- (A) first to the tax due for the applicable period;
- (B) second to the interest due for the applicable period; and
- (C) third to the penalty for the applicable period.

36-2-7 **CERTAIN CREDITS AND REFUNDS.**

(A) The City shall not refund or credit any taxes voluntarily paid without written protest at the time of payment in the event that a locally imposed and administered tax is declared invalidly enacted or unconstitutional by a court of competent jurisdiction. However, a taxpayer shall not be deemed to have paid the tax voluntarily if the taxpayer lacked knowledge of the facts upon which to protest the taxes at the time of payment or if the taxpayer paid the taxes under duress.

(B) The statute of limitations on a claim for credit or refund shall be **four (4)** or less years after the end of the calendar year in which payment in error was made. The City shall not grant a credit or refund of locally imposed and administered taxes, interest, or penalties to a person who has not paid the amounts directly to the City.

(C) The procedure for claiming a credit or refund of locally imposed and administered taxes, interest or penalties paid in error shall be as follows:

- (1) The taxpayer shall submit to the local tax administrator in writing a claim for credit or refund together with a statement specifying:

- (a) the name of the locally imposed and administered tax subject to the claim;
 - (b) the tax period for the locally imposed and administered tax subject to the claim;
 - (c) the date of the tax payment subject to the claim and the cancelled check or receipt for the payment;
 - (d) the taxpayer's recalculation, accompanied by an amended or revised tax return, in connection with the claim; and
 - (e) a request for either a refund or a credit in connection with the claim to be applied to the amount of tax, interest and penalties overpaid, and, as applicable, related interest on the amount overpaid; provided, however, that there shall be no refund and only a credit given in the event the taxpayer owes any monies to the City.
- (2) Within **ten (10) days** of the receipt by the local tax administrator of any claim for a refund or credit, the local tax administrator shall either:
- (a) grant the claim; or
 - (b) deny the claim, in whole or in part, together with a statement as to the reason for the denial or the partial grant and denial.
- (3) In the event the local tax administrator grants, in whole or in part, a claim for refund or credit, the amount of the grant for refund or credit shall bear interest at the rate of **seven percent (7%)** per annum, based on a year of **three hundred sixty-five (365) days** and the number of days elapsed, from the date of the overpayment to the date of mailing of a refund check or the grant of a credit.

36-2-8 **AUDIT PROCEDURE.** Any request for proposed audit pursuant to any local administered tax shall comply with the notice requirements of this Code.

(A) Each notice of audit shall contain the following information:

- (1) the tax;
- (2) the time period of the audit; and
- (3) a brief description of the books and records to be made available for the auditor.

(B) Any audit shall be conducted during normal business hours and if the date and time selected by the local tax administrator is not agreeable to the taxpayer, another date and time may be requested by the taxpayer within **thirty (30) days** after the originally designated audit and during normal business hours.

(C) The taxpayer may request an extension of time to have an audit conducted. The audit shall be conducted not less than **seven (7) days** nor more than **thirty (30) days** from the date the notice is given, unless the taxpayer and the local tax administrator agreed to some other convenient time. In the event taxpayer is unable to comply with the audit on the date in question, the taxpayer may request another date within the **thirty (30) days**, approved in writing, that is convenient to the taxpayer and the local tax administrator.

(D) Every taxpayer shall keep accurate books and records of the taxpayer's business or activities, including original source documents and books of entry denoting the transactions which had given rise or may have given rise to any tax liability, exemption or deduction. All books shall be kept in the English Language and shall be subject to and available for inspection by the City.

(E) It is the duty and responsibility of every taxpayer to make available its books and records for inspection by the City. If the taxpayer or tax collector fails to provide the documents necessary for audit within the time provided, the local tax administrator may issue a tax determination and assessment based on the tax administrator's determination of the best estimate of the taxpayer's tax liability.

(F) If an audit determines there has been an overpayment of a locally imposed and administered tax as a result of the audit, written notice of the amount of overpayment shall be given to the taxpayer within **thirty (30) days** of the City's determination of the amount of overpayment.

(G) In the event a tax payment was submitted to the incorrect local governmental entity, the local tax administrator shall notify the local governmental entity imposing such tax.

36-2-9

APPEAL.

(A) The local tax administrator shall send written notice to a taxpayer upon the local tax administrator's issuance of a protestable notice of tax due, a bill, a claim denial, or a notice of claim reduction regarding any tax. The notice shall include the following information:

- (1) the reason for the assessment;
- (2) the amount of the tax liability proposed;
- (3) the procedure for appealing the assessment; and
- (4) the obligations of the City during the audit, appeal, refund and collection process.

(B) A taxpayer who receives written notice from the local tax administrator of a determination of tax due or assessment may file with the local tax administrator a written protest and petition for hearing, setting forth the basis of the taxpayer's request for a hearing. The written protest and petition for hearing must be filed with the local tax administrator within **forty-five (45) days** of receipt of the written notice of the tax determination and assessment.

(C) If a timely written notice and petition for hearing is filed, the local tax administrator shall fix the time and place for hearing and shall give written notice to the taxpayer. The hearing shall be scheduled for a date within **fourteen (14) days** of receipt of the written protest and petition for hearing, unless the taxpayer requests a later date convenient to all parties.

(D) If a written protest and petition for hearing is not filed within the **forty-five (45) day** period, the tax determination, audit or assessment shall become a final bill due and owing without further notice.

(E) Upon the showing of reasonable cause by the taxpayer and the full payment of the contested tax liability along with interest accrued as of the due date of the tax, the local tax administrator may reopen or extend the time for filing a written protest and petition for hearing. In no event shall the time for filing a written protest and petition for hearing be reopened or extended for more than **ninety (90) days** after the expiration of the **forty-five (45) day** period.

36-2-10 HEARING.

(A) Whenever a taxpayer or a tax collector has filed a timely written protest and petition for hearing under **Section 36-2-9**, above, the local tax administrator shall conduct a hearing regarding any appeal.

(B) No continuances shall be granted except in cases where a continuance is absolutely necessary to protect the rights of the taxpayer. Lack of preparation shall not be grounds for a continuance. Any continuance granted shall not exceed **fourteen (14) days**.

(C) At the hearing the local tax administrator shall preside and shall hear testimony and accept any evidence relevant to the tax determination, audit or assessment. The strict rules of evidence applicable to judicial proceedings shall not apply.

(D) At the conclusion of the hearing, the local tax administrator shall make a written determination on the basis of the evidence presented at the hearing. The taxpayer or tax collector shall be provided with a copy of the written decision.

36-2-11 INTEREST AND PENALTIES. In the event a determination has been made that a tax is due and owing, through audit, assessment or other bill sent, the tax must be paid within the time frame otherwise indicated.

(A) **Interest.** The City hereby provides for the amount of interest to be assessed on a late payment, underpayment, or nonpayment of the tax to be **nine percent (9%)** per annum, based on a year of **three hundred sixty-five (365) days** and the number of days elapsed.

(B) **Late Filing and Payment Penalties.** If a tax return is not filed within the time and manner provided by the controlling tax ordinance, a late filing penalty, of **five percent (5%)** of the amount of tax required to be shown as due on a return shall be imposed; and a late payment penalty of **five percent (5%)** of the tax due shall be imposed. If no return is filed within the time or manner provided by the controlling tax ordinance and prior to the City issuing a notice of tax delinquency or notice of tax liability, then a failure to file penalty shall be assessed equal to **twenty-five percent (25%)** of the total tax due for the applicable reporting period for which the return was required to be filed. A late filing or payment penalty shall not apply if a failure to file penalty is imposed by the controlling ordinance.

36-2-12 ABATEMENT. The local tax administrator shall have the authority to waive or abate any late filing penalty, late payment penalty or failure to file penalty if the local tax administrator shall determine reasonable cause exists for delay or failure to make a filing.

36-2-13 INSTALLMENT CONTRACTS. The City may enter into an installment contract with the taxpayer for the payment of taxes under the controlling tax ordinance. The local tax administrator may not cancel any installment contract so entered unless the taxpayer fails to pay any amount due and owing. Upon written notice by the local tax administrator that the payment is **thirty (30) days** delinquent, the taxpayer shall have **fourteen (14) working days** to cure any delinquency. If the taxpayer fails to cure the delinquency within the **fourteen (14) day** period or fails to demonstrate good faith in restructuring the installment contract with the local administrator, the installment contract shall be canceled without further notice to the taxpayer.

36-2-14 **STATUTE OF LIMITATIONS.** The City, through the local tax administrator, shall review all tax returns in a prompt and timely manner and inform taxpayers of any amounts due and owing. The taxpayer shall have **forty-five (45) days** after receiving notice of the reviewed tax returns to make any request for refund or provide any tax still due and owing.

(A) No determination of tax due and owing may be issued more than **four (4) years** maximum after the end of the calendar year for which the return for the applicable period was filed or for the calendar year in which the return for the applicable period was due, whichever occurs later.

(B) If any tax return is not filed or if during any **four (4) year** period for which a notice of tax determination or assessment may be issued by the City, the tax paid was less than **seventy-five percent (75%)** of the tax due, the statute of limitations shall be **six (6) years** maximum after the end of the calendar year in which return for the applicable period was due or end of the calendar year in which the return for the applicable period was filed.

(C) No statute of limitations shall not apply if a fraudulent tax return was filed by the taxpayer.

36-2-15 **VOLUNTARY DISCLOSURE.** For any locally imposed and administered tax for which a taxpayer has not received a written notice of an audit, investigation, or assessment from the local tax administrator, a taxpayer is entitled to file an application with the local tax administrator for a voluntary disclosure of the tax due. A taxpayer filing a voluntary disclosure application must agree to pay the amount of tax due, along with interest of **one percent (1%)** per month, for all periods prior to the filing of the application but not more than **four (4) years** before the date of filing the application. A taxpayer filing a valid voluntary disclosure application may not be liable for any additional tax, interest, or penalty for any period before the date the application was filed. However, if the taxpayer incorrectly determined and underpaid the amount of tax due, the taxpayer is liable for the underpaid tax along with applicable interest on the underpaid tax, unless the underpayment was the result of fraud on the part of the taxpayer, in which case the application shall be deemed invalid and void. The payment of tax and interest must be made by no later than **ninety (90) days** after the filing of the voluntary disclosure application or the date agreed to by the local tax administrator. However, any additional amounts owed as a result of an underpayment of tax and interest previously paid under this Section must be paid within **ninety (90) days** after a final determination and the exhaustion of all appeals of the additional amount owed or the date agreed to by the local tax administrator, whichever is longer.

36-2-16 **PUBLICATION OF TAX ORDINANCES.** Any locally administered tax ordinance shall be published via normal or standard publishing requirements. The posting of a tax ordinance on the Internet shall satisfy the publication requirements. Copies of all tax ordinances shall be made available to the public upon request at the City Clerk's office.

36-2-17 **INTERNAL REVIEW PROCEDURE.** The local tax administrator shall establish an internal review procedure regarding any liens filed against any taxpayers for unpaid

taxes. Upon a determination by the local tax administrator that the lien is valid, the lien shall remain in full force and effect. If the lien is determined to be improper, the local tax administrator shall:

- (A) timely remove the lien at the City's expense;
- (B) correct the taxpayer's credit record; and
- (C) correct any public disclosure of the improperly imposed lien.

36-2-18 **APPLICATION.** This Ordinance shall be liberally construed and administered to supplement all of the City's tax ordinances. To the extent that any tax ordinance is in conflict with or inconsistent with this ordinance, this ordinance shall be controlling.

(Ord. No. 00-19; 12-05-00)

ARTICLE III

TAX ABATEMENT POLICY

36-3-1 **TAX ABATEMENT ESTABLISHED.** The City shall provide property (real estate) tax abatement for such projects within Jasper County which have been approved for tax abatement by the Joint Tax Abatement Committee, all in accordance with the following provisions:

- (A) **Definitions.**
 - (1) Aforesaid projects shall be herein defined as those projects where the primary use of the land and building(s) is of, but not limited to, a manufacturing, assembly, wholesale, or warehouse distribution nature, national or regional offices, or such commercial enterprises that are perceived as important to local economic development.
 - (2) Aforesaid projects approved for tax abatement by the Joint Tax Abatement Committee meeting this definition are eligible to receive property (real estate) tax abatement as follows for the increased assessment amount which would accrue from expansion, rehabilitation or new construction, for a **five (5) year** period beginning with the tax years in which the new, increased assessment amount would be levied.

<u>Year of Abatement</u>	<u>Amount of Abatement</u>
1	100%
2	100%
3	75%
4	75%
5	50%

- (a) Expansion shall be herein defined as the construction of any part of a building that results in an increase in any exterior dimension to an existing building and has at least **one (1) wall** or floor in common with an existing building.
- (b) Rehabilitation shall be herein defined as the improvement of any part of an existing building that does not result in an increase in any exterior dimension of the building.
- (c) New construction shall be herein defined as the improvement of any tract of land or site with a building where the interior space is encased by **four (4) walls**, none of which are common along any plane or otherwise shared with an existing building.
- (3) During the abatement period property (real estate) taxes levied on the land and building(s) will continue to be paid annually based upon the “pre-project” land and building(s) “base” in accordance with the established equalized assessed valuation and tax rate.
- (4) There is hereby created an **eight (8) person** committee composed of one representative each from the Jasper County Board, Jasper County Unit School District #1 (JCCU #1), Jasper Jobs, Inc. (JJI), Jasper County Chamber of Commerce, City of Newton, Wade Township, Jasper County Extension Service and Wade Fire District, which shall review and approve or deny all applications for tax abatement in Jasper County.
- (5) The City of Newton authorizes and directs the County Clerk to abate ad valorem taxes imposed on real property located within the City of Newton upon which applicable projects have been constructed, or improved, in accordance with this Article and approved for tax abatement by the Joint Tax Abatement Committee.
- (6) Any abatement of ad valorem taxes imposed on real property in Jasper County upon projects where this Article is applicable shall cease immediately when the original applicant quits the premises, or the premises are used for any purpose other than originally stated on their original application. The applicant, or his successor, shall have the right to re-apply for abatement to the applicable body politic.

(Ord. No. 02-15; 09-17-02)

CHAPTER 38

UTILITIES

ARTICLE I - WATER AND WASTEWATER TREATMENT RATES

38-1-1 SEPARATE WATER AND WASTEWATER TREATMENT SYSTEMS. The existing waterworks system in its entirety, together with all additions, improvements and extensions thereto that may hereafter be made and the existing wastewater treatment system shall be maintained and operated as separate utilities, and charges or rates shall be established for the use of each system, which shall be reasonable and commensurate with the services performed by each system, and shall be sufficient to maintain, operate, provide an adequate depreciation fund and pay the principal and interest of any revenue bonds which may be issued, which by their terms are made payable from the revenues of the waterworks system or the wastewater treatment system. **(Ord. No. 09-19; 12-15-09)**

38-1-2 SERVICE CHARGES. Except as established by a council approved contract, there are established charges for the use of and for the services supplied by the water system of the City. Calculations of charges are made by rate tables and based upon the amount of water consumed and shown by City water meters. **(Ord. No. 09-19; 12-15-09)**

38-1-3 WATER SERVICE RATES. Commencing with the first billing after **January 1, 2010**, the following monthly charges shall apply to those customers using water service of the City:

(A) **Water Service - Inside City.**

First	2,000 gallons	\$.006933 per gallon
Next	8,000 gallons	\$.007018 per gallon
Next	10,000 gallons	\$.005781 per gallon
Next	10,000 gallons	\$.005059 per gallon
Over	30,000 gallons	\$.004570 per gallon

The minimum charge for water service shall be **Thirteen Dollars Eighty-Seven Cents (\$13.87)** per month.

(B) **Water Service - Outside City Limits.**

First	2,000 gallons	\$.010409 per gallon
Next	8,000 gallons	\$.010561 per gallon
Next	10,000 gallons	\$.008672 per gallon
Next	10,000 gallons	\$.007598 per gallon
Over	30,000 gallons	\$.006853 per gallon

The minimum charge for water service shall be **Twenty Dollars Eighty-One Cents (\$20.81)** per month.

Commencing with the first billing for each customer after **May 1, 2010**, and on **May 1st** every year thereafter, there shall be an increase of **five percent (5%)** to the billing rate tables; this change to the rate tables will be reviewed and may be adjusted by the Mayor and City Council every year or at any time deemed necessary by them. **(Ord. No. 09-19; 12-15-09)**

38-1-4 WASTEWATER TREATMENT RATES. Except as established by Council approved contract, there are established rates and charges for use of and for the services supplied by the Wastewater Treatment System of the City; calculations of charges are made by rate tables and based upon the amounts of water consumed by a customer as shown by the City's water meters.

Commencing with the first billing for each customer after **January 1, 2010**, the following monthly charges shall apply to those customers using the wastewater treatment system of the City:

(A) **Wastewater Treatment Service – Inside City.**

First	2,000 gallons	\$.009815 per gallon
Over	2,000 gallons	\$.003738 per gallon

The minimum charge for wastewater treatment service shall be **Nineteen Dollars Sixty-Three Cents (\$19.63)** per month.

(B) **Wastewater Treatment Service – Outside City Limits.**

First	2,000 gallons	\$.014723 per gallon
Over	2,000 gallons	\$.005606 per gallon

The minimum charge for wastewater treatment service shall be **Twenty-Nine Dollars Forty-Five Cents (\$29.45)** per month.

Commencing with the first billing for each customer after **May 1, 2010**, and on **May 1st** every year thereafter, there shall be an increase of **five percent (5%)** to the billing rate table; this change to the rate tables will be reviewed and may be adjusted by the Mayor and City Council each year or at any time deemed necessary by them.

(C) **Dumping Of Wastewater.** Any person who desires to haul wastewater in a tank or other vessel and deposit the same into the City disposal plant shall be entitled to do so by paying a charge of **Five Cents (\$0.05)** per gallon as based upon the size of tank containing the said wastewater but with a minimum charge for such dumping to be **Three Dollars Fifty Cents (\$3.50)**. Such payment shall be made in cash at the time the tank is emptied.

No person shall deposit any wastewater without an employee being present at the Wastewater Treatment Facility to supervise such dumping. The Superintendent or his representative shall have the right to refuse to accept any wastewater containing chemicals or other items determined by such City employees, in their sole discretion, not to be suitable for processing by the City wastewater system.

All such dumping shall be done during the normal business hours in operation of the City of Newton Wastewater Treatment plant. **(Ord. No. 09-19; 12-15-09)**

38-1-5 BULK SALES OF WATER. (Coin metered): Bulk water sold to tank wagons loading water at a location provided by the City shall be charged at the rate of **Seventy-Five Cents (\$0.75)** per **one hundred (100) gallons** or fraction thereof. **(Ord. No. 09-19; 12-15-09)**

38-1-6 IMPERIAL ACRES SUBDIVISION SEWER REGULATIONS.

(A) **Required Use of Sewer System.** The owner(s) of each dwelling situated in Imperial Acres Subdivision are hereby required to connect to the City's sewer system upon completion of installation of the new sewer line.

(B) **Standard Sewer Use Charges.** The owner(s) of each dwelling situated in Imperial Acres Subdivision shall each pay the standard sewer use charges assessed to all users of the City's sewer system.

(C) **Debt Service Charge Rate.** As the City of Newton, Illinois has the borrowed the sum of **One Hundred Four Thousand Three Hundred Ninety-Five Dollars (\$104,395.00)** from the Illinois Environmental Protection Agency to finance the

construction of the new sewer line, said loan being payable over a period of **twenty (20) years** with **2.865%** interest and there being **twenty-five (25)** single-family dwelling which constitute the users of said new sewer line, the monthly rate to be charged to the owner(s) of each single-family dwelling in Imperial Acres Subdivision is the sum of **Twenty-Two Dollars Eighty-Eight Cents (\$22.88)** per month, payable each and every month until the loan has been fully repaid. Each user's obligation to pay this debt service charge rate shall terminate upon that user's full payment of that user's proportionate share of the total loan.

(D) **Dedicated Use of Debt Service Charges.** The amounts collected by the City for the debt service charges provided for in paragraph (C) above shall be kept separate and distinct from the standard sewer charges of the City of Newton and shall be utilized solely to repay the loan to the Illinois Environmental Protection Agency for the construction of the new sewer line.

(E) **Default in Payment of Sewer Charges.** In the event any of the charges under this Section are not paid within **thirty (30) days** after being due, the City shall have all rights and remedies provided by law, including the right to file and foreclose upon a lien on the real estate upon or for which sewerage service is supplied pursuant to and in the manner provided in **65 ILCS Sec. 5/11-151-16. (Ord. No. 97-15; 11-04-97)**

38-1-7 MULTIPLE UNIT RATE. Whenever **two (2)** or more residential dwelling units and/or commercial units are served by a single water meter, the bill shall be computed as if each unit were metered separately under the rate schedules listed in this Section. The minimum charge shall be computed in a like manner. **(Sec. 7.02)**

38-1-8 BILLING AND PAYMENT OF CHARGES. Charges for water and sewer services shall be due monthly and payment shall be due monthly on the **first (1st) day** of each month. The owner of the premises, the occupant thereof and the user of the service shall be jointly and severally liable to pay for the service on such premises and the service is furnished to the premises by the City only upon the condition that the owner of the premises, occupant and user of the service are jointly and severally liable therefore to the City. All bills for service shall be rendered as of the **first (1st) day** of the month following the month for which service is rendered and water meters read. All bills shall be payable by the **fifteenth (15th) day** of the month in which the bill is rendered. All bills not paid shall have a penalty of **five percent (5%)** added on the **sixteenth (16th) day** of said month. When the **fifteenth (15th) day** of any month shall be a Sunday or a legal holiday, then such bills for service shall be paid on the next succeeding secular day without the penalty added.

In the event charges for water and sewer service are not paid on the **fifteenth (15th) day** of the month in which billed, a notice of disconnection shall be mailed to the customer by the City Collector on or after the **seventeenth (17th) day** of the month in which billed. Such disconnection notice shall advise the customer that service will be disconnected on or after the **fourth (4th) day** of the succeeding month, unless full payment of all delinquent charges for water or sewer and all penalties are paid in full to the City Collector before **8:00 A.M.** on the **fourth (4th) day** of the succeeding month.

In the event such delinquent charges are not paid in full to the City Collector by **8:00 A.M.** on the **fourth (4th) day** of the succeeding month, a delinquent fee of **Thirty-Five Dollars (\$35.00)** shall be charged to all accounts with a delinquent balance. Also, a City employee shall be sent to the premises to disconnect such delinquent user from the water and sewer system

without further notice. Once disconnection has been made, no reconnection shall be made until all delinquent charges for water and sewer, and all penalties and delinquent fees have been paid in full to the City Collector, except, however, that if such services have been disconnected for a **third (3rd) time** within a period of **one (1) year**, a delinquent fee of **Seventy-Five Dollars (\$75.00)** will be charged, and in addition, the delinquent fee within the succeeding year shall be **Seventy-Five Dollars (\$75.00)**.

Disconnections will be made between **8:00 A.M.** and **3:00 P.M.**, Monday through Thursday, only between **8:00 A.M.** and **12:00 Noon** on Friday, and only between **8:00 A.M.** and **12:00 Noon** when the City offices will be closed the following day. These hours provide the customer the opportunity to make payment and have service reconnected.

Reconnections will be made between **8:00 A.M.** and **3:00 P.M.**, Monday through Friday.

Reconnections made after **3:00 P.M.** or on holidays or weekends will have an additional charge of **One Hundred Two Dollars Fifteen Cents (\$102.15)** to cover the overtime expense. **(Ord. No. 08-8; 03-18-08)**

38-1-9 LIEN FOR CHARGES. In the event the charges for service are not paid within **sixty (60) days** after rendition of the bill for such service, such charges shall be deemed and are hereby declared to be delinquent, and thereafter such delinquencies shall constitute liens upon the real estate for which such service is supplied, and the City Collector is hereby authorized and directed to file from time to time as directed by the Council, sworn, detailed statements showing such delinquencies in the office of the Recorder of Deeds of Jasper County and the filing of such statement shall be deemed notice of the lien for payment of the service rendered. **(Ord. No. 08-8; 03-18-08)**

38-1-10 BILLING FOR CHARGES. It is hereby made the duty of the City Collector to render bills for service and for rates and charges in connection therewith and to collect all moneys due thereon. If the rates or charges for such service are not paid as provided herein, the City Collector is hereby authorized and directed to notify in writing the owner of the premises, the occupant thereof, and the user of the service that such delinquency exists and that service shall be discontinued without further notice. **(Ord. No. 08-8; 03-18-08)**

38-1-11 DISPOSITION OF REVENUES.
(A) All revenues and monies derived from the operation of the waterworks system and the sewerage system shall be held by the Collector in separate funds for each system, apart from all other funds of the City, and all of the said sums, without any deductions whatever, shall be delivered to the City Treasurer not more than **ten (10) days** after receipt of the same, or at such more frequent intervals as may from time to time be directed by the Council. **(Ord. No. 03-06; 05-06-03)**

(B) The City Treasurer shall receive all revenues from the waterworks system and the sewerage system and all other funds and monies incident to the operation of each system as the same may be delivered to the Treasurer and deposit the same in separate funds of the City of Newton, and the Treasurer shall administer each fund in every respect in the manner provided by Article 9 of the Illinois Municipal Code and all other laws thereunto enabling. **(Sec. 7.06) (Ord. No. 03-06; 05-06-03)**

38-1-12 RECORDS; AUDIT. The City Collector shall establish a proper system of accounts and shall keep proper books, records and accounts in which complete and correct entries shall be made of all transactions relative to the separate waterworks system and sewerage system, and at regular annual intervals shall cause to be made an audit by an independent C.P.A. auditing concern of the books to show the receipts and disbursements of the separate waterworks system and sewerage system. **(Sec. 7.07) (Ord. No. 03-06; 05-06-03)**

38-1-13 SEPARATE METERED CONNECTIONS REQUIRED. No free service of the separate waterworks system and sewerage system of the City of Newton shall be furnished to any person, firm, organization or corporation, public or private, unless the Council may direct otherwise. Every user of the separate waterworks system and sewerage system of the City shall have a metered water connection to said system, according to rules and regulations set forth by the Council. A user who has an existing metered connection to the water system and sewerage system of the City may at the user's own expense install a separate water meter for water use only, for which separate meter no sewer system charge shall be made as long as that metered water does not utilize the sewer system of the City. **(Ord. No. 03-06; 05-06-03)**

38-1-14 CONNECTION PERMITS; FEES.
(A) The City Clerk is hereby authorized to grant such permits as the Clerk may deem proper, allowing persons to connect to the waterworks system and the sewerage system. The permit fee for a standard **three-fourths (3/4) inch** connection to the waterworks main shall be **Six Hundred Dollars (\$600.00)**. The City will make the connection and install all materials from the water line to the water meter. The permit fee for connections **one (1) inch** or larger to the waterworks main shall be **Two Hundred Dollars (\$200.00)** plus any materials supplied by the City. The applicant shall pay for the labor and material required for installing the water service from the main to the premises in the manner prescribed by the City Council. The permit fee for the connection to the sewerage main shall be **Two Hundred Fifty Dollars (\$250.00)**. The City will provide the sewer connection fitting. This shall be installed by the applicant in the manner prescribed by the City. The applicant shall pay for the labor and material required for installing the sewer service from the main to the residence or premises in the manner prescribed by the City Council. The permit fees described above shall be paid into the waterworks fund or sewer fund. A connection (tapping) fee shall not be charged if the owner uses an existing connection to the water or sewer main. A connection (tapping) fee shall only be assessed when a new connection is being made. **(Ord. No. 12-19; 11-20-12)**

(B) No connection shall be made with the separate waterworks or sewerage system without the written permission of the City Clerk. No connection shall be made to any City owned waterworks main extension or sewage main extension without the written permission of the City Clerk. Any connection or opening made with the waterworks system or the sewerage system without such permission or in any manner different from the mode prescribed for such opening or connection shall subject the maker to the penalties provided for violation of this Chapter. **(Sec. 7.09) (Ord. No. 03-06; 05-06-03)**

(C) The water connection charges for the Liberty Avenue extension are found in **Exhibit "A"** at the conclusion of this Chapter. **(Ord. No. 04-10; 10-19-04)**

38-1-15 APARTMENT BUILDINGS; METERS.

(A) When water service is furnished through less than the required number of meters to existing apartment buildings or a combination of existing buildings including business buildings, dwellings, apartment buildings, mobile homes not in state approved mobile home courts, and all other existing buildings under the same ownership, the water charges shall be determined by multiplying the minimum water rate by the number of meters on buildings being served with water.

(B) Apartment buildings constructed after **October 9, 1969** shall have separate outside water and electric meters for each apartment.

The word, "construction", for purposes of this Section, is defined to mean the building or erection of a new apartment building structure; or the altering, remodeling or revision of an existing structure which changes a single-family dwelling to a multi-family dwelling.

(C) All meters now in series shall be put on parallel service.

(D) All new construction considered to be a main building and not adjoining any building or buildings will have separate water meters outside.

(E) The sharing of meters between **two (2)** property owners shall not be permitted.

(F) All waterline connections shall be staked with a minimum of four (4) inch channel iron **five (5) feet** long at each water valve and tee and shall be inspected by the Water Department employees before they are covered over. **(Ord. No. 96-19; 10-15-96)**

(G) Any person violating any provision of this Section shall be given **sixty (60) days** written notice of such violation and the opportunity for that period of time to eliminate such violation. Thereafter any such person violating this Section shall be fined not less than **Five Dollars (\$5.00)** per day for each day during or on which a violation occurs or continues.

38-1-16 MOBILE HOMES. The owners or occupants of manufactured homes or mobile homes within the City are required to install water meters and make connections to the City water system for each manufactured home or mobile home immediately upon the same becoming a place of residence or being occupied for any purpose.

In addition to the requirements of this Section, said owners or occupants shall comply with all existing regulations governing the use and operation of the City water system.

Any person violating the provisions of this Section shall be denied the use of City water.

Any water line shut-off shall be located inside the mobile home during new construction or remodeling.

38-1-17 RESIDENTIAL SERVICE DEPOSIT. Any person, firm or corporation, whether as owner or as tenant, who applies after **March 18, 2008** for water and/or sewer service for residential purposes, shall pay to and maintain with the City Collector a service deposit as advance security for the payment of charges for service furnished. The deposit amount shall be **Three Hundred Fifty Dollars (\$350.00)** for a current City customer with a fair payment history or a new customer with a fair credit rating. Upon transfer of a deposit, the deposit amount shall be **Five Hundred Dollars (\$500.00)** for a current City customer with a poor payment record or a poor credit rating. The deposit amount shall be **Five Hundred Dollars (\$500.00)** for a new customer with a poor credit rating. After **one (1) full year** of service history without a disconnection notice **Two Hundred Dollars (\$200.00)** of the **Three Hundred Fifty Dollar (\$350.00)** or the **Five Hundred Dollar (\$500.00)** original deposit shall be credited to the property owner's current bill as a refund. To receive the **Two Hundred Dollars (\$200.00)** credit, proof of ownership (a copy of the recorded deed) shall be provided to the City Collector. After **two (2) full years** of service history without a disconnection notice **One Hundred Fifty Dollars (\$150.00)** of the original **Five Hundred Dollar (\$500.00)** deposit shall be credited to the property owner's current bill as a refund upon the owner's request to the City Collector. Upon termination of services, the remaining property owner's deposit shall be applied to the property owner's final bill and the excess if any shall be refunded to the property owner. Upon termination of a tenant's services, the tenant's **Three Hundred Fifty Dollars (\$350.00)** or **Five Hundred Dollars (\$500.00)** deposit shall be applied to the tenant's final bill and the excess if any shall be refunded to the tenant.

Notwithstanding the foregoing, a residential customer's total deposit for water and/or sewer service shall not exceed **Five Hundred Dollars (\$500.00)**. (**Ord. No. 08-8; 03-18-08**)

38-1-18 COMMERCIAL SERVICE DEPOSIT. Any person, firm or corporation, whether as owner, or as tenant, who applies after **November 20, 2001** for electric service, water and/or sewer service shall pay to and maintain with the City Collector a service deposit of **Three Hundred Fifty Dollars (\$350.00)** or a sum determined to be equal to the average monthly charge for such electricity, water and sewer services, whichever is greater. The average commercial consumption and billing expected to be used shall be determined by proper employees of the electric, water and sewer departments of the City. Such deposit is an advance security for the payment of charges for services furnished. After **one (1) full year** of service history without a disconnection notice any amount of the original owner's deposit exceeding the average monthly charge for electricity, water and sewer services shall be credited to the property owner's current bill as a refund. To receive credit, proof of ownership (a copy of the recorded deed) shall be provided to the City Collector. Upon termination of services, the remainder of the property owner's deposit shall be applied to the property owner's final bill and the excess if any shall be refunded to the property owner. Upon termination of a tenant's services, the tenant's original deposit shall be applied to the tenant's final bill and the excess if any shall be refunded to the tenant.

Notwithstanding the foregoing, a commercial customer's total deposit for electricity, water and/or sewer service shall not exceed **Three Hundred Fifty Dollars (\$350.00)** or a sum determined to be equal to the average monthly charge for electricity, water and sewer service, whichever is greater.

Landlords of Unoccupied Rental Property. In lieu of a cash utility deposit of **Three Hundred Fifty Dollars (\$350.00)** or **Five Hundred Dollars (\$500.00)** an owner of an unoccupied rental property/unit, the utilities for which have been placed in owner's name, shall pay to and maintain with the City Collector a service deposit of **Fifty Dollars (\$50.00)**, **One Hundred Seventy-Five Dollars (\$175.00)** or **Three Hundred Fifty Dollars (\$350.00)**, the amount to be determined by the owner's current payment history or a current credit rating. The deposit for a

good credit rating shall be **Fifty Dollars (\$50.00)**, a fair credit rating shall be **One Hundred Seventy-Five Dollars (\$175.00)** and a poor credit rating shall be **Three Hundred Fifty Dollars (\$350.00)**. Upon rental/occupancy of the property/unit a cash deposit shall be required in accordance with present Ordinance, irrespective of whether the utilities remain in the owner's name or are placed in the renter's name.

Industrial. Any person, firm or corporation, whether as owner, or as tenant, who applies after **March 18, 2008** for electric service, water and/or sewer service shall pay to and maintain with the City Collector a service deposit of **Three Hundred Fifty Dollars (\$350.00)**. Such deposit is an advance security for the payment of charges for services furnished. Upon termination of service, the original deposit shall be applied to the final bill and the excess if any shall be refunded to the customer. To be eligible for the **Three Hundred Fifty Dollar (\$350.00)** Industrial Rate deposit, the customer must create **ten (10)** or more new jobs within the first year of their doing business in the City and retain those jobs for a minimum of **five (5) years**. The Industrial Rate deposit amount of **Three Hundred Fifty Dollars (\$350.00)** shall terminate automatically if the new employer (a) fails to create **ten (10)** or more full time jobs in the City within the first year or (b) fails to retain those **ten (10)** or more jobs for a minimum of **five (5) years**, at which time the Commercial Deposit policy shall be enforced. **(Ord. No. 08-8; 03-18-08)**

38-1-19 UNOCCUPIED RENTAL PROPERTY. In lieu of cash utility deposit(s) an owner of an unoccupied rental property/unit, the utilities for which have been placed in owner's name, may provide in favor of the City an Irrevocable Letter of Credit from a financial institution in a form suitable to the City and in an amount determined by multiplying the number of rental properties/units owned by the amount of the required utility deposit. Upon rental/occupancy of the property/unit a cash deposit shall be required in accordance with present Ordinance, irrespective of whether the utilities remain in the owner's name or are placed in the renter's name. The Irrevocable Letter of Credit shall be deposited with and retained by the City Clerk. **(Ord. No. 02-02; 01-02-02)**

38-1-20 PLASTIC WATER PIPE. It shall be lawful for any person, including the City, making connections with the municipal water line to install in addition to copper lines or other heretofore approved pipe, the following polyethylene plastic pipe:

- (A) **three-fourths (3/4)** size -- OD .875 -- maximum PSI 160;
- (B) **one (1) inch** size -- OD 1.125 -- maximum PSI 160;
- (C) Pipe larger than **one (1) inch** PVC -- Schedule 26 plastic pipe or better.

38-1-21 REGULATIONS. The City Council is authorized to make such rules and regulations consistent with this Chapter for the connections to the waterworks and sewerage system, specifying the types and sizes of pipes and all other appurtenances and extensions thereto, and amend the same from time to time as may be deemed necessary. All service pipes and connections to the waterworks and sewerage systems shall comply with the said specifications and rules.

38-1-22 ENTRY FOR INSPECTION. Employees of the waterworks and sewerage system shall have the right at all times of access to any person's premises for repairs or meter readings. Any person refusing the right to permit the said employees of the waterworks and sewerage system the above described right of access to his premises shall be subject to a penalty as hereinafter provided.

38-1-23 FILING OF REGULATIONS. A copy of this Chapter, properly certified by the City Clerk, shall be filed in the office of the Recorder of Deeds of Jasper County and shall be deemed notice to all owners of real estate of their liability for service supplied to any user of the service of the waterworks and sewerage systems of the City on their properties, and it shall be the duty of the City Clerk and such other officer of this City to take all action necessary or required by the laws of the State of Illinois thereunto enabling to file all claims for money due to the City and to prosecute and enforce such claims in the manner, form and time as permitted by the laws of the State of Illinois.

38-1-24 EXCEPTIONS TO DISCONNECTION OF SERVICE.

(A) Anyone with a serious illness necessitating the need for continuation of water and/or sewer service who is living full time at a residence scheduled for disconnection of service may contact a duly licensed physician. If the City Clerk receives, prior to disconnection of service, a written confirmation of the illness from a duly licensed physician, the water and/or sewer service shall not be disconnected for a period of **thirty (30) days** from the day the written confirmation is received by the City Clerk if the customer complies with both of the following conditions, to-wit:

- (1) The duly licensed physician's statement must include the name, address and telephone number of the ill person; verification that the ill person is a full-time resident of the premises; the nature and duration of the illness verifying that termination of the water and/or sewer service in question will create a life-threatening situation; and the business name and telephone number of the certifying physician.
- (2) The customer must make full payment of all delinquent water and/or sewer service charges and all penalties within **thirty (30) days** after the City Clerk's receipt of the said physician's written confirmation otherwise, the water and/or sewer service shall be disconnected on or after the **thirty-first (31st) day** after the Clerk's receipt of the said written physician's confirmation.
- (3) The City reserves the right to verify any and all information concerning a customer's illness.

(B) Any person receiving a disconnection notice who believes there has been an error in billing, malfunction of metering equipment or other just cause, may request a hearing before the City Council. A request for hearing by the customer must be submitted in writing to the City Clerk before disconnection has occurred. The hearing will take place within **fifteen (15) days** of the receipt of the customer's request for hearing. A decision will be rendered following the hearing. Until the hearing has been held and decision rendered, the customer's service will not be disconnected. Should the City Council's decision after the hearing be to

disconnect the water and/or sewer service, the customer will be so notified by written notice not less than **seven (7) days** prior to disconnection of service. (**Ord. No. 01-25; 11-20-01**)

38-1-25 WATER LEAK ADJUSTMENT. When a customer of the Water and/or Sewer Service of the City shall suffer a water leak, the City shall adjust that customer's water and/or sewer bill for the month in which the leak occurs as follows: The preceding **six (6) month** average of the customer's water usage shall first be determined, that amount shall be subtracted from the total amount of gallons metered during the month of the leak. The balance shall constitute the leaked gallons. The customer shall pay the customer's average monthly usage as determined plus **fifty percent (50%)** of the leaked gallons not to exceed **one hundred thousand (100,000) gallons**. All leaked gallons exceeding **one hundred thousand (100,000) gallons** shall be billed at the normal charge for that customer. Charges for sewer in the month of the water leak shall be adjusted in the same manner. This adjustment shall only occur **one (1) time** per customer. Additionally, there shall be no adjustment for stool leaks or the filling of pools. (**Ord. No. 02-06; 05-21-02**)

ARTICLE II - UTILITY EXTENSIONS

38-2-1 APPLICATION FOR SERVICE OUTSIDE THE CITY. Any person desiring water service outside the corporate limits shall apply in writing to the City Clerk. any such application shall be referred to the City Council for action at its next regular meeting.

38-2-2 EXTENSION OF SERVICE OUTSIDE THE CITY. No utility services shall be extended to new users or customers outside the corporate limits of the City except by affirmative vote of the majority of the members of the City Council then elected. No application may be considered for approval unless the applicant shall first have agreed in writing to enter into a binding agreement with the City as follows:

(A) The property for which service is sought will be annexed to the City of Newton by petition of the owner if and when such property becomes contiguous to the City, or the property qualifies for annexation to the City pursuant to the State Statutes now in effect or later amended; and

(B) All sewage disposal systems shall be installed at the expense of the owners, and shall meet Federal and State EPA regulations and be State of Illinois approved. If, at some future date, it becomes necessary, either by Federal or State regulation, to install a sewage disposal system different from those systems presently approved, it shall be the duty of the owners, at their expense, to install said sewage disposal system to meet any and all Federal and/or State requirements. Further, at the

time the property becomes annexed to the City, the property owners shall comply with the City Code, including the Sewer Use Code, Chapter 38; Article V, as amended. There is presently no duty imposed on the City, nor is there a duty imposed by virtue of this Chapter, requiring the City to provide public sewer connections to the said property owners. In the event the property owners elect to connect, or is required by Federal or State EPA rules to connect to the City sewer system, the cost of such connection to within **two hundred (200) feet** of the then existing nearest public sewer connection, shall be the sole expense of the property owner. The City shall have no duty or responsibility to extend any existing sewer connection line to any property.

38-2-3 AGREEMENT TO ANNEX. Upon approval of any application for service outside the corporate limits of the City, as provided in this Chapter, such application shall be referred by the Council to the City Attorney. The City Attorney shall draft a suitable agreement to be entered into by the City and the applicant. In addition to the requirements of **Section 38-2-2**, such agreement shall provide that its terms are binding upon the applicant and any future owners of such property and shall constitute an encumbrance upon the property which is a covenant running with the land.

38-2-4 RECORDING OF AGREEMENT. Any agreement for extension of water service outside the corporate limits of the City, shall be signed by all owners of record of such property and by the Mayor, shall be attested by the City Clerk and shall be acknowledged by all parties. After the agreement has been signed and acknowledged as provided, the City Clerk shall cause said agreement to be recorded in the records of Jasper County.

38-2-5 REGULATIONS CONCERNING CONNECTIONS AND EXTENSIONS.

(A) Such approved applicants shall pay all construction costs, legal costs, and engineering costs necessary for the construction of any extended water line and/or extended water main.

(B) Upon construction of such water line, the same shall become the property of the City of Newton, Jasper County, Illinois, upon its inspection and acceptance as herein provided.

(C) No such construction shall be commenced without first obtaining prior approval for such project as herein specified.

(D) Upon completion of such water line, the City shall test and approve the said line which must likewise meet all requirements of the State of Illinois and the United States of America and the appropriate regulatory authorities and agencies of such government.

(E) After the water line has been tested and approved, the applicants and builders of such line shall apply to the City for final acceptance of the extension or connection, and at such time shall provide the City with an itemized bill reflecting the actual total cost of installation. The bill shall include the following:

- (1) Total material cost itemized in cost per foot of pipe.
- (2) Total labor cost itemized in cost per man-hours worked.
- (3) Total equipment cost itemized in rental or owner cost per hour including fuel.
- (4) Total engineering cost verified by a bill from the engineering firm.
- (5) Total legal costs verified by a bill from the Attorney.

(F) Applicants shall be entitled to charge a pro-rated tap-on fee to recover their total installation cost, which shall be set at the time of the final application to the City for its acceptance. Applicants shall have a period of **twenty (20) years** in which to recover their total installation costs. Any cost not recovered within the said **twenty (20) year** period of time shall become the expense of the applicants. In the event the total cost shall be recovered in less than **twenty (20) years**, the pro-rated tap-on fee shall terminate and only the tap fee then required by the City shall be charged.

(G) All tap fees shall be collected by the City. The tap fees shall include the tap fee charged by the City and the pro-rated tap-on fee charged by the applicants. Only the pro-rated tap-on fee shall be credited to the recovery of the applicant's total installation cost.

(H) The City reserves the right to specify oversized pipe at designated locations, but agrees to pay the difference in material cost and any other cost between the oversized pipe and the standard size pipe. From and after **October 1, 1996**, all water line extensions shall have a minimum diameter of **six (6) inches. (Ord. No. 96-18; 10-01-96)**

(I) Taps to the extensions or connections shall only be permitted at intervals of **one hundred (100) feet** or more.

(J) In the event of a further extension to the project approved, the original constructors shall be entitled to **one (1) tap fee** only, but shall not recover any tap fees from more than **one (1) extension** of such project.

(K) Prior to commencing construction, it shall be the responsibility of such applicants to obtain any required State permits or any other required easements, at their own expense, and such plans for the extension or connection shall meet the approval of the City engineers for the City of Newton.

(L) The applicants shall likewise grant to the City such easements as shall be required by the City, to permit the City to enter upon the premises for the purpose of maintaining, repairing, and altering such extension or connection and to install and read and maintain such water meters as shall from time to time be required. All such easements shall be prepared at the expense of applicants. Such easements shall likewise permit entering upon such property for the purpose of constructing further extensions or connections.

(M) No extension or connection outside of the City limits shall be further extended without the prior approval of the City.

(N) Nothing herein contained shall obligate the City to become a guarantor of a supply of water, and in the event of equipment failure, drought, natural disaster, act of God, or conditions beyond the control of the City, the City shall not be liable for any damages sustained as a result of interruption in the supply of water.

(O) Only the original constructors shall share in the division of any tap fees but such original constructors may assign their rights under such agreement as they shall from time to time agree. Such fees may be divided among such persons as they shall agree.

(P) After acceptance of such water line, the City shall maintain the water line from such date at its own expense and shall keep it in proper working condition so as to provide water service to the property owners on the same availability basis as provided to residents of the City.

(Q) The City reserves the right to adjust or alter the charge for such water supply as it shall from time to time determine to be necessary.

(R) Any property owners or users connecting to the extension or connection shall be subject to all the aforementioned rules and regulations and any further rules or regulations adopted by the City concerning said extension or connection. In addition, such users shall be subject to all rules and regulations established for water users located inside the City limits, except those portions which are in conflict with rules and regulations covering property owners residing outside the City. **(Sec. 7.17)**

(S) Any person desiring to connect to, repair, or maintain any type of City Utility located outside of the City Limits shall be required to make a deposit of **Five Hundred Dollars (\$500.00)** to the Newton City Clerk prior to commencing any work relative thereto. Such deposit is for the purpose of insuring that any work is done in a workmanlike manner with all damage to roads, streets and easements properly repaired. Upon completion of the work, the City and any other Township, County or State authority involved shall be notified and allowed to inspect the work. If such work has been performed satisfactorily and no damage exist, the deposit shall be returned to the person making the deposit otherwise the deposit shall be forfeited to the City or other Township, County, or State authority which has suffered the damage. Nothing herein shall limit the liability of any person who has caused damage to the City, Township, County or State for such damages. **(Ord. No. 00-07; 07-18-00)**

38-2-6 PENALTIES.

(A) Any person convicted of violating the provisions of this Chapter shall be subject to a penalty as provided in **Section 1-1-20** of this Code.

(B) **Tampering.** It shall be unlawful for any person not authorized by the City to tamper with, alter or injure any part of the City water works and sewerage system, or any part of a City owned waterworks main extension or sewerage main extension, or any meter. Any person found to be in violation of this provision shall be subject to the penalties provided for in the City Code.

(C) Nothing in this Chapter shall be interpreted as prohibiting the institution of criminal charges against any person stealing water from the City by bypassing a meter, tampering with a meter or by any other means. **(Sec. 7.18)**

ARTICLE III - CROSS-CONNECTION

DIVISION I - ADMINISTRATION

38-3-1 APPROVED BACKFLOW DEVICE. All plumbing installed within the City shall be installed in accordance with the Illinois Plumbing Code, 77 Ill. Adm. Code 890. If, in accordance with the Illinois Plumbing Code or in the judgment of the Inspector, an approved backflow prevention device is necessary for the safety of the public water supply system, the Inspector shall give notice to the water customer to install such an approved device immediately. The water customer shall, at his own expense, install such an approved device at a location and in a manner in accordance with the Illinois Plumbing Code, Illinois Environmental Protection Agency and all applicable local regulations, and shall have inspections and tests made of such approved devices upon installation and as required by the Illinois Plumbing Code, Illinois Environmental Protection Agency and local regulations.

38-3-2 CROSS-CONNECTION PROHIBITED; EXCEPTION. No person shall establish or permit to be established or maintain or permit to be maintained any connection whereby a private, auxiliary or emergency water supply other than the regular public water supply enters the supply or distribution system of the City, unless such private, auxiliary or emergency water supply and the method of connection and use of such supply shall have been approved by the Superintendent and the Illinois Environmental Protection Agency.

38-3-3 INVESTIGATIONS BY SUPERINTENDENT. It shall be the duty of the Superintendent to cause surveys and investigations to be made of commercial industrial and other properties served by the public water supply to determine whether actual or potential hazards to the public water supply may exist. Such surveys and investigations shall be made a matter of public record and shall be repeated at least every **two (2) years** or as often as the Inspector shall deem necessary. Records of such surveys shall be maintained and available for review for a period of at least **five (5) years**.

38-3-4 RIGHT TO ENTER PREMISES. The approved cross-connection control device inspector shall have the right to enter at any reasonable time any property served by a connection to the public water supply or distribution system for the purpose of verifying the presence or absence of cross-connections and that the Inspector or his authorized agent shall have the right to enter at any reasonable time any property served by a connection to the public water supply or distribution system for the purpose of verifying information submitted by the customer regarding the required cross-connection control inspection. On demand, the owner, lessee or occupants of any property so served shall furnish to the

Inspector any information which he may request regarding the piping system or systems or water use on such property. The refusal of such information when demanded shall, within the discretion of the Inspector, be evidence of the presence of improper connections as provided in this Chapter.

38-3-5 NOTICE TO CUSTOMER; RECONNECT FEE.

(A) The City Clerk is hereby authorized and directed to discontinue, after reasonable notice to the occupant thereof, the water service to any property wherein any connection in violation of the provisions of this Chapter is known to exist, and to take such other precautionary measures as he may deem necessary to eliminate any danger of contamination of the public water supply distribution mains. Water service to such property shall not be restored until such conditions have been eliminated or corrected in compliance with the provisions of this Chapter and until a reconnection fee of **One Hundred Dollars (\$100.00)** is paid to the City Clerk.

(B) Immediate disconnection with verbal notice can be effected when the Inspector is assured that imminent danger of harmful contamination of the public water supply system exists. Such action shall be followed by written notification of the cause of disconnection. Immediate disconnection without notice to any party can be effected to prevent actual or anticipated contamination or pollution of the public water supply, provided that, in the reasonable opinion of the Inspector or the Illinois Environmental Protection Agency, such action is required to prevent actual or potential contamination or pollution of the public water supply.

(C) The public water supply, the Inspector or the agents or assigns shall not be liable to any customer for any injury, damages or lost revenues which may result from termination of the customer's water supply in accordance with the terms of this Chapter, whether or not said termination was with or without notice.

38-3-6 CONTAMINATIONS COST AND THE CONSUMER. The consumer responsible for backsiphoned material or contamination through backflow, if contamination of the potable water supply system occurs through an illegal cross-connection or an improperly installed, maintained or repaired device, or a device which has been bypassed, shall bear the cost of clean-up of the potable water supply system.

38-3-7 - 38-3-8 RESERVED.

DIVISION II - CROSS-CONNECTION REGULATIONS

38-3-9 PURPOSE. The purpose of these Rules and Regulations is:

(A) To protect the public water supply system from contamination or pollution by isolating within the customer's water system contaminants or pollutants which could backflow through the service connection into the public water supply system.

(B) To promote the elimination or control of existing cross-connections, actual or potential, between the public or consumer's potable water system and non-potable water systems, plumbing fixtures and sources or systems containing substances of unknown or questionable safety.

(C) To provide for the maintenance of a continuing program of cross-connection control which will prevent the contamination or pollution of the public and consumer's potable water systems.

38-3-10 APPLICATION. These Rules and Regulations shall apply to all premises served by the public potable water supply system of the City.

38-3-11 RESPONSIBILITY OF OWNER: SHUT-OFF VALVE INSIDE BUILDING. The owner or official custodian shall be responsible for protection of the public water supply system from contamination due to backflow or back-siphonage of contaminants through the customers water service connection. If, in the judgment of the Superintendent or his authorized representative, an approved backflow prevention device is necessary for the safety of the public water supply system, the Superintendent shall give notice to the consumer to install such approved backflow prevention device at each service connection to the premises. The consumer shall immediately install such approved device or devices at his own expense; failure, refusal or inability on the part of the consumer to install such device or devices immediately shall constitute grounds for discontinuing water service to the premises until such device or devices have been installed. The consumer shall retain records of installation, maintenance, testing and repair as required in this Code for a period of at least **five (5) years**. The Superintendent of Water may require the consumer to submit a cross-connection inspection report to the City to assist in determining whether or not service line protection will be required. All cross-connection inspections shall be conducted by a Cross-Connection Control Device Inspector certified by the Illinois Environmental Protection Agency.

38-3-12 DEFINITIONS. The following definitions shall apply in the interpretation and enforcement of these regulations:

"Fixed Proper Air Gap" means the unobstructed vertical distance through the free atmosphere between the water discharge point and the flood level rim of the receptacle.

"Agency" means Illinois Environmental Protection Agency.

"Approved" means backflow prevention devices or methods approved by the Research Foundation for Cross-Connection Control of the University of Southern California, Association of State Sanitary Engineers, American Water Works Association, American National Standards Institute or certified by the National Sanitation Foundation.

"Auxiliary Water System" means any water source or system on or available to the premises other than the public water supply system and includes the water supplied by the system. These auxiliary waters may include water from another purveyor's public water supply system; or water from a source such as wells, lakes, or streams or process fluids; or used water. These waters may be polluted or contaminated or objectionable or constitute a water source or system over which the water purveyor does not have control.

"Backflow" means the backflow of water or other liquids, mixtures, or substances into the distribution pipes of a potable water system from any source other than the intended source of the potable water supply.

"Backflow Prevention Device" means any device, method, or type of construction intended to prevent backflow into a potable water system. All devices used for backflow prevention in Illinois must meet the standards of the Illinois Plumbing Code and the Illinois Environmental Protection Agency.

"Consumer" or "Customer" means the owner, official custodian or person in control of any premises supplied by or in any manner connected to a public water system.

"Consumer's Water System" means any water system located on the customer's premises. A building plumbing system is considered to be a customer's water system.

"Contamination" means an impairment of the quality of the water by entrance of any substance to a degree which could create a health hazard.

"Cross-Connection" means any physical connection or arrangement between two otherwise separate piping systems, one of which contains potable water and the other a substance of unknown or questionable safety or quality, whereby there may be a flow from one system into the other.

"Direct Cross-Connection" means a cross-connection formed when a water system is physically joined to a source of unknown or unsafe substance.

"Indirect Cross-Connection" means a cross-connection through which an unknown substance can be forced, drawn by vacuum or otherwise introduced into a safe potable water system.

"Double Check Valve Assembly" means an assembly composed of single, independently acting check valves approved under ASSE Standard 1015. A double check valve assembly and suitable connections for testing the water-tightness of each check valve.

"Health Hazard" means any condition, device or practice in a water system or its operation resulting from a real or potential danger to the health and well-being of consumers. The word "severe" as used to qualify "health hazard" means a hazard to the health of the user that could be expected to result in death or significant reduction in the quality of life.

"Inspection" means a plumbing inspection to examine carefully and critically all materials, fixtures, piping and appurtenances, appliances and installations of a plumbing system for compliance with requirements of the Illinois Plumbing Code, 77 Ill. Admn. Code 890.

"Non-potable Water" means water not safe for drinking, personal, or culinary use as determined by the requirements of 35 Ill. Adm. Code 604.

"Plumbing" means the actual installation, repair, maintenance, alteration or extension of a plumbing system by any person. Plumbing includes all piping, fixtures, appurtenances and appliances for a supply of water for all purposes, including without limitation lawn sprinkler systems, from the source of a private water supply on the premises or from the main in the street, alley or at the curb to, within and about any building or buildings where a person or persons live, work or assemble. Plumbing includes all piping, from discharge of pumping units to and including pressure tanks in water supply systems. Plumbing includes all piping, fixtures, appurtenances, and appliances for a building drain and a sanitary drainage and related ventilation system of any building or buildings where a person or persons live, work or assemble from the point of connection of such building drain to the building sewer or private sewage disposal system **five (5) feet** beyond the foundation walls.

"Pollution" means the presence of any foreign substance (organic, inorganic, radiological, or biological) in water that tends to degrade its quality so as to constitute a hazard or impair the usefulness of the water.

"Potable Water" means water which meets the requirements of 35 Ill. Adm. Code 604 for drinking, culinary, and domestic purposes.

"Potential Cross-Connection" means a fixture or appurtenance with threaded hose connection, tapered spout, or other connection which would facilitate extension of the water supply line beyond its legal termination point.

"Process fluid(s)" means any fluid or solution which may be chemically, or biologically or otherwise contaminated or polluted in a form or concentration such as would constitute a health, pollutional, or system hazard if introduced into the public or a consumer's potable water system. This includes but is not limited to:

- (A) polluted or contaminated waters;
- (B) process waters;
- (C) used waters originating from the public water supply system which may have deteriorated in sanitary quality;
- (D) cooling waters;
- (E) questionable or contaminated natural waters taken from wells, lakes, streams, or irrigation systems;
- (F) chemicals in solution or suspension;
- (G) oils, gases, acids, alkalis and other liquid and gaseous fluids used in industrial or other processes, or for fire fighting purposes.

"Public Water Supply" means all mains, pipes and structures through which water is obtained and distributed to the public, including wells and well structures, intakes and cribs, pumping stations, treatment plants, reservoirs, storage tanks and appurtenances, collectively or severally, actually used or intended for use for the purpose of furnishing water for drinking or general domestic use and which serve at least 15 service connections or which regularly serve at least 25 persons at least 60 days per year. A public water supply is either a "community water supply" or a "non-community water supply".

"Reduced Pressure Principle Backflow Prevention Device" means a device containing a minimum of two independently acting check valves together with an automatically operated pressure differential relief valve located between the two check valves and approved under ASSE Standard 1013. During normal flow and at the cessation of normal flow, the pressure between these two checks shall be less than the supply pressure. In case of leakage of either check valve, the differential relief valve, by discharging to the atmosphere, shall operate to maintain the pressure between the check valves at less than the supply pressure. The unit must include tightly closed shutoff valves located at each end of the device, and each device shall be fitted with properly located test cocks.

"Service Connection" means the opening, including all fittings and appurtenances, at the water main through which water is supplied to the user.

"Survey" means the collection of information pertaining to a customer's piping system regarding the location of all connections to the public water supply system and must include the location, type and most recent inspection and testing date of all cross-connection control devices and methods located within that customer's piping system. The survey must be in written form, and should not be an actual plumbing inspection.

"System Hazard" means a condition through which an aesthetically objectionable or degrading material not dangerous to health may enter the public water supply system or a consumer's potable water system.

"Used Water" means any water supplied by a public water supply system to a consumer's water system after it has passed through the service connection and is no longer under the control of the water supply official custodian.

"Water Purveyor" means the owner or official custodian of a public water system.

38-3-13 WATER SYSTEM.

(A) The water system shall be considered as made up of two parts: the public water supply system and the consumer's water system.

(B) The public water supply system shall consist of the source facilities and the distribution system, and shall include all those facilities of the potable water system under the control of the Superintendent of Water up to the point where the consumer's water system begins.

(C) The source shall include all components of the facilities utilized in the production, treatment, storage, and delivery of water to the public water supply distribution system.

(D) The public water supply distribution system shall include the network of conduits used to deliver water from the source to the consumer's water system.

(E) The consumer's water system shall include all parts of the facilities beyond the service connection used to convey water from the public water supply distribution system to points of use.

38-3-14 CROSS-CONNECTION PROHIBITED.

(A) Connections between potable water systems and other systems or equipment containing water or other substances of unknown or questionable quality are prohibited except when and where approved cross-connection control devices or methods are installed, tested and maintained to insure proper operation on a continuing basis.

(B) No physical connection shall be permitted between the potable portion of a supply and any other water supply not of equal or better bacteriological and chemical quality as determined by inspection and analysis by the Agency.

(C) There shall be no arrangement or connection by which an unsafe substance may enter a supply.

38-3-15 SURVEY AND INVESTIGATIONS.

(A) The consumer's premises shall be open at all reasonable times to the approved cross-connection control device inspector for the inspection of the presence or absence of cross-connections within the consumer's premises, and testing, repair and maintenance of cross-connection control devices within the consumer's premises.

(B) On request of the Superintendent, or his authorized representative, the consumer shall furnish information regarding the piping system or systems or water use within

the customer's premises. The consumer's premises shall be open at all reasonable times to the Superintendent of Water for the verification of information submitted by the inspection consumer to the public water supply custodian regarding cross-connection inspection results.

(C) It shall be the responsibility of the water consumer to arrange periodic surveys of water use practices on his premises to determine whether there are actual or potential cross-connections to his water system through which contaminants or pollutants could backflow into his or her public potable water system. All cross-connection control or other plumbing inspections must be conducted in accordance with Ill. Comp. Stat., Ch. 225, Sec. 320/3.

(D) It is the responsibility of the water consumer to prevent backflow into the public water system by ensuring that:

- (1) All cross-connections are removed; or approved cross-connection control devices are installed for control of backflow and back-siphonage.
- (2) Cross-connection control devices shall be installed in accordance with the manufacturer's instructions.
- (3) Cross-connection control devices shall be inspected at the time of installation and at least annually by a person approved by the Agency as a cross-connection control device inspector (CCCDI). The inspection of mechanical devices shall include physical testing in accordance with the manufacturer's instructions.
- (4) Testing and Records
 - (a) Each device shall be tested at the time of installation and at least annually or more frequently if recommended by the manufacturer.
 - (b) Records submitted to the community public water supply shall be available for inspection by Agency personnel in accordance with Ill. Comp. Stat., Ch. 415, Sec. 5/4(e).
 - (c) Each device shall have a tag attached listing the date of most recent test, name of CCCDI, and type and date of repairs.
 - (d) A maintenance log shall be maintained and include:
 1. date of each test;
 2. name and approval number of person performing the test;
 3. test results;
 4. repairs or servicing required;
 5. repairs and date completed; and
 6. serving performed and date completed.

38-3-16 WHERE PROTECTION IS REQUIRED.

(A) An approved backflow device shall be installed on all connections to the public water supply as described in the Plumbing Code, 77 Ill. Adm. Code 890 and the Agency's regulations 35 Ill. Adm. Code 680. In addition, an approved backflow prevention device shall be installed on each service line to a consumer's water system serving premises, where in the judgment of the Superintendent, actual or potential hazards to the public water supply system exist.

(B) An approved backflow prevention device shall be installed on each service line to a consumer's water system serving premises where the following conditions exist:

- (1) Premises having an auxiliary water supply, unless such auxiliary supply is accepted as an additional source by the Superintendent of Water and the source is approved by the Illinois Environmental Protection Agency.
- (2) Premises on which any substance is handled which can create an actual or potential hazard to the public water supply system. This shall include premises having sources or system containing process fluids or waters originating from the public water supply system which are no longer under the sanitary control of the Superintendent of Water.
- (3) Premises having internal cross-connections that, in the judgment of the Superintendent of Water, are not correctable or intricate plumbing arrangements it make which impractical to determine whether or not cross-connections exist.
- (4) Premises where, because of security requirements or other prohibitions or restrictions, it is impossible or impractical to make a complete cross-connection survey.
- (5) Premises having a repeated history or cross-connections being established or reestablished.

(C) An approved backflow device shall be installed on all connections to the public water supply as described in the Plumbing Code, 77 Ill. Adm. Code 890 and the Agency's regulations 35 Ill. Adm. Code 653. In addition, an approved backflow prevention device shall be installed on each service line to a consumer's water system serving, but not necessarily limited to, the following types of facilities unless the Superintendent of Water determines that no actual or potential hazard to the public water supply system exists:

- (1) Hospitals, mortuaries, clinics, nursing homes.
- (2) Laboratories.
- (3) Piers, docks, waterfront facilities.
- (4) Sewage treatment plants, sewage pumping stations or storm water pumping stations.
- (5) Food or beverages processing plants.
- (6) Chemical plants.
- (7) Metal plating industries.

- (8) Petroleum processing or storage plants.
- (9) Radioactive material processing plants or nuclear reactors.
- (10) Car washes.
- (11) Pesticide, or herbicide or extermination plants and trucks.
- (12) Farm service and fertilizer plants and trucks.

38-3-17 TYPE OF PROTECTION REQUIRED.

(A) The type of protection required under **Section 38-3-16** of these regulations shall depend on the degree of hazard which exists as follows:

- (1) An approved fixed proper air gap separation shall be installed where the public water supply system may be contaminated with substances that could cause a severe health hazard.
- (2) An approved fixed proper air gap separation or an approved reduced pressure principle backflow prevention assembly shall be installed where the public water supply system may be contaminated with a substance that could cause a system or health hazard.
- (3) An approved fixed proper air gap separation or an approved reduced pressure principle backflow prevention assembly or a double check valve assembly shall be installed where the public water supply system may be polluted with substances that could cause a pollution hazard not dangerous to health.

(B) The type of protection required under **Section 38-3-16** of these regulations shall be an approved fixed proper air gap separation or an approved reduced pressure principle backflow prevention connected to the public water supply when:

(C) Where a public water supply or an auxiliary water supply is used for a fire protection system, reduced pressure principle backflow preventers shall be installed on fire safety systems connected to the public water supply when:

- (1) The fire safety system contains antifreeze, fire retardant or other chemicals;
- (2) water is pumped into the system from another source; or
- (3) water flows by gravity from a non-potable source; or water can be pumped into the fire safety system from any other source;
- (4) there is a connection whereby another source can be introduced into the fire safety system.

(D) All other fire safety systems connected to the potable water supply shall be protected by a double check valve assembly on metered service lines and a double detector check valve assembly on unmetered service lines.

38-3-18 BACKFLOW PREVENTION DEVICES.

(A) All backflow prevention devices or methods required by these rules and regulations shall be approved by the Research Foundation for Cross-Connection Control of the University of Southern California, American Water Works Association, American Society of Sanitary Engineering, or American National Standards Institute or certified by the National Sanitation Foundation to be in compliance with applicable industry specification.

(B) Installation of approved devices shall be made in accordance with the manufacturer's instructions. Maintenance as recommended by the manufacturer of the device shall be performed. Manufacturer's maintenance manual shall be available on-site.

38-3-19 INSPECTION AND MAINTENANCE.

(A) It shall be the duty of the consumer at any premises on which backflow prevention devices required by these regulations are installed to have inspection, tests, maintenance and repair made in accordance with the following schedule or more often where inspections indicate a need or are specified in manufacturer's instructions.

- (1) Fixed proper air gap separations shall be inspected to document that a proper vertical distance is maintained between the discharge point of the service line and the flood level rim of the receptacle at the time of installation and at least annually thereafter. Corrections to improper or by passed air gaps shall be made within 24 hours.
- (2) Double check valve assemblies shall be inspected and tested at time of installation and at least annually thereafter, and required service performed within **five (5) days**.
- (3) Reduced pressure principle backflow prevention assemblies shall be tested at the time of installation and at least annually or more frequently if recommended by the manufacturer, and required service performed within **five (5) days**.

(B) Testing shall be performed by a person who has been approved by the Agency as competent to service the device. Proof of approval shall be in writing.

(C) Each device shall have a tag attached listing the date of most recent test or visual inspection, name of tester, and type and date of repairs.

(D) A maintenance log shall be maintained and include:

- (1) date of each test or visual inspection;
- (2) name and approval number of person performing the test or visual inspection;
- (3) test results;
- (4) repairs or servicing required;
- (5) repairs and date completed; and
- (6) servicing performed and date completed.

(E) Whenever backflow prevention devices required by these regulations are found to be defective, they shall be repaired or replaced at the expense of the consumer without delay as required by **Section 38-3-19(A)**.

(F) Backflow prevention devices shall not be bypassed, made inoperative, removed or otherwise made ineffective without specific authorization by the Superintendent.

38-3-20 BOOSTER PUMPS.

(A) Where a booster pump has been installed on the service line to or within any premises, such pump shall be equipped with a low pressure cut-off device designed to shut-off the booster pump when the pressure in the service line on the suction side of the pump drops to 20 psi or less.

(B) It shall be the duty of the water consumer to maintain the low pressure cut-off device in proper working order and to certify to the Superintendent, at least once a year, that the device is operable.

38-3-21 VIOLATIONS AND PENALTIES.

(A) The Superintendent shall deny or discontinue, after reasonable notice to the occupants thereof, the water service to any premises wherein any backflow prevention device required by these regulations is not installed, tested, maintained and repaired in a manner acceptable to the Superintendent, or if it is found that the backflow prevention device has been removed or bypassed, or if an unprotected cross-connection exists on the premises, or if a low pressure cut-off required by these regulations is not installed and maintained in working order.

(B) Water service to such premises shall not be restored until the consumer has corrected or eliminated such conditions or defects in conformance with these regulations and to the satisfaction of the Superintendent, and the required reconnection fee is paid.

(C) Water service to such premises shall not be restored until the consumer has corrected or eliminated such conditions or defects on conformance with these Regulations and to the satisfaction of the Superintendent.

(D) Neither the City, the Superintendent, or its agents or assigns, shall be liable to any customers of the City for any injury, damages or lost revenues which may result from termination of said customer's water supply in accordance with the terms of this ordinance, whether or not said termination of the water supply was with or without notice.

(E) The consumer responsible for back-siphoned material or contamination through backflow, if contamination of the potable water supply system occurs through an illegal cross-connection or an improperly installed, maintained or repaired device, or a device which has been bypassed, must bear the cost of clean-up of the potable water supply system.

(F) Any person found to be violating any provision of this Code shall be served with written notice stating the notice of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violation.

(G) Any person violating any of the provisions of this Code in addition to the fine provided, shall become liable to the City for any expense, loss or damage occasioned by the City by reason of such violation, whether the same was caused before or after notice.

ARTICLE IV - WELL SET-BACK ZONES

38-4-1 PURPOSE. Pursuant to the authority conferred by **65 ILCS Sec. 5/11-125-4 (1992); 415 ILCS Sec. 5/14.2, and 5/14.3 (1992); 65 ILCS Sec. 5/7-4-2 (1992);** and in the interest of securing the public health, safety, and welfare; to preserve the quality and quantity of groundwater resources in order to assure a safe and adequate water supply for present and future generations; and to preserve groundwater resources currently in use and those aquifers having a potential for future use as a public water supply, the provisions of this Chapter shall apply to all properties located within the minimum setback zone established under Section 14.2 of the Environmental Protection Act ("Act") (**415 ILCS Sec. 5/14.2 (1992)**) and this Chapter, and the maximum setback zone established under Section 14.3 of the Act (**415 ILCS Sec. 5/14.3 (1992)**) and this Chapter.

38-4-2 DEFINITIONS. Except as stated in this Chapter, and unless a different meaning of a word or term is clear from the context, the definition of words or terms in this Article shall be the same as those used in the Act and the Illinois Groundwater Protection Act (**415 ILCS Sec. 55/1 (1992)**):

"Act" means the Environmental Protection Act (**415 ILCS Sec. 5/1 (1992)**).

"Agency" means the Illinois Environmental Protection Agency.

"Board" means the Illinois Pollution Control Board.

"Maximum Setback Zone" means the area around a community water supply well established under Section 14.3 of the Act and this Article and described in Appendix A.

"Minimum Setback Zone" means the area around a community water supply well established under Section 14.2 of the Act and this Article, and described in Appendix A.

[Map in Appendix "A" on file at City Hall.] (Ord. No. 13-1; 01-02-13)

38-4-3 PROHIBITIONS.

(A) Except as provided in **Section 38-4-4** or **38-4-5** of this Article, no person shall place a new potential primary source, new potential secondary source, or new potential route within the minimum setback zone.

(B) Except as provided in **Section 38-4-4** of this Article, no person shall place a new potential primary source within the maximum setback zone.

38-4-4 WAIVERS, EXCEPTIONS, AND CERTIFICATIONS OF MINIMAL HAZARD.

(A) If, pursuant to Section 14.2(b) of the Act, the owner of a new potential primary source, new potential secondary source, or new potential route is granted a waiver by the Agency, such owner shall be deemed to have a waiver to the same extent from **Section 38-4-3(A)** of this Article.

(B) If, pursuant to Section 14.2(c) of the Act, the owner of a new potential primary source (other than landfilling or land treating), new potential secondary source, or new potential route is granted an exception by the Board, such owner shall be deemed to have an exception to the same extent from **Section 38-4-3(A)** of this Article.

(C) If, pursuant to Section 14.2(c) of the Act, the owner of a new potential primary source (other than landfilling or land treating) is granted an exception by the Board, such owner shall be deemed to have an exception to the same extent from **Section 38-4-3(B)** of this Article.

(D) If, pursuant to Section 14.5 of the Act, the owner of a new potential primary source, new potential secondary source, or new potential route is issued a certificate of minimal hazard by the Agency, such owner shall not be subject to **Section 38-4-3(A)** of this Article to the same extent that such owner is not subject to Section 14.2(d) of the Act.

38-4-5 EXCLUSION. **Section 38-4-3(A)** of this Article shall not apply to new common sources of sanitary pollution as specified pursuant to Section 17 of the Act and the regulations adopted thereunder by the Agency; however, no such common sources may be located within the applicable minimum distance from a community water supply well specified by such regulations.

38-4-6 WELLS INSIDE CITY.

(A) **Definitions.**

"Person" is any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, or any other legal entity, or their legal representatives, agents or assigns.

"Potable water" is any water used for human or domestic consumption, including, but not limited to, water used for drinking, bathing, swimming, washing dishes, or preparing food.

(B) **Use of Groundwater as a Potable Water Supply Prohibited.**

The use or attempt to use as a potable water supply groundwater from within the corporate limits of the City by the installation or drilling of wells or by any other method is hereby prohibited, including at any points of withdrawal by the City.

(C) **Penalties.** Any person violating the provisions of this Section shall be subject to a fine of up to **Seven Hundred Fifty Dollars (\$750.00)** for each violation. **(Ord. No. 04-8; 10-05-04)**

(Ord. No. 96-21; 12-17-96)

ARTICLE V - SEWER SYSTEM

DIVISION I - DEFINITIONS

38-5-1 DEFINITIONS. Unless the context specifically indicates otherwise, the meaning of terms used in this Chapter shall be as follows:

"GOVERNMENT, FEDERAL".

(A) **"Administrator"** means the Administrator of the U.S. Environmental Protection Agency.

(B) **"Federal Act"** means the Federal Clean Water Act (**33 U.S.C. 466 et seq**) as amended, (**Pub. L. 95-217**).

(C) **"Federal Grant"** shall mean the U.S. government participation in the financing of the construction of treatment works as provided for by Title II-Grants for Construction of Treatment Works of the Act and implementing regulations.

"GOVERNMENT, LOCAL".

(A) **"Approving Authority"** shall mean the Superintendent of Sewage Works of the City or his authorized deputy, agent, or representative.

(B) **"NPDES Permit"** means any permit or equivalent document or requirements issued by the Administrator, or, where appropriated by the Director, after enactment of the Federal Clean Water Act to regulate the discharge of pollutants pursuant to Section 402 of the Federal Act.

(C) **"Person"** shall mean any and all persons, natural or artificial including any individual, firm, company, municipal or private cooperation, association, society, institution, enterprise, governmental agency or other entity.

(D) **"Inspector"** shall mean the Superintendent or other person or persons duly authorized by the City to inspect and approve the installation of building sewers and their connection to the sanitary sewer system.

"GOVERNMENT, STATE".

(A) **"Director"** means the Director of the Illinois Environmental Protection Agency.

(B) **"State Act"** means the Illinois Anti-Pollution Bond Act of 1970.

(C) **"State Grant"** shall mean the State of Illinois participation in the financing of the construction of treatment works as provided for by the Illinois Anti-Pollution Bond Act and for making such grants as filed with the Secretary of State of State of Illinois.

"CLARIFICATION OF WORD USAGE". "Shall" is mandatory; "may" is permissible.

"SEWER TYPES AND APPURTENANCES".

(A) **"Building Drain"** shall mean that part of the lowest piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer or other approved point of discharge, beginning **five feet (5') (1.5 meters)** outside the inner face of the building wall.

(B) **"Building Sewer"** shall mean the extension from the building drain to the public sewer or other place of disposal.

(C) **"Combined Sewer"** shall mean a sewer which is designed and intended to receive wastewater, storm, surface and groundwater drainage.

(D) **"Easement"** shall mean an acquired legal right for the specific use of land owned by other.

(E) **"Public Sewer"** shall mean a sewer provided by or subject to the jurisdiction of the City. It shall also include sewers within or outside the City boundaries that serve **one (1)** or more persons and ultimately discharge into the City sanitary sewer or combined sewer system, even though those sewers may not have been constructed with City funds.

(F) **"Sanitary Sewer"** shall mean a sewer that conveys sewage or industrial wastes or a combination of both, and into which storm, surface and groundwaters or unpolluted industrial wastes are not intentionally admitted.

(G) **"Sewer"** shall mean a pipe or conduit for conveying sewage or any other waste liquids, including storms, surface and groundwater drainage.

(H) **"Sewerage"** shall mean the system of sewers and appurtenances for the collection, transportation and pumping of sewage.

(I) **"Storm Sewer"** shall mean a sewer that carries storm, surface and groundwater drainage, but excludes sewage and industrial wastes other than unpolluted cooling water.

(J) **"Stormwater Runoff"** shall mean that portion of the precipitation that is drained into the sewers.

"TREATMENT":

(A) **"Pretreatment"** shall mean the treatment of wastewater from sources before introduction into the wastewater treatment works.

(B) **"Wastewater Treatment Works"** shall mean an arrangement of devices and structures for treating wastewater, industrial wastes, and sludge. Sometimes used as synonymous with "waste treatment plant" or "wastewater treatment plant" or "pollution control plant".

"TYPES OF CHARGES":

(A) **"Basic User Charge"** shall mean the basic assessment levied on all users of the public sewer system.

(B) **"Capital Improvement Charge"** shall mean the charge levied on users to improve, extend or reconstruct the sewage treatment works.

(C) **"Debt Service Charge"** shall be the amount to be paid each billing period for payment of interest, principal and coverage of (loan, bond, etc.) outstanding.

(D) **"Local Capital Cost Charge"** shall mean charges for costs other than the Operation, Maintenance and Replacements costs, i.e. debt service and capital improvement costs.

(E) **"Replacement"** shall mean expenditures for obtaining and installing equipment, accessories, or appurtenances which are necessary during the service life of the treatment works to maintain the capacity and performance for which such works were designed and constructed. The term "operation and maintenance" includes replacement.

(F) **"Sewerage Fund"** is the principal accounting designation for all revenues received in the operation of the sewerage system.

(G) **"Surcharge"** shall mean the assessment in addition to the basic user charge and debt service charge which is levied on those persons whose wastes are greater in strength than average concentration values as established by code.

(H) **"Useful Life"** shall mean the estimated period during which the collection system and/or treatment works will be operated.

(I) **"User Charge"** shall mean a charge levied on users of treatment works for the cost operation, maintenance and replacement.

(J) **"Wastewater Service Charge"** shall be the charge per quarter or month levied on all users of the Wastewater Facilities. The service charge shall be computed as outlined in Article IV of this Code and shall consist of the total or the Basic User Charge, the local capital cost and a surcharge, if applicable.

(K) **"Reserve Fund Charge"** shall mean a revolving fund for expansion and construction of the sewer system.

"USER TYPES":

(A) **"Control Manhole"** shall mean a structure located on a site from which industrial wastes are discharged. Where feasible, the manhole shall have an interior drop. The purpose of a "control manhole" is to provide access for the City representative to sample and/or measure discharges.

(B) **"Industrial User"** shall include establishments engaged in manufacturing activities involving the mechanical or chemical transformation of materials of substance into products.

(C) **"Residential User"** shall mean all dwelling units such as houses, buildings, mobile homes, apartments, permanent multi-family dwellings.

(D) **"User Class"** shall mean the type of user either "residential or commercial" (non-industrial) or "industrial" as defined herein.

(E) **"Commercial User"** shall include transit lodging, retail and wholesale establishments or places engaged in selling merchandise, or rendering services.

(F) **"Institutional/Governmental User"** shall include schools, churches, penal institutions, and users associated with Federal, State and local governments.

"WASTEWATER FACILITIES" shall mean the structures, equipment, and processes required to collect, carry away, and treat domestic and industrial wastes and transport effluent to a watercourse.

"WATERCOURSE AND CONNECTIONS":

(A) **"Watercourse"** shall mean a channel in which a flow of water occurs, either continuously or intermittently.

(B) **"Natural Outlet"** shall mean any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

"WASTEWATER AND ITS CHARACTERISTICS":

(A) **"BOD"** (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in **five (5) days** at **20 degrees centigrade (20°C)**, expressed in milligrams per liter.

(B) **"Effluent Criteria"** are defined in any applicable "NPDES Permit".

(C) **"Floatable Oil"** is oil, fat, or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. A wastewater shall be considered free of floatable fat if it is properly pretreated and the wastewater does not interfere with the collection system.

(D) **"Garbage"** shall mean solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage and sale of produce.

(E) **"Industrial Waste"** shall mean any solid, liquid or gaseous substance discharged, permitted to flow or escaping from any industrial, manufacturing, commercial or business establishment or process or from the development, recovery or processing of any natural resource as distinct from sanitary sewage.

(F) **"Major Contributing Industry"** shall mean an industrial user the publicly owned treatment works that:

- (1) Has a flow of 50,000 gallons or more per average work day; or
- (2) Has a flow greater than **ten percent (10%)** of the flow carried by the municipal system receiving the waste; or
- (3) Has in its waste, a toxic pollutant in toxic amounts as defined in standards issued under Section 307(a) of the Federal Act; or
- (4) Is found by the permit issuance authority, in connection with the issuance of the NPDES permit to the publicly owned treatment works receiving the waste, to have significant impact, either singly or in combination with other contributing industries, on that treatment works or upon the quality of effluent from that treatment works.

(G) **"Milligrams per Liter"** (mg/l) shall mean a unit of the concentration of water or wastewater constituent. It is 0.001 gram of the constituent in 1,000 milliliter of water. It has replaced the unit formerly used commonly, parts per million, to which it is approximately equivalent, in reporting the results of water and wastewater analysis.

(H) **"pH"** shall mean the logarithm (base 10) of the reciprocal of the hydrogen-ion concentration expressed by one of the procedures outlined in the IEPA Division of Laboratories Manual of Laboratory Methods.

(I) **"Population Equivalent"** is a term used to evaluate the impact of industrial or other waste on a treatment works or stream. One population equivalent is

100 gallons of sewage per day, containing 0.17 pounds of BOD and 0.20 pounds of suspended solids.

(J) **"ppm"** shall mean parts per million by weight.

(K) **"Properly Shredded Garbage"** shall mean the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than **one half inch (1/2") (1.27 centimeters)** in any dimension.

(L) **"Sewage"** is used interchangeably with "wastewater".

(M) **"Slug"** shall mean any discharge of water, sewage or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than **fifteen (15) minutes more than five (5) times** the average **twenty-four (24) hour** concentration or flows during normal operation.

(N) **"Suspended Solids"** (SS) shall mean solids that either float on the surface of, or are in suspension in water, sewage, or industrial waste, and which are removable by a laboratory filtration device. Quantitative determination of suspended solids shall be made in accordance with procedures set forth in the I.E.P.A. Division of Laboratories Methods.

(O) **"Unpolluted Water"** is water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.

(P) **"Wastewater"** shall mean the spent water of a community. From this standpoint of course, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, together with any groundwater, surface water, and stormwater that may be present.

(Q) **"Water Quality Standards"** are defined in the Water Pollution Regulations of Illinois.

38-5-2 - 38-5-3 RESERVED.

DIVISION II

USE OF PUBLIC SEWERS REQUIRED

38-5-4 DEPOSIT OF WASTES. It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City or in any area under the jurisdiction of the City, any human or animal excrement, garbage or other objectionable waste.

38-5-5 SEWAGE IN NATURAL OUTLET. It shall be unlawful to discharge to any natural outlet within the City, or in area under the jurisdiction of the City, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this ordinance.

38-5-6 PRIVATE SYSTEM, UNLAWFUL. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

38-5-7 CONNECTION TO SYSTEM REQUIRED. The owner of all the houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes situated within the City and abutting on any street, alley, right-of-way in which there is now located or may in the future be located any public sanitary (or combined) sewer of the City is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this Code, within **ninety (90) days** after date of official notice to do so, provided that said public sewer is within **two hundred feet (200')** of the nearest property line and adequate to handle the additional connection, where determined to be required.

38-5-8 - 38-5-9 RESERVED.

DIVISION III

PRIVATE SEWAGE DISPOSAL

38-5-10 PRIVATE SEWAGE SYSTEM. Where a public sanitary sewer is not available under the provisions of **Section 38-5-7**, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this division.

38-5-11 HEALTH DEPARTMENT APPROVAL. Before commencement of construction of a private sewage disposal system the owner shall first obtain a written permit from the appropriate Health Department. The application for such permit shall be made on a form furnished by the City (reference Appendix #2) which the applicant shall supplement by any plans, specifications and other information as deemed necessary by the Superintendent. A permit and inspection fee of **One Hundred Dollars (\$100.00)** shall be paid to the City at the time the application is filed.

38-5-12 PERMIT APPROVAL. A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Superintendent. He shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Superintendent when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within hours of the receipt of written notice by the Superintendent.

38-5-13 COMPLIANCE WITH STATE REQUIREMENTS. The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendations of the State of Illinois Private Sewage Disposal Licensing Act and Code and with the State of Illinois Environmental Protection Agency. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than **forty thousand (40,000) square feet**. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

38-5-14 AVAILABILITY OF PUBLIC SEWER. At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in **Section 38-5-12**, a direct connection shall be made to the public sewer in compliance with this Code, and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

38-5-15 OPERATION OF PRIVATE SYSTEM. The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, and at no expense to the City.

38-5-16 ADDITIONAL RESTRICTIONS. No statement contained in this Article shall be construed to interfere with any additional requirements that may be imposed by the Local Health Officer.

38-5-17 TIME CONSTRAINTS FOR PUBLIC SEWER. When a public sewer becomes available, the building sewer shall be connected to said sewer within **sixty (60) days** and the private sewage disposal system shall be cleaned of sludge and filled with clean bank-run gravel or dirt.

38-5-18 - 38-5-20 RESERVED.

DIVISION IV

BUILDING SEWERS AND CONNECTIONS

38-5-21 DISTURBING SYSTEM UNLAWFUL. No unauthorized person shall uncover, make any connections with, or opening into; use; alter; or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Superintendent.

38-5-22 COMPLIANCE WITH REGULATING AUTHORITIES. All disposal by any person into the sewer system is unlawful except those discharges in compliance with Federal Standards promulgated pursuant to the Federal Act and more stringent State and local standards.

38-5-23 CLASSES OF PERMITS.

(A) There shall be **two (2)** classes of building sewer permits as follows:

- (1) Residential wastewater service.
- (2) Service to Commercial or Institutional establishments or industrial wastewater service.

(B) In either case, the owner or his agent shall make applications on a special form furnished by the City. **(See Appendix)** The fee per connection shall be paid to the City at the time the application is filed pursuant to Article IV; Division III of this Chapter.

(C) The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Superintendent. The industry, as a condition of permit authorization, shall provide information describing its wastewater constituents, characteristics and type of activity.

38-5-24 COST BORNE BY OWNER. All costs and expenses including labor and material incidental to the installation, connection and maintenance of a lateral sewer line shall be borne by the owner(s). The owner(s) shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation, connection and maintenance of the lateral sewer lines. This section shall apply even where the lateral sewer line runs under a public street, public right-of-way, or public easement.

38-5-25 SEPARATE SEWER: EXCEPTION. A separate and independent building sewer shall be provided for every building, except that where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front

building may be extended to the rear building and the whole considered as one building sewer; except for sewer connection charges accruing from such buildings or properties.

38-5-26 OLD BUILDING SEWERS. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Superintendent, to meet all requirements of this Code.

38-5-27 CONSTRUCTION METHODS. The size, slope, depth and alignment, of the building sewer shall be subject to the approval of the Superintendent. In no case shall the inside diameter of the building sewer be less than **four inches (4")**. If **six inch (6") diameter pipe** is used, the slope shall not be less than **one-eighth (1/8") inch** per foot. If **four inch (4") or five inch (5") diameter pipe** is used, the slope shall not be less **one-fourth (1/4") inch** per foot. The depth of the building sewer shall be sufficient to afford protection from frost. The building sewer shall be laid at a uniform grade and in straight alignment, insofar as possible. Changes in direction shall be made only with properly curved pipe and fittings, unless the break in alignment is made at a manhole facilitating servicing. Installation shall be in accordance with Standard Specifications for Water and Sewer Main Construction in Illinois.

All building sewers shall be constructed of materials approved by the City. Generally all building sewers shall be constructed of the following materials:

- (A) Cast or ductile iron pipe
- (B) ABS solid wall plastic pipe (6" diameter maximum)
- (C) PVC solid wall plastic pipe (6" diameter maximum) SDR-35

All pipe joints must be gaslight and watertight and are subject to the approval of the City. Transition joints from one pipe material to another shall be made using fittings manufactured for such transitions.

38-5-28 PLUMBING CODE REQUIREMENTS. The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the American Society of Testing materials, Water Pollution Control Federation Manual of Practice No. 9, and Standard Specifications for Water and Sewer Main Construction in Illinois shall apply.

38-5-29 ELEVATION. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by a means which is approved in accordance with **Section 38-5-22** and discharged to the building sewer.

38-5-30 PROHIBITED CONNECTIONS. No person(s) shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to public sanitary sewer.

38-5-31 CONNECTIONS TO SEWER MAINS. Building sewer connections with any sewer shall be made only at manholes or other such junctions as may be provided or designated by the City, and then only in such manner as directed. The connection of the building sewer shall be made at a wye branch, if such branch is available. The building service sewer shall generally enter the sewer main or lateral by way of an existing wye. In the event of absence of the wye, the connection to the sewer main or lateral shall be made by one of the methods indicated below.

(A) Installation of a manhole

(B) Circular saw-cut sewer main by proper tools ("Sewer Tap" machine or similar), and proper installation of hub wye saddle, in accordance with manufacturer's recommendation. This method shall not be allowed when the wye branch is larger than **four (4) inches** in diameter.

(C) Using the pipe cutter only, neatly and accurately cut out desired length of pipe for insertion of proper fitting. Remove both hub and bell ends, or other compression couplings from wye branch fitting to allow the wye branch to be inserted with no more than a total of **one-half (1/2) inch** gap. Use "Band Seal" couplings, or similar couplings, and shear rings and clamps to fasten the inserted fitting and hold it firmly in place. The entire section shall then be encased in concrete having a minimum thickness of **four (4) inches** and extending **eight (8) inches** beyond each joint.

On Site Inspection. After the wye branch has been inserted and jointed, and before any additional fittings have been placed in the service line, the installation shall be approved by the Superintendent, or his authorized representative. After approval is granted the contractor shall encase the work area as specified herein.

Backfill. To be placed in accordance with The Standard Specifications for Water and Sewer Main Construction in Illinois, Current Edition. In addition, any building sewers crossing any street, or traveled alley shall be backfilled with granular backfill material.

Concrete Encasement. When a riser is constructed and its height is **four (4) feet** or more measured from the flowline of the sewer main to the top of the riser pipe, the wye connection shall be encased in concrete to a height of at least **one foot six inches (1' 6")**

above the flowline of the sewer main. When the height of the riser is less than **four (4) feet** above the flowline of the sewer main, the wye connection shall be backfilled to the top of the riser pipe with carefully placed and compacted granular backfill.

38-5-32 CAPACITY OF SEWER. A building sewer permit will only be issued and a sewer connection shall only be allowed if it can be demonstrated that the downstream sewerage facilities, including sewers, pump stations and wastewater treatment facilities, have sufficient reserve capacity to adequately and efficiently handle the additional anticipated waste load.

38-5-33 TAP-IN SUPERVISION AND TESTING. The applicant for the building sewer permit shall notify the City when the building sewer is ready for inspection and connection to the public sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the City or its representative.

At any time after the installation of the building sewer, the City may test the building sewer for violation of this ordinance.

38-5-34 INSPECTION. After the building sewer has been constructed in the trench but before the sewer is backfilled, the applicant for the building sewer permit shall notify the Superintendent that the building sewer is ready for inspection. If the sewer has been constructed properly, permission will be given to backfill the trench. If the sewer construction is found to be unsuitable, the permit applicant will correct the installation to meet City's requirements.

38-5-35 PUBLIC SEWER CONNECTION. The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code, or other applicable rules and regulations of the City, or the procedures set forth in appropriate specifications of the American Society of Testing Materials, Water Pollution Control Federation Manual of Practice No. 9, and Standard Specifications for Water and Sewer Main Construction in Illinois. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the City before installation.

38-5-36 PROTECTION OF PROPERTY. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City.

38-5-37 BOND REQUIRED. If the applicant for the building sewer permit does not have a general bond on file with the City, the applicant shall furnish a corporate surety bond in an amount **one and one-half (1 1/2) times** the cost of the contemplated work for which the permit is to be issued.

Any experienced sewer builder or drain layer may furnish to the City a continuing surety bond in the sum of **Five Thousand Dollars (\$5,000.00)** to apply to all building sewer permits issued to such builder or to the principals thereof for a term of **one (1) year** from the date thereof subject to renewal from year to year, and such continuing bond may be accepted in behalf of the City in lieu of a special bond to cover each permit issued during the term of the bond.

Home owners wishing to install their own building services are not required to post a bond. Any person performing building sewer work for hire shall post the bond.

38-5-38 UNLAWFUL DISCHARGES. All disposal by any person into the sewer system is unlawful except those ordinances in compliance with Federal Standards promulgated pursuant to the Federal Act and more stringent State and local standards.

38-5-39 - 38-5-41 RESERVED.

DIVISION V - EXTENSION OF COLLECTING SEWERS

38-5-42 PERMIT REQUIRED; AUTHORIZED PERSONNEL. No person, not an authorized employee of the City, shall make any connection with, uncover, alter or disturb a City sewer, or open any manhole, intercepting chamber, or any appurtenance thereof without first obtaining a written permit to do so from the City, and no person shall make any connection or opening into any sewer, the flow of which is directly or indirectly discharged into any City sewer, without first obtaining a written permit to do so from the City.

38-5-43 EXTENSION PERMITS. Issuance of sewer extension permits shall be initiated by an application for construction permit. The application shall be made on the forms provided by the IEPA, shall be fully completed by the applicable persons or parties, and shall be accompanied by a set of plans, specifications, and any other information as may be required by the City.

Plans and specifications shall be prepared by a registered professional engineer and approval thereof must be obtained from the City and IEPA.

If the application is in proper form, and the sewer extension indicated therein appears to be in accordance with this ordinance and all state and federal requirements, the City shall issue the permit for construction of the sewer. If otherwise, the application for permit shall be denied by the City. There shall be no fee charged for sewer extension application or permits.

If the application is denied by the City, they shall state the reason or reasons therefore in writing, mailed or personally delivered to the applicant. The applicant shall have the right to amend such application in conformity with the reasons given for denial, and resubmit it to the City for further consideration.

All permits issued under this Article V shall have an expiration date of **two (2) years** after the date of issuance. Any sewers not constructed prior to the date of expiration shall have a new application submitted and a new permit issued prior to their construction.

The applicant for the permit shall furnish a corporate surety bond in an amount **one and one-half (1 1/2) times** the cost of the contemplated work for which the permit is to be issued.

38-5-44 MATERIALS. All sewer extensions shall be constructed of the following materials:

(A) Sewer pipe with diameters **eight (8) inches** and larger shall be one of the following:

- (1) ABS composite pipe conforming to ASTM D-2680 with solvent weld joints or O-ring rubber gasket joints as referenced in ASTM D-2680.
- (2) PVC sewer pipe SDR-35 conforming to ASTM D3033 or D3034 with joints conforming to ASTM D3212.
- (3) No clay pipe or tiles shall be permitted.

(B) Laterals and fittings from the sewer to the property lines shall be **six (6) inch** diameter and

- (1) of comparable material to the sewer main for VCP and PVC pipe.
- (2) for ABS pipe use ABS solid wall pipe SDR-23.5 conforming to ASTM D-2751.

38-5-45 INSPECTIONS OF CONSTRUCTION. Construction of the sewers shall be inspected under competent supervision supplied by a registered professional engineer and upon completion of construction, accurate detailed plans as constructed ("record drawings") shall be certified and submitted by the professional engineer to the City before any applications for building sewer permits are filed; all at the expense of the Owner. These plans shall show all elevations as installed as well as accurate measurements showing the locations of service connections. The Engineer shall also submit a certified statement showing the source, place and volume of foreign waters.

All sewers shall be subjected to:

(A) A lamp test which shall provide that from one manhole to another, at least **one-half (1/2)** of the pipe end area shall be visible.

(B) Infiltration or exfiltration test with acceptable allowance of 200 gallons per day per inch diameter per mile;

(C) Under special circumstances, when approved by the City, air pressure testing with allowance to be specified by the City.

When any sewer line fails to pass the infiltration test, the exfiltration test, or an air pressure test, the sewer line shall be televised in the presence of the City's representatives to determine points of faulty construction. The Owner shall repair all defects; the method of repair shall be subject to the approval of the City.

38-5-46 MANHOLES REQUIRED. Manholes shall be installed at all changes in grade and/or direction and at distances not greater than **three hundred fifty (350) feet** apart. All manhole covers shall be watertight and self-sealing, incorporating an "O" ring gasket. All covers shall have concealed pick holes. Where manhole covers may be subjected to frequent and extreme submergence, additional watertightness shall be ensured by using bolt down covers. The access diameter of the manhole shall be at least **twenty-two (22) inches. (Ord. No. 98-3; 02-05-98)**

38-5-47 MANHOLE SPECIFICATIONS. The following specifications shall apply to the installation of all sewer manholes:

(A) Each manhole shall be a reinforced precast concrete structure with an inside diameter of **forty-eight (48) inches**. Each structure shall have a minimum wall thickness of **four (4) inches**, and shall have a precast concrete base using a positive seal gasket system to connect to the sewer lines.

(B) Poured in place or "bricked" structures shall not be used.

(C) Each precast structure shall be furnished with steel reinforced plastic steps.

(D) Each joint between the precast components shall be sealed with a rubber mastic sealant, including all adjustment rings.

(E) No more than **two (2)** precast adjustment rings shall be used to adjust the overall finished height of the manhole. In no case shall the total height of the adjustment rings exceed **eight (8) inches**.

(F) The manhole frame and lid shall be cast iron. The frame shall be **nine (9) inches** in height and shall have a minimum access diameter of **twenty-two (22) inches**. The lid shall have a self sealing rubber bead around the inside perimeter, and the face of the lid shall be labeled "Sanitary Sewer". The frame and lid shall be R-1713 as manufactured by the Neenah Foundry Company, or an approved equal.

38-5-48 RESERVED.

DIVISION VI

USE OF PUBLIC WASTEWATER FACILITIES

38-5-49 DISCHARGE OF STORM WATER. No person shall discharge, or cause to be discharged, any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer.

38-5-50 STORM WATER. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged on approval of the City, to a storm sewer, or natural outlet.

38-5-51 REGULATIONS OF WASTES. No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

(A) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solids, or gas.

(B) Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant.

(C) Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.

(D) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

38-5-52 HARMFUL EFFECTS OF CERTAIN MATERIALS. No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Superintendent that such wastes can harm either the sewers, sewage treatment process or equipment; have an adverse effect on the receiving stream; or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the Superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree

of treatability of wastes in the sewage treatment plant, and maximum limits established by regulatory agencies. The substances prohibited are:

(A) Any liquid or vapor having a temperature higher than **One Hundred Fifty degrees Fahrenheit (150°F), (65°C)**.

(B) Any waters or wastes containing toxic or poisonous materials; or oils, whether emulsified or not, in excess of **One Hundred (100) mg/l** or containing substances which may solidify or become viscous at temperatures between **Thirty-Two (32) and One Hundred Fifty degrees Fahrenheit (150°F), (0 and 65°C)**.

(C) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of **three-fourths (3/4) horsepower (0.76 hp metric)** or greater shall be subject to the review and approval of the City.

(D) Any waters or wastes containing strong acid, iron pickling wastes, or concentrated plating solution whether neutralized or not.

(E) Any waters or wastes containing iron, chromium, copper, zinc, or similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the City for such materials.

(F) Any waters or wastes containing phenols or other waste odor-producing substances, in such concentration exceeding limits which may be established by the City as necessary after treatment of the composite sewage, to meet the requirements of the State, Federal, or other public agencies of jurisdiction for such discharge to the receiving waters.

(G) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the City in compliance with applicable State or Federal regulations.

(H) Any mercury or any of its compounds in excess of **0.0005 mg/l as Hg** at any time except as permitted by the City in compliance with applicable State and Federal regulations.

(I) Materials which exert or cause:

- (1) unusual concentrations or inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate);
- (2) excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions);
- (3) unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works;
- (4) unusual volume of flow or concentrations of wastes constituting "slugs" as defined herein.

(J) Waters or wastes containing substances which are not amendable to treatment or reduction by the sewage treatment processes employed, or are amendable

to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of agencies having jurisdiction over discharge to the receiving waters.

(K) Any waters or wastes having a pH in excess of 9.5.

(L) Any cyanide in excess of 0.025 mg/l at any time except as permitted by the City in compliance with applicable State and Federal regulations.

38-5-53 HARMFUL WASTES; APPROVAL.

(A) If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in **Section 38-5-35** of this Division, and/or which are in violation of the standards for pretreatment provided in 40 CFR 403, June 26, 1978 and any amendments thereto, and which in the judgment of the Superintendent may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

- (1) reject the wastes;
- (2) require pretreatment to an acceptable condition for discharge; and/or;
- (3) require control over the quantities and rates for discharge; and/or;
- (4) require payment to cover the added costs of handling and treating the wastes not covered by existing taxes or sewer charges, under the provisions of **Section 38-5-42.**

(B) If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent, and subject to the requirements of all applicable codes, articles, and laws.

(C) The owner of the pretreatment or equalization facilities shall obtain construction and operating permits from the Illinois Environmental Protection Agency prior to the issuance of final approval by the Superintendent.

(D) Where multiple process or discharges are present or contemplated at an industry, the City shall have the authority to require the owner or person to furnish and install more than one control manhole with appurtenances and/or require that all wastewater be discharged through a single control manhole or structure with appurtenances described herein.

38-5-54 GREASE AND OIL INTERCEPTORS. Grease, oil, and sand interceptors shall be provided when, in the opinion of the Superintendent they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection.

38-5-55 FLOW-EQUALIZING FACILITIES. Where preliminary treatment or flow-equalizing facilities are provided, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

38-5-56 INDUSTRIAL WASTES CONTROL MANHOLE. Each industry shall be required to install a control manhole and, when required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessible and safety located, and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.

38-5-57 INDUSTRIAL WASTE TESTING.

(A) The owner of any property serviced by a building sewer carrying industrial wastes shall provide laboratory measurements, tests, and analyses of waters and wastes to illustrate compliance with this Code and any special conditions for discharge established by the City or regulatory agencies having jurisdiction over the discharge.

(B) The number, type, and frequency of laboratory analyses to be performed by the owner shall be as stipulated by the City, but no less than once per year the industry must supply a complete analysis of the constituents of the wastewater discharge to assure that compliance with the Federal, State, and local standards are being met. The owner shall report the results of measurements and laboratory analyses to the City at such times and in such a manner as prescribed by the City. The owner shall bear the expense of all measurements, analyses, and reporting required by the City. At such times as deemed necessary the City reserves the right to take measurements and samples for analysis by an outside laboratory service.

38-5-58 MEASUREMENTS AND TESTS. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this Code shall be determined in accordance with the latest edition of **IEPA Division of Laboratories Manual of Laboratory Methods**, and shall be determined at the control manhole provided, or upon suitable samples taken at the control manhole. In the event that no special manhole has been required the control manhole shall be considered to be the nearest downstream manhole

in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a **twenty-four (24) hour** composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from **twenty-four (24) hour** composites of all outfalls, whereas pH's are determined from periodic grab samples.)

38-5-59 SPECIAL ARRANGEMENTS. No statement contained in this Article shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment therefore, in accordance with the Chapter, hereof, by the industrial concern provided such payments are in accordance with Federal and State guidelines for User Charge System and Industrial Cost Recovery System. **(See Article IV - Division III of this Code)**

38-5-60 - 38-5-64 RESERVED.

DIVISION VII

INSPECTIONS

38-5-65 DAMAGE. No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, or tamper with any structure, appurtenance, or equipment which is part of the sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

38-5-66 INSPECTION AND TESTING.

(A) The Superintendent and other duly authorized employees of the City, the Illinois Environmental Protection Agency, and the United States Environmental Agency, bearing proper credentials and identification, shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this Code.

(B) The Superintendent or his representative shall have no authority to inquire into any processes, including metallurgical, chemical, oil refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterway or facilities for waste treatment.

38-5-67 LIABILITY OF CITY. While performing the necessary work on private properties referred to in **Section 38-5-66** above, the Superintendent or duly authorized employees of the City, the Illinois Environmental Protection Agency, and the United States Environmental Protection Agency shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the City employees and the City shall indemnify the company against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain conditions as required in **Section 38-5-57.**

38-5-68 PRIVATE PROPERTY INSPECTIONS. The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within the easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

38-5-69 - 38-5-70 RESERVED.

DIVISION VIII - PENALTIES

38-5-71 PENALTY. Any person found to be violating any provision of this Code except **Section 38-5-65** shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

The City may revoke any permit for sewage disposal as a result of any violation of any provision of this ordinance.

38-5-72 CONTINUED VIOLATIONS. Any person who shall continue any violation beyond the time limit provided for in **Section 38-5-50** shall be, upon conviction, be fined in the amount not exceeding **Seven Hundred Fifty Dollars (\$750.00)** for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.

38-5-73 LIABILITY TO CITY. Any person violating any of the provisions of this Chapter shall become liable to the City by reason of such violation.

38-4-74 RESERVED.

DIVISION IX

EXTENSION OF MAINS

38-5-75 DETERMINATION OF WHO PAYS EXPENSE OF EXTENSION.
(A) **Determination of Who Pays Expense of Extension.** The City shall first determine if an extension of a sewer main is economically feasible based on the estimated extension. If the extension is economically feasible then the City may install and pay the cost of the extension at the discretion of the City Council. If the City elects not to pay the cost of extending the sewer main then the person or persons desiring sewer service shall install the extension at their own personal expense upon written consent by the City Council. The City shall not pay for any extensions to an undeveloped area such as a subdivision being developed unless there are sufficient existing residents or businesses to make the extension economically feasible.

(B)
than the City.

Requirements if Extension is Installed by Someone Other

- (1) The City must approve all plans and specifications for any extensions.
- (2) Before any extensions are installed, the plans and specifications must be reviewed and approved by the State of Illinois, Environmental Protection Agency.
- (3) Ownership, rights-of-way, and title must be conveyed to the City for all extensions installed by anyone other than the City. The City will maintain the mains thereafter.
- (4) No extension will be permitted if in the opinion of the City Council, the system does not have the necessary capacity to serve the proposed extension.

38-5-76 CHANGE IN OCCUPANCY.

(A) Any user requesting a termination of service shall give written notice to the City **ten (10) days** prior to the time such termination of service is desired.

(B) Responsibility for payment for sewer service prior to the date of termination shall be with the property owners as well as the user.

(C) There shall be no charge for transferring the sewer service to the subsequent user.

NEWTON, ILLINOIS
PRIVATE SEWAGE DISPOSAL APPLICATION

A. The undersigned, being the _____ of the property located
(owner, owner's agent)
at _____ does hereby request a permit to install sanitary sewage
(Number) (Street)
disposal facilities to serve the _____ at the location.
(residence, commercial building, etc.)

1. The proposed facilities include: _____ to be constructed in complete accordance with the plans and specifications attached hereunto as **Exhibit "A"**.
2. The area of the property is [_____] square feet or [_____] square meters.
3. The name and address of the person or firm who will perform the work is _____
4. The maximum number of persons to be served by the proposed facilities is _____
5. The location and nature of all sources of private or public water supply within **two hundred feet (200')** [61 meters] of any boundary of said property are shown on the plat attached hereunto as **Exhibit "B"**.

IN CONSIDERATION OF THE GRANTING OF THIS PERMIT, THE UNDERSIGNED AGREES:

1. To furnish any additional information relating to the proposed work that shall be requested by the City.
2. To accept and abide by all provisions of the **City Code** and of all other pertinent codes or ordinances that may be adopted in the future.
3. To operate and maintain the wastewater disposal facilities covered by this application in a sanitary manner at all times, in compliance with all requirements of the City and at no expense to the City.
4. To notify the City **at least twenty-four (24) hours** to commencement of the work proposed, and again **at least twenty-four (24) hours** prior to the covering of any underground portions of the installation.

DATE: _____, 19__

SIGNED: _____
(APPLICANT)

(ADDRESS OF APPLICANT)

(CERTIFICATION BY CITY TREASURER)

\$_____ (Inspection Fee Paid)

DATE: _____, 19__

\$_____ (Connection Fee Paid)

SIGNED: _____
(CITY TREASURER)

(APPLICATION APPROVED AND PERMIT ISSUED)

DATE: _____, 19__

SIGNED: _____
(CITY CLERK)

NEWTON, ILLINOIS
RESIDENTIAL OR COMMERCIAL BUILDING SEWER APPLICATION

The undersigned, being the _____ of the property
(owner, owner's agent)
located at _____ does hereby request a permit to install and connect a building
(Number)(Street)
sewer to serve the _____ at said location.
(residence, commercial building, etc.)

1. The following indicated fixtures will be connected to the proposed building sewer:

NUMBER FIXTURE

NUMBER FIXTURE

_____	Kitchen Sinks	_____	Water Closets
_____	Lavatories	_____	Bathtubs
_____	Laundry Tubs	_____	Showers
_____	Urinals	_____	Garbage Grinders

Specify Other Fixtures: _____

2. The maximum number of persons who will use the above fixtures is _____.
3. The name and address of the person or firm who will perform the proposed work is _____
4. Plans and specifications for the proposed building sewer are attached hereunto as **Exhibit "A"**.

IN CONSIDERATION OF THE GRANTING OF THIS PERMIT, THE UNDERSIGNED AGREES:

- To accept and abide by all provisions of the **City Code**, and of all other pertinent ordinances and codes that may be adopted in the future.
- To maintain the building sewer at no expense to the City.
- To notify the City when the building sewer is ready for inspection and connection to the public sewer, but before any portion of the work is covered.

DATE: _____, 19__

SIGNED: _____
(APPLICANT)

(ADDRESS OF APPLICANT)

(CERTIFICATION BY CITY TREASURER)

\$ _____ (Inspection Fee Paid)

DATE: _____, 19__

\$ _____ (Connection Fee Paid)

SIGNED: _____
(CITY TREASURER)

(APPLICATION APPROVED AND PERMIT ISSUED)

DATE: _____, 19__

SIGNED: _____
(CITY CLERK)

NEWTON, ILLINOIS
INDUSTRIAL SEWER CONNECTION APPLICATION

The undersigned, being the _____ of the property
(owner, owner's agent)
located at _____ does hereby request a permit to _____
(Number)(Street) (install, use)
an industrial sewer connection serving the _____, which company is engaged in
_____ at said location.

1. A plan of the property showing accurately all sewers and drains now existing is attached hereunto as **Exhibit "A"**.
2. Plans and specifications covering any work proposed to be performed under this permit is attached hereunto as **Exhibit "B"**.
3. A complete schedule of all process waters and industrial wastes produced or expected to be produced at said property, including a description of the character of each waste, the daily volume and maximum rates of discharge and representative analyses is attached hereunto as **Exhibit "C"**.
4. The name and address of the person or firm who will perform the work covered by this permit is _____

IN CONSIDERATION OF THE GRANTING OF THIS PERMIT, THE UNDERSIGNED AGREES:

1. To furnish any additional information relating to the installation or use of the industrial sewer for which this permit is sought as may be requested by the City.
2. To accept and abide by all provisions of the **City Code**, and of all other pertinent ordinances or codes that may be adopted in the future.
3. To operate and maintain a control manhole and any waste pretreatment facilities, as may be required as a condition of the acceptance into the public sewer of the industrial wastes involved in an efficient manner at all times, and at no expense to the City.
4. To cooperate at all times with the City and its representative(s) in their inspecting, sampling, and study of the industrial wastes, and any facilities provided for pretreatment.
5. To notify the City immediately in the event of any accident, negligence, or other occurrence that occasions discharge to the public sewers of any wastes or process waters not covered by this permit.

DATE: _____, 19__

SIGNED: _____

(APPLICANT)

(ADDRESS OF APPLICANT)

(CERTIFICATION BY CITY TREASURER)

\$_____ (Inspection Fee Paid)

DATE: _____, 19__

\$_____ (Connection Fee Paid)

SIGNED: _____

(CITY TREASURER)

(APPLICATION APPROVED AND PERMIT ISSUED)

DATE: _____, 19__

SIGNED: _____

(CITY CLERK)

NEWTON, ILLINOIS
APPLICATION FOR WATER SYSTEM SERVICE CONNECTION

The undersigned, representing himself as owner of the property located at _____, hereby makes application for connection to the Water System of the City for said property, and in consideration of the furnishing of said service covenants and agrees as follows:

1. I agree to abide by all rules and regulations as specified in and by the ordinances of the City now in effect or enacted and passed from time to time providing for the regulation of service furnished by the City, it is further acknowledged and agreed that the undersigned, his heirs, executors, administrators, successors and assigns shall pay all charges for connection fees and water usage which shall become due as the result of the connecting of the water mains and the furnishing of water service to the above property, and that all such charges and fees for water service rendered to the property, together with penalties, if any, and the costs of collection are to be considered and become a charge against the property, the lien so created to be enforced in accordance with the ordinances of the City.
2. All bills for the aforesaid charges are payable within **fifteen (15) days** following the receipt of said bill and if not paid, are subject to a **five percent (5%)** penalty.
3. Each and all of the agreements and covenants herein contained shall run with the real estate above described whose present owner is signatory to this application.
4. I understand that after making this application, I am to await installation permit and instructions therewith.
5. SERVICE CONNECTION FEE: \$ _____ is enclosed herewith, payable to the City.
6. Permission is hereby granted to the City and its authorized representatives at any reasonable time to enter the premises of the applicant and any portion thereof for the purposes of inspecting all connections appurtenant to the Water System.

CONNECTION MUST BE INSPECTED BEFORE BACKFILLING:

SIGNATURE: _____

(STREET NUMBER AND NAME OF STREET)

(CITY, STATE AND ZIP CODE)

(TELEPHONE NUMBER)

(DATE)

Do not fill in the
spaces to the right
if the information
is the same as the
applicant above.

MAIL BILLS TO:

(
(
(NAME)
(
(STREET NUMBER AND NAME OF STREET)
(
(
(CITY, STATE AND ZIP CODE)

NEWTON, ILLINOIS
APPLICATION FOR SANITARY SEWER SERVICE CONNECTION

The undersigned, representing himself as owner of the property located at _____, hereby makes application for Sanitary Sewerage Service for said property, and in consideration of the furnishing of said service covenants and agrees as follows:

1. I agree to abide by all rules and regulations as specified in and by the ordinances of the City now in effect or ordinances enacted and passed from time to time providing for the regulation of the sanitary sewer system or specifying fees and rates to be charged for connection and sanitary sewer service furnished by the City. It is further acknowledged and agreed that the undersigned, his heirs, executors, administrators, successors and assigns shall pay all charges for connection fees and sewer usage which shall become due as the result of the connecting of the sewerage mains and the furnishing of sanitary sewerage service to the above property, and that all such charges and fees for sanitary sewerage service rendered to the property, together with penalties, if any, and the costs of collection are to be considered and become a charge against the property, the lien so created to be enforced in accordance with the ordinances of the City.
2. All bills for the aforesaid charges are payable within **fifteen (15) days** following the receipt of said bill and if not paid, are subject to a **five percent (5%)** penalty.
3. Each and all of the agreements and covenants herein contained shall run with the real estate above described whose present owner is signatory to this application.
4. I understand that after making this application, I am to await installation permit and instructions therewith.
5. SERVICE CONNECTION FEE: \$ _____ is enclosed herewith, payable to the City.
6. Permission is hereby granted to the City and its authorized representatives at any reasonable time to enter the premises of the applicant and any portion thereof for the purposes of inspecting all connections appurtenant to the sewerage outlets, pipes and mains.

(APPLICANT'S SIGNATURE)

(STREET NUMBER AND NAME OF STREET)

(OWNER'S SIGNATURE, IF NOT APPLICANT)

(CITY, STATE AND ZIP CODE)

(TELEPHONE NUMBER)

(DATE)

Do not fill in the
spaces to the right
if the information
is the same as the
applicant above.

MAIL BILLS TO:

(

(NAME)

(

(STREET NUMBER AND NAME OF STREET)

(

(CITY, STATE AND ZIP CODE)

NEWTON, ILLINOIS

R E C E I P T

Receipt is hereby acknowledged of the executed Application for Sanitary Sewer Service Connection from the person and for the property indicated below.

This receipt does not authorize service connection is made, inspection and approval of the customer service line by an authorized representative of the City is required, and approval of such connection and issuance of a Certificate of Inspection and Approval and Permit is conditioned upon compliance with all the Ordinances, Codes, Rules and Regulations of the **City**.

NOTE:

1. In the event the location of the sewer service connection is unknown, the Superintendent is to be contacted.
2. This office is to be notified the day before the work is to be done so that inspection may be arranged in accordance with specifications furnished. For example, if you desire inspection on Tuesday, contact us on Monday. If you desire inspection on Monday, contact us on Friday, etc.
3. If the sewer line is deep enough to drain your basement, if you have one, then the wastes from the basement as well as the other floor(s) of the property must go into the sanitary sewers. Downspout and surface drainage are prohibited inasmuch as this is not a storm sewer system.

WARNING! In order to coordinate our inspections, we must be advised a day in advance before the work is done. The inspection must be made before the trench is backfilled. If trench is backfilled before the inspection is made, it will have to be reopened to permit inspection.

NO. _____

**CITY OF NEWTON
JASPER COUNTY, ILLINOIS**

DATE: _____

ADDRESS: _____

OWNER(S): _____

NEWTON, ILLINOIS
CERTIFICATE OF INSPECTION, APPROVAL AND PERMIT

IT IS HEREBY CERTIFIED THAT inspection has been made of the individually-owned sewer mains and sanitary service connection for the property described below, and said installation is hereby approved as in compliance with the Specifications, Rules and Regulations established by the Revised Code (Ch. 38) of this Municipality.

Permission is hereby granted to complete the construction of said individually-owned sewer main to the City Sanitary Sewerage System and to utilize the same for waste disposal in compliance at all times, with the Revised Code of this City.

NO. _____

ADDRESS: _____

TYPE OF CONNECTION:

_____	Single-Family Residence
_____	Multiple dwelling or trailer court
_____	Commercial
_____	Industrial
_____	Institutional
_____	Governmental

INSTALLATION BY: _____

THE SERVICE IS IN OPERATION AS OF THIS _____ DAY OF _____, 19__.

CITY OF NEWTON
JASPER COUNTY, ILLINOIS

SIGNED: _____

CITY OF NEWTON
UTILITY MAIN EXTENSION CONTRACT

AGREEMENT made and entered into this _____ day of _____, by and between the Utility System of the **City of Newton, Illinois**, hereinafter called the "Utility Department" and _____, hereinafter called the "Depositor".

FIRST: That the Utility Department contracts and agrees to have installed by contract in accordance with its rules, utility mains as shown on the plat thereof, and the specifications are attached hereto and made a part hereof.

SECOND: Bids having been taken and the lowest responsible bid having been in the amount of \$_____, the Depositor agrees to deposit and does deposit herewith the cost thereof.

- (A) The lowest responsible bid \$_____.
- (B) Engineering and Inspection Charge \$_____.
- (C) TOTAL: \$_____.

THIRD: Final costs to be adjusted up or down according to completed job cost.

FOURTH: The ownership of the utility mains laid herein shall be at all times in the Utility Department, its successors and assigns.

FIFTH: This Agreement shall be valid and binding on the Utility Department only when signed by the Mayor and Clerk.

SIXTH: This Agreement shall be binding upon the heirs, executors, administrators, successors or assigns of the respective parties.

EXECUTED in duplicate by the parties hereto on the date first above written.

UTILITY DEPARTMENT
CITY OF NEWTON, ILLINOIS

BY: _____

ATTEST:

DIRECTOR OF PUBLIC WORKS

CITY CLERK

APPLICANT/DEPOSITOR

WITNESSES:

CITY OF NEWTON
UTILITY SHUTOFF HEARING NOTICE

This notice is being sent to you pursuant to the provisions of **CHAPTER 38 OF THE REVISED CODE OF ORDINANCES** as adopted by the corporate authorities.

CUSTOMER'S NAME: _____

ADDRESS: _____

TOTAL AMOUNT OF BILL: \$_____ WATER

 \$_____ SEWER

 \$_____ OTHER

SUB-TOTAL: \$_____

PENALTY: \$_____

TOTAL DUE: \$_____

DATE OF HEARING _____

TIME OF HEARING _____

LOCATION OF HEARING _____

PHONE: _____

If the consumer/customer fails to appear at the hearing, the applicable utility services shall be **terminated** [shut off] without further proceedings.

If payment for the charges and fees is received prior to the date of the hearing, you may disregard this hearing notice.

The Mayor and City Clerk, or their designated representative(s), shall preside at the hearing.

CITY CLERK

DATED THIS _____ DAY OF _____, 19__.

NOTE: After services have been shut off there will be a reconnection fee of \$_____.

CHAPTER 40

ZONING CODE

ARTICLE I - GENERAL PROVISIONS

40-1-1 TITLE. This Code shall be known as and cited as the **Zoning Code of the City of Newton.**

40-1-2 PURPOSE. In accordance with State law, this Code regulates structures and land uses in order to preserve, protect, and promote the public health, safety and welfare. More specifically, this Code is intended to assist in achieving the following objectives:

(A) To encourage the development of buildings and uses on appropriate sites in order to maximize community-wide social and economic benefits while accommodating the particular needs of all residents, and to discourage development on inappropriate sites;

(B) To assist in implementing the Comprehensive Plan, if any;

(C) To protect and enhance the character and stability of sound existing agricultural, residential, commercial and industrial areas, and to gradually eliminate nonconforming uses and structures;

(D) To conserve and increase the value of taxable property throughout the City;

(E) To ensure the provision of adequate light, air and privacy to the occupants of all buildings;

(F) To protect persons and property from damage caused by fire, flooding, and improper sewage disposal;

(G) To provide adequate and well-designed parking and loading space for all buildings and uses, and to reduce vehicular congestion on the public streets and highways;

(H) To ensure the proper design and improvement of mobile home parks;

(I) To promote the use of signs which are safe, aesthetically pleasing, compatible with their surroundings, and legible in the circumstances in which they are seen; and

(J) To provide for the efficient administration and fair enforcement of all the substantive regulations in this Code. **(See 65 ILCS Sec. 5/11-13-1)**

40-1-3 JURISDICTION. This Code shall be applicable within the corporate limits of the City of Newton, Illinois and the surrounding **one (1) mile** area as provided by Illinois Statutes and as exhibited on the Zoning Map of the City maintained at City Hall. **(Ord. No. 11-8; 07-19-11)**

40-1-4 INTERPRETATION. Every provision of this Code shall be construed liberally in favor of this municipality, and every requirement imposed in this Code shall be deemed minimal. Whenever the requirements of this Code differ from the requirements of any other lawfully adopted ordinance, regulation, deed restriction, or covenant, the more stringent requirement shall prevail.

40-1-5 DISCLAIMER OF LIABILITY.

(A) Except as may be provided otherwise by statute or ordinance, no officer, board member, agent or employee of this municipality shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this Code.

(B) Any suit brought against any officer, board member, agent, or employee of this municipality, as a result of any act required or permitted in the discharge of his duties under this Code, shall be defended by the Municipal Attorney until the final determination of the legal proceedings. **(See "Local Governmental and Governmental Employees Tort Immunity Act", Ill. Comp. Stat., Ch. 745 Secs. 10/1-101)**

40-1-6 SEVERABILITY. If any provision of this Code is declared unconstitutional or invalid by a court of competent jurisdiction, that decision shall not affect the validity of the remainder of this Code.

40-1-7 REVIEW. This Code shall be reviewed every other year after its effective date, by the Board of Appeals. After the review, they shall file their reports and recommendations with the City Council. **(Ord. No. 09-1; 03-17-09)**

ARTICLE II - DEFINITIONS

40-2-1 CONSTRUCTION OF TERMS. In construing the intended meaning of terminology used in this Code, the following rules shall be observed:

(A) Words and phrases shall have the meanings respectively ascribed to them in **Section 40-2-2** unless the context clearly indicates otherwise; terms not defined in **Section 40-2-2** shall have their standard English meanings.

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

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

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

(E) The term "shall" is mandatory.

(F) The term "may" is discretionary.

(G) The words "lots," "parcel," "tract," and "site" shall be synonymous.

(H) The phrases "used for," "arranged for," "designed for," "intended for," "maintained for," and "occupied for" shall be synonymous.

(I) All distances shall be measured to the nearest integral foot; **six (6) inches** or more shall be deemed **one (1) foot**.

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

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

40-2-2 SELECTED DEFINITIONS.

Abutting: As applied to lots, "abutting" means having a common lot line or district line, or so located in relation to each other that there would be a common lot line or district line but for the existence of a street, alley, or other public right-of-way.

Access Way: A curb cut, ramp, or other means for providing vehicular access to an off-street parking or loading area from a street.

Accessory Use: Any structure or use that is:

(A) Subordinate in size or purpose to the principal use or structure which it serves;

(B) Necessary or contributing to the comfort and convenience of the occupants of the principal use or structure served; and

(C) Located on the same lot as the principal use or structure served.

Administrator: The official appointed by the Mayor with the advice and consent of the City Council to administer this Code, or his representative. **(Synonymous with "Zoning Administrator.")**

Agriculture: Any one or any combination of the following: the growing of farm or truck garden crops, dairying, pasturage, horticulture, floriculture, or animal/poultry husbandry. The term "agriculture" encompasses the farmhouse, and accessory uses and structures customarily incidental to agricultural activities.

Aisle: A vehicular traffic-way within an off-street parking area, used as a means of access/egress from parking spaces.

All-Terrain Vehicle (ATV): Any motorized off-highway device designed to travel primarily off-highway, **fifty (50) inches** or less in width, having a manufacturer's dry weight of **nine hundred (900) pounds** or less, traveling on **three (3)** or more low-pressure tires, designed with a seat or saddle for operator use, and handlebars or steering wheel for steering control, except equipment such as lawnmowers. **(625 ILCS 5/1-1-1.8)**

Alley: A public right-of-way which affords a secondary means of vehicular access to abutting premises that front on a nearby street.

Alter: To change the size, shape, or use of a structure or the moving from one location to another.

Amendment: A change in the provisions of this Code {including those portions incorporated by reference), properly effected in accordance with State law and the procedures set forth herein.

Apartment: A room or suite of rooms in a multiple-family structure, which is arranged, designed, used or intended to be used as a housekeeping unit for a single family.

Apartment Hotel: A multiple-family dwelling which furnishes for its tenants services customarily provided by hotels, but which does not furnish such services to the transient public.

Attached: As applied to buildings, "attached" means having a common wall and/or a common roof.

Auditorium: A room, hall or building made a part of a church, theater, school, recreation building or other building assigned to the gathering of people as an audience, to hear lectures, plays and other presentations, as well as participate in dances, dinners, expositions, bingos, etc.

Basement: A story having **one-half (1/2)** or more of its height below the average level of the adjoining ground.

Bed and Breakfast: An operator-occupied residence providing accommodations for a charge to the public with no more than **five (5) guest rooms** for rent, in operation for more than **ten (10) nights** in a **twelve (12) month** period. Breakfast and light snacks/refreshments may be provided to the guests only. Bed and breakfast establishments shall not include motels, hotels, boarding houses or food service establishments.

Billboard: A sign advertising a commodity, business, service, or event not available or conducted upon the premises where such sign is located or to which it is affixed.

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

Board of Appeals: The Zoning Board of Appeals of the City.

Boarding House: A building or portion thereof--other than a hotel, motel, or apartment hotel--containing lodging rooms for **three (3)** or more persons who are not members of the keeper's family, and where lodging and/or meals are provided by prearrangement and for definite periods.

Buffer Strip: An area of land undeveloped except for landscaping fences, etc., used to protect a use situated on **one (1) lot** from the deleterious effects of the use on the adjacent lot.

Building: Any structure having a roof supported by columns or walls, and designed or intended for the shelter, support, enclosure or protection of persons, animals or chattels.

Building, Enclosed: A building covered by a permanent roof and separated on all sides from adjacent open space or other buildings by fixed exterior walls or by common walls, with openings only for windows and doors.

Building Height: The vertical distance measured from the average elevation of the proposed finish grade at the front wall of the building to the highest point of the roof.

Building Line: The line nearest the front of and across a lot, delineating the minimum open space required between the front of a structure and the street right-of-way line.

Building, Principal: A non-accessory building in which the principal use of the premises is conducted.

Bulk: Any one or any combination of the following:

- (A) Size or height of structure;
- (B) Location of exterior walls at all levels in relation to lot lines, streets, or other structures;
- (C) Floor/area ratio;
- (D) Yards or setbacks;
- (E) Lot coverage.

Camping Trailer: A trailer, not used commercially, constructed with partial side walls which fold for towing and unfold to provide temporary living quarters for recreational camping or travel use and of a size or weight not requiring an over-dimension permit when towed on a highway. **(625 ILCS 5/1-109.01)**

Camping Trailer Park: A lot developed with facilities for accommodating temporarily occupied camping trailers.

Centerline:

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

Certificate of Zoning Compliance, Initial: A permit issued by the Administrator indicating that proposed construction work is in conformity with the requirements of this Code and may, therefore may be occupied or used.

Certificate of Zoning Compliance, Final: A permit issued by the Administrator indicating that a newly completed structure complies with all pertinent requirements of this Code and may, therefore, be occupied or used.

Church or Building for Religious Worship: A building used by a corporate religious institution that people regularly attend to participate in religious services, meetings and other customary, integrally related religious activities. The term "church" shall not carry a secular connotation and shall include buildings in which the religious services of any denomination are held.

Clinic: An establishment where licensed physicians or dentists practice medicine or dentistry, but where overnight lodging for sick or injured persons is not provided.

Club/Lodge: A nonprofit association or persons who are bona fide members organized for some purpose(s) and paying regular dues and whose facilities are restricted to members and their guests; not including a group organized solely or primarily to render a service customarily carried on as a commercial enterprise.

Commercial Use/Establishment: Any use or establishment wherein goods are purchased or sold, whether to the consuming public (retail) or to other businesses (wholesale).

Community Residence: A group home or specialized residential care home serving unrelated persons with handicaps which is licensed, certified or accredited by appropriate local, state or national bodies. **Community residence does not include a residence which serves persons as an alternative to incarceration for a criminal offense, or persons whose primary reason for placement is substance or alcohol abuse or for treatment of communicable disease.**

Community Residence - Large: A community residence serving **nine (9) to fifteen (15) persons** with handicaps.

Community Residence - Small: A community residence serving **eight (8)** or fewer persons with handicaps in a family-like atmosphere.

Conforming: In compliance with the applicable provisions of this Code.

Convenience Shop: Any small retail commercial or service establishment offering goods/services.

Day Care Center: See "Nursery School."

Deck: An open porch which has no roof, is generally open on the sides, is above ground level, and its intended use is for leisure enjoyment.

Detached: As applied to buildings, "detached" means surrounded by yards on the same lot as the building.

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

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

Driveway: A minor way commonly providing vehicular access to a garage or off-street parking area.

Drive-In Restaurant or Refreshment Stand: An establishment principally used for the sale of fast order food for consumption off the premises or in parked cars on the premises. Fast order food means food that is:

- (A) Primarily intended for immediate consumption;
- (B) Available after a short waiting time; and
- (C) Packaged or presented in such a manner that it can be readily eaten outside the premises where it is sold.

Dwelling: A building or portion thereof designed or used primarily as living quarters for one or more families, but not including hotels, motels, and other accommodations for the transient public. Modular dwellings on permanent foundations shall be treated in the same manner as conventionally constructed dwellings (see definition for modular and permanent foundation).

Dwelling, Multiple-Family: A building or portion thereof containing **three (3)** or more dwelling units.

Dwelling, Single-Family: A detached dwelling containing one dwelling unit and intended for the occupancy of one family.

Dwelling, Two-Family: A dwelling containing **two (2)** dwelling units.

Dwelling Unit: One or more rooms designed or used as living quarters by one family. A "dwelling unit" always includes a bathroom and a kitchen.

Easement: A right to use another person's real property for certain limited purposes.

Enlarge: To increase the size (floor area, height, etc.) of an existing principal structure or accessory use, or to devote more land to an existing use.

Erect: Build, construct.

Essential Governmental or Public Utility Services: The erection, replacement, construction, alteration, or maintenance by public utilities or governmental departments, of underground or overhead gas, electrical, steam, water transmission or distribution systems, collection, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith, but not including buildings.

Establishment: Either of the following:

- (A) an institutional, business, commercial, or industrial activity that is the sole occupant of one or more buildings; or
- (B) an institutional, business, commercial, or industrial activity that occupies a portion of a building such that:

- (1) the activity is a logical and separate entity from the other activities within the building and not a department of the whole; and
- (2) the activity has either a separate entrance from the exterior of the building, or a separate entrance from a common and clearly defined entryway that has direct access to the exterior of the building.

Existing: Existing, constructed or in operation, on the effective date of this Code.

Extend: To increase the amount of floor area or land area devoted to an existing use.

Family:

(A) A single individual doing his own cooking and living upon the premises as a separate housekeeping unit; or

(B) A collective body of persons doing their own cooking and living together upon the premises as a separate housekeeping unit in a domestic relationship based upon birth, marriage, adoption or employment as domestic servants; or

(C) A group of not more than **three (3)** unrelated persons doing their own cooking and living together on the premises as a separate housekeeping unit pursuant to a mutual housekeeping agreement (not including a group occupying a boarding or rooming house, club, fraternity or hotel).

Farmhouse: A detached dwelling on a tract of land of not less than **ten (10) acres**, and occupied by a family whose income is primarily derived from agricultural activities conducted on the premises.

Filling Station: (See Service Station)

Floor Area, Gross: As used in determining floor/area ratios and parking requirements, the sum of the gross horizontal areas of the several floors of a building, measured from the exterior faces of the exterior walls or from the center of the common walls of attached buildings. Gross floor area includes all of the following: basement floors; attic floor space; halls, closets, stairwells; space devoted to mechanical equipment; enclosed porches.

Freight Terminal: as applied to motor carriers subject to the **Illinois Compiled Statutes, Chapter 625, Section 18c-1101 et seq.**, a station for commercial motor vehicles wherein said motor trucks are stored, repaired or parked.

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

Garage: A structure designed and primarily used for the storage of motor vehicles, whether free of charge or for compensation.

Group Home: (See Community Residence)

Government: The act or process of administering public policy in a political unit; a political jurisdiction, the office or function thereof.

Home Occupation: Any business, profession, or occupation conducted for gain or support entirely within a dwelling or on residential premises in conformity with the provisions of this Code. **(See Section 40-5-7.)**

Hospital: An institution devoted primarily to the maintenance and operation of facilities around-the-clock for the diagnosis, treatment, or care for members of the general public suffering from disease, injury, or other abnormal physical conditions. The term "hospital" as used in this Code does not include institutions operating solely for the treatment of insane persons, drug addicts, and alcoholics, nor does it include convalescent or nursing homes.

Hotel: An establishment containing lodging accommodations designed for use by travelers or temporary guests. Facilities provided may include a general kitchen, maid service, desk service, meeting rooms, restaurants, cocktail lounges, and similar ancillary uses, but not cooking facilities in guest rooms.

Immobilize: As applied to a mobile home, "immobilize" means to remove the wheels, tongue and hitch and place on a permanent foundation.

Intensify: To increase the level or degree of.

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

Junk Yard: An open area of land and any accessory structures thereon that are used for buying, selling, exchanging, storing, baling, packing, disassembling, or handling waste or scrap materials. Such scrap materials include vehicles, machinery, and equipment not in operable condition or parts thereof, and metals, glass, paper, plastics, rags, and rubber tires. A lot on which **three (3)** or more inoperable vehicles are stored shall be deemed a junk yard. A "junk yard" includes an automobile wrecking yard.

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

Landscape Fence: A non-obstructive fence, no greater than four (4) feet in height, of approved design and materials. Picket, split-rail, and wrought iron fences are acceptable

within this definition. Examples of unacceptable fence types include privacy, chain link, and welded wire.

Loading Space: An off-street space used for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials.

Lot: A tract of land used or developed as a unit, under single ownership or under single control. A "lot" may or may not coincide with a "lot of record."

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

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

Lot Area: The area of a horizontal plane bounded by the front, side, and rear lines of a lot.

Lot Coverage: The portion of a lot that is occupied by buildings or structures, including accessory buildings or structures.

Lot Depth: The average horizontal distance between the front lot line and the rear lot line of a lot.

Lot Line, Front: The lot boundary abutting the street.

Lot Line, Rear: An interior lot line which is most distant from and most nearly parallel to the front lot line. The rear lot on corner lots shall be defined as the line most distant and most nearly parallel to either of the front lot lines as defined elsewhere in these definitions.

Lot Line, Side: Any boundary of a lot which is not a front lot line or a rear lot line.

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

Lot Size Requirement: Refers to the lot area, width, and depth requirements of the applicable district.

Lot Size/Bulk Variance: A relaxation of the strict application of the lot size and/or bulk requirements applicable to a particular lot or structure. A lot Size/Bulk Variance goes with the property.

Lot Width: The mean horizontal distance between the side lot lines of a lot measured at right angles to the depth; or the same distance measured at a point midway between the front lot line and the rear lot line; or at the rear line of the required front yard (building lines), especially on irregularly shaped lots.

Maintenance: The routine upkeep of a structure, premises, or equipment, including the replacement or modification of structural components to the extent necessary to keep a structure in sound condition.

Mini-Warehouses: A building, or part of one, for the storage of goods, merchandise, etc. for rent to individuals or businesses for a monthly fee.

Mobile (Manufactured) Home: A structure designed for permanent habitation and so constructed as to permit its transport on wheels, temporarily or permanently attached to its frame, from the place of its construction to the location at which it is intended to be a permanent habitation and designed to permit the occupancy thereof as a dwelling place for **one (1)** or more persons. The term "mobile home" shall only include manufactured homes constructed after **June 30, 1976**, in accordance with the Federal **"National Manufactured Housing Construction and Safety Standards Act of 1974"**. Compliance with this standard is indicated by a 2-inch by 4-inch metal plate attached to the exterior tail light end of the mobile home. Provided that any such structure resting on a permanent foundation with wheels, tongue and hitch permanently removed shall not be construed as a **"mobile home"**, but shall be an **"immobilized mobile home"**. A mobile home should not be confused with a **"camping trailer"** or **"recreational vehicle"**. **(See 210 ILCS Sec. 115/2.10)**

Mobile Home, Dependent: A mobile home which does not have a toilet and bath or shower facilities. **(See 210 ILCS Sec. 115/2.3)**

Mobile Home, Double-Wide: Consists of **two (2)** mobile units joined at the site into a single home, but kept on their separate chassis for repeated transportation to a site.

Mobile Home, Immobilized: Any mobile home resting on a permanent foundation with wheels, tongue, and hitch permanently removed. The City Council establishes the following criteria to complete the immobilization of a mobile home:

(A) The foundation shall extend into the ground below the frost line so as to attach and become a part of the real estate. Materials such as concrete, mortared concrete block, or mortared brick extending into the ground below the front line shall satisfy the requirement for a permanent foundation.

(B) As an alternative to paragraph (A) above, piers may be used, extending into the ground below the frost line and sufficient in number to properly support the mobile home.

(C) To complete the immobilization, wheels, tongue, and hitch shall be removed. Axles may be removed.

Mobile Home, Independent: A mobile home which has self-contained toilet and bath or shower facilities. **(See 210 ILCS Sec. 115/2.4)**

Mobile Home Lot: A parcel of land for the placement of a mobile home and the exclusive use of its occupants.

Mobile Home Pad: That part of an individual mobile home space or lot beneath the mobile home, including the concrete portion of the pad.

Mobile Home Park: A tract of land or **two (2)** or more contiguous tracts of land upon which contain sites with the necessary utilities for **two (2)** or more independent mobile homes for permanent habitation either free of charge or for revenue purposes, and shall include any building, structure, vehicle, or enclosure used or intended for use as a part of the equipment of such mobile home park. Separate ownership of contiguous tracts of land shall not preclude the tracts of land from common licensure as a mobile home park if they are maintained and operated jointly. Neither an immobilized mobile home nor a motorized recreational vehicle shall be construed as being a part of a mobile home park. **(See 210 ILCS Sec. 115/2.5)**

Mobile Home Sales Area: A parcel of land used for the display, sale and repair of new or used mobile homes.

Mobile Home Space: A portion of a mobile home park designed for the use or occupancy of **one (1)** mobile home.

Mobile Home Stand: The part of a mobile home space beneath the mobile home that includes the concrete slab on which the home is placed and to which it is anchored.

Mobile Housing Unit: Includes all forms of housing units listed in this Section and as regulated in this Code.

Mobile or Portable Marquee: A term used to describe any sign designed to be moved from place to place, including, but not limited to, signs attached to wood or metal frames designed to be self-supporting and movable; or paper, cardboard, or canvas signs wrapped around supporting poles.

Modular Home: As defined by this Code a modular home is a factory-fabricated single-family home built in one or more sections. The average width and/or length of the living area (excluding garages, carports, porches, or attachments) of a modular home shall not exceed a ratio of 3 to 1. All modular homes shall be placed in a full perimeter permanent foundation, extending below the frost depth. All wheels and towing devices shall be removed. As with all residences, a modular home must have a minimum 3/12 pitch roof with residential style siding and roofing, **six (6) inch** minimum eave overhang, and shall have a minimum living area of not less than **nine hundred (900) square feet**.

Modular homes shall meet either the National Manufactured Home Construction and Safety Standards (HUD Code) or the Building Code (BOCA). All structures shall be placed on a permanent foundation in order that they may be assessed as real estate.

Motel: A motel for motorists, usually with blocks of rooms opening directly onto a parking area. Also called motor court.

Noisome and Injurious Substances, Conditions and Operations:

(A) Creation of unreasonable physical hazard, by fire, explosion, radiation or other cause, to persons or property.

(B) Discharge of any liquid or solid waste into any stream or body of water or into any public or private disposal system or into the ground, so as to contaminate any water supply, including underground water supply.

(C) Maintenance or storage of any material either indoors or outdoors so as to cause or to facilitate the breeding of vermin.

(D) Emission of smoke, measured at the point of emission, which constitutes an unreasonable hazard to the health, safety, or welfare of any person(s).

(E) Fly ash or dust which can cause damage to the health of persons, animals, or plant life or to other forms of property, or excessive soil, measured at or beyond the property line of the premises on which the aforesaid fly ash or dust is created or caused.

(F) Creation or causation of an unreasonably offensive odors discernible at or beyond any property line of the premises on which the aforesaid odor is created or caused.

(G) Creation or maintenance of any unreasonable reflection or direct glare, by any process, lighting or reflective material at or beyond any property line of the premises on which the reflective or direct glare is created or caused.

Nonconforming: As applied to a lot, structure, or use, "nonconforming" means: (1) lawfully existing on the effective date of this Code, but (2) not in compliance with the applicable provisions thereof.

Nuisance: Any thing, condition, or conduct that endangers health, or unreasonably offends the senses, or obstructs the free use and comfortable enjoyment of property, or essentially interferes with the comfortable enjoyment of life. **(See Chapter 25 of the Revised Code)**

Nursery: A tract of land on which trees, shrubs, and other plants are raised for transplanting and sale, and including any structure in which said activities are conducted.

Nursery School: An establishment for the part-time care and/or instruction (at any time of day) of **four (4)** or more unrelated children of predominantly pre-elementary or elementary school age.

Nursing Home: A building used as a medical care facility for persons who need long-term nursing care and medical service, but do not require intensive hospital care.

Office: Any building, or portion thereof, in which the business (usually clerical and administrative affairs) of a commercial/service enterprise or professional person is transacted.

Official Map: The portion of the master plan which designates land necessary for public facilities or uses. It shall include streets, alleys, public ways, parks, playgrounds, school sites and other public grounds and ways for public service facilities within the whole area included within the official comprehensive plan. It can be one or more separate geographical or functional parts or include all or any part of the contiguous, unincorporated area under the planning jurisdiction of the City.

Off-Street Parking Area: Land that is improved and used primarily for the storage of passenger motor vehicles, free of charge or for compensation. An "off-street parking area," depending on the circumstances of its use, may either a principal use or an accessory use.

Off-Street Parking Space: An area at least **twenty (20) feet** long and **ten (10) feet** wide within an off-street parking area or garage, used for the storage of one passenger motor vehicle.

Overlay District: A zoning district superimposed over one or more standard (primary) zoning districts or portions thereof for the purpose of controlling developmental problems caused by such factors as steep slopes, wet soils, flooding, etc.

Patio: An at-grade -paved area without any walls usually adjacent to a building, and which is intended to be used as an outdoor lounging, dining, or entertaining area.

Permanent Foundation: A permanent support for buildings that are constructed of conventional foundation materials such as concrete or cement blocks. The foundation footing shall extend below the frost line.

Permanent Habitation: A period of **two (2)** or more months. **(See 210 ILCS Sec. 115/2.2)**

Permitted Uses: Any use which is or may be lawfully established in a particular district(s), provided it conforms with all the requirements applicable to said district(s).

Person: Any individual, firm, association, organization, or corporate body.

Plan: The geographical and topographical maps, engineering and architectural drawings and specifications, and other information indicating the location and nature of a development.

Planned Development Project: A residential or commercial development on a parcel of land in single ownership and consisting of **two (2)** or more buildings having any yard, court, parking or loading space in common.

Porch: A structure attached to a building to shelter an entrance or to serve as a semi-enclosed space, usually covered with a roof, generally open-sided, and usually large enough to allow seating devices.

Premises: A lot and all the structures and uses thereon.

Principal Building/Structure/Use: The main structure erected on or the main use occupying a lot, as distinguished from an accessory (subordinate) structure or use.

Private Street: Any street providing access to abutting property that is not maintained by and dedicated to a unit of government.

Public Buildings: Any building owned, operated, constructed or maintained at the expense of the public or a building which provides a service or function necessary for the general health, welfare, and convenience of the public.

Public Open Space: Any publicly-owned open area, including, but not limited to the following: Parks, playgrounds, forest preserves, beaches, waterways, parkways and streets.

Public Utilities: Utilities which are either government-owned or owned by an established firm serving a wide geographical area and/or a substantial number of persons.

Public Utility Services: Means and includes facilities providing those services used for or in connection with the production, storage, transmission, sale, delivery or furnishing of heat, cold, power, electricity, water or light except when used solely for communications purposes. Public Utility Services does not mean and shall not include facilities designed or intended to be used for the transmission of telephone messages or any other form of telecommunications.

Quick Shop: Any small retail commercial or service establishment offering goods/services primarily to the residents of a particular multi-family complex, mobile home park or similar development. No liquor or gasoline shall be sold in this shop.

Reconstruct: As applied to nonconforming structures, "reconstruct" means to rebuild after partial destruction.

Recreation Vehicle: Every camping trailer, motor home, mini motor home, travel trailer, truck camper or van camper used primarily for recreational purposes and not used commercially nor owned by a commercial business. **(625 ILCS 5/1-169)**

Recreational Vehicle (RV) Park: See Camping Trailer Park.

Refuse: Garbage (food wastes) and trash, but not sewage or industrial wastes.

Relocate: To move to another portion of a lot or to a different lot.

Repair: To restore to sound condition, but not to reconstruct.

Residence: A site-constructed building designed for use as a residence. The average width and/or length of the living area (excluding garages, carports, porches, or attachments) of a residence shall not exceed a ratio of 3 to 1. All residences shall be placed on a full perimeter foundation extending below the frost depth unless located in a Special Flood Hazard Area, and shall have a minimum 3/12 pitch roof. All residences shall have a minimum of **nine hundred (900) square feet** of living area and shall be built in conformity with the International Building Code.

Retail: Refers to the sale of goods and services directly to the consumer rather than to another business.

Right-of-Way, Public: A strip of land which the owner/subdivider has dedicated to the City or to another unit of government for streets and alleys.

Sanitary Landfill: A tract of open land used for the permanent disposal of refuse in accordance with the requirements of the Illinois Environmental Protection Agency.

Satellite Dish: Any parabolic/dish-type apparatus, external to or attached to the exterior of a building or structure, capable of receiving, for the benefit of the principal use, television or radio signals. Satellite dishes are considered an accessory use.

Screening: Trees, shrubs, walls, solid fences, etc. used as a means of view and noise control.

Semi-Finished Materials: Materials which have been sufficiently processed at heavy industrial facilities so that they are no longer in their raw state, but are readily usable by light industry for assembly or manufacture into consumer goods.

Service Station: A building and premises or portion thereof designed and used for the retail sale of gasoline or other automotive fuel, oil, and automotive parts, supplies, and accessories. A service station may include facilities for washing vehicles and for making minor automotive repairs.

Service Use/Establishment: Any use or establishment where services are provided for remuneration either to individuals or to other firms.

Setback: The distance between the front lot line and the building line; or between a side or rear lot line and the side of the structure which faces such lot line; or between the appropriate lot line and the nearest boundary of the area of operation which is approximately parallel to such lot line.

Sign: Any object, device, display or structure or part thereof used to advertise, identify, display or attract attention to a person, establishment, product, service or event by any means including words, letters, figures, designs, symbols, fixtures, colors, illuminations, etc. The term "sign" includes, but is not limited to, every projecting sign, freestanding sign, awning, canopy, marquee sign; changeable copy sign, illuminated sign; moving sign, temporary sign; portable sign; or other display whether affixed to a building or erected elsewhere on the premises. The term "sign" excludes features of a building which are an integral part of the building's design (e.g., the "castle-look" of a White Castle restaurant).

Sign, Canopy/Marquee: Any sign affixed to, painted on, or suspended from an awning, canopy, marquee or similar overhang.

Sign, Flush-Mounted: Any sign attached to or erected against a wall of a structure with the exposed face of the sign in a plane approximately parallel to the plane of the wall and not projecting more than **eighteen (18) inches**. A flush-mounted sign displays only messages associated with the building to which said sign is attached.

Sign, Freestanding: Any sign supported by **one (1)** or more uprights, poles, or braces placed in or upon the ground; or any sign supported by any structure erected primarily for the display and support of the sign; provided that a freestanding sign displays only messages associated with the structure to which it is attached.

Sign, Projecting: Any sign which is suspended from or supported by a wall, awning, canopy, marquee, etc., and which is approximately perpendicular thereto. A projecting sign displays only messages associated with the structure to which it is attached.

Sign Area: The entire area within a single, continuous perimeter enclosing the extreme limits of the message and the background thereof, calculated in accordance with the provisions of this Code.

Sign Area Allowance: The maximum total sign area of all signs that an establishment is permitted to display.

Skirting: The covering affixed to the bottom of the exterior walls of a mobile home to conceal the underside thereof.

Special Use: A use that has unusual operational, physical, or other characteristics which distinguish it from the permitted uses of a district, but which can be made compatible with the intended overall development within a district. Special uses commonly must meet special standards not necessarily applicable to permitted uses in the district, and are allowed only by permit. A special use permit shall not be transferable.

Stable: A structure, situated on the same lot as a dwelling, under common ownership, and designed or used for housing horses for the private use of occupants of the dwelling, but not for hire.

Stoop: A small porch which is usually not covered with a roof and which is primarily used to provide access to the adjoining building.

Stop Order: A type of corrective action order used by the Administrator to halt work in progress that is in violation of this Code.

Street: A public or private way for motor vehicle travel. The term "street" includes a highway, thoroughfare, parkway, through way, road, pike, avenue, boulevard, lane, place, drive, court, and similar designations, but excludes an alley or a way for pedestrian use only.

Street Line: The street right-of-way line abutting a lot line.

Structure: Anything constructed or erected on the ground, or attached to something having fixed location on the ground. All buildings are structures, but not all structures are buildings.

Structure, Temporary: Any structure that is not attached to a permanent foundation.

Telecommuting: Working in the home by using a computer terminal or other terminal connected by a telephone line or by other means to a central office or central computer.

Temporary Use Permit: A permit issued in accordance with the provisions of this Code and valid for not more than **one (1) year**, which allows the erection/occupation of a temporary structure or the operation of a temporary enterprise.

Topography: The relief features or surface configuration of an area.

Trailer: Every vehicle without motive power in operation, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle. **(625 ILCS 5/1-209)**

Use: The purpose or activity for which land or a structure thereon is designed, arranged, intended, occupied, or maintained.

Use Variance: A type of amendment (not a variance) that allows a use in a district where said use would not be allowed under existing provisions of this Code.

Utility Substation: A secondary utility facility such as an electrical substation, gas regulator station, telephone exchange facility, sewage treatment plant, etc.

Vacant as applied to a lot, means that no structure is situated thereon.

Variance: A relaxation of the strict application of the lot size, setbacks, or other bulk requirements applicable to a particular lot or structure.

Vessel or Watercraft: Every description of watercraft used or capable of being used as a means of transportation on water, except a seaplane on the water, inner tube, air mattress or similar device, and boats used for concession rides in artificial bodies of water designed and used exclusively for such concessions. **(625 ILCS 45/1-2)**

Wholesale: Refers to the sale of goods or services by one business to another business.

Window Sign: Any sign visible from the exterior of a building or structure which is painted directly on the surface of a window or affixed to or suspended immediately behind the window for the purpose of informing passersby of the identity of the proprietor or business, or of the product or service which can be obtained on the premises.

Yard: Open space that is unobstructed except as specifically permitted in this Code and that is located on the same lot as the principal building.

Yard, Front: A yard which is bounded by the side lot lines, front lot line and the building line.

Yard, Rear: A yard which is bounded by side lot lines, rear lot lines, and the rear yard line.

Yard, Side: A yard which is bounded by the rear yard line, front yard line, side yard line, and side lot line.

Yard Line: A line in a lot that is parallel to the lot line along which the applicable yard extends and which is not nearer to such lot line at any point than the required depth or width of said yard.

Zoning Administrator; Zoning Official or Zoning Officer: The Zoning Administrator of this municipality or his authorized representative.

Zoning Map: The map(s) and any amendments thereto designating zoning districts. The zoning map is incorporated into this Code.

ARTICLE III - ZONING REGULATIONS

DIVISION I - GENERAL REGULATIONS

40-3-1 **ESTABLISHMENT OF DISTRICTS.** In order to implement this Code, and to achieve the objectives in Article I, the entire municipality is hereby divided into the following zoning districts:

<u>DISTRICT</u>	<u>DESIGNATION</u>	<u>MINIMUM AREA*</u>
Agricultural	A-1	3 acres
Single Family Residence (Large)	SR-1	5 acres
Single Family Residence (Small)	SR-2	5 acres
Multi-Family Residence	MR-1	5 acres
Multi-Family Residence	MR-2	3 acres
Mobile Housing	MH-1	3 acres
Neighborhood Business	B-1	1 acre
Central Business	B-2	2 acres
Highway Business	B-3	3 acres
Industrial	I-1	5 acres
Flood Plain Overlay	F	N/A

* The “minimum area” requirement (which is intended to prevent spot zoning) refers to the smallest total area of contiguous parcels that can properly be given the particular district classification. The minimum area requirement is not satisfied merely because the acreage of numerous noncontiguous parcels, when aggregated, happens to equal or exceed the minimum area indicated above.

40-3-2 **MAP - ANNUAL PUBLICATION.** The boundaries of the listed zoning districts are hereby established as shown on the zoning map of this municipality. The zoning map, including all notations and other information thereon, is hereby made a part of this Code by reference. Official copies of the zoning map shall be kept on file in the office of the Zoning Administrator or other appropriate official.

In accordance with State Law, the Administrator shall publish the City's zoning map not later than **March 31st** of each year. However, no map shall be published for any calendar year during which there have been no changes in zoning districts or regulations. **(See 65 ILCS Sec. 5/11-13-19)**

NOTE: The map shall be published if there are any annexations.

40-3-3 DETERMINING TERRITORIAL LIMITS.

(A) Where a district boundary as indicated on the zoning map

- (2) Lot line Such lot line.
-

(B) Whenever any street, alley or other public way is legally vacated, the

(C) All territory (including bodies of water) that lies within the zoning

40-3-4 ANNEXED TERRITORY.

40-3-5 GENERAL PROHIBITION.

(A) **Agricultural Exemption.** The provisions of this Code shall not be

40-3-6 UNLISTED USES PROHIBITED. Whenever any use is not specifically listed as permitted or special within a particular zoning district, such use shall be deemed prohibited in that district. However, if the Zoning Board, following consultation with the Zoning Administrator finds that the unlisted use is similar to and compatible with the listed uses, they may make a written ruling to that effect and classify the use as a use permitted by right. The Board's decision shall become a permanent public record.

40-3-7 TEMPORARY USES. Except as specifically provided otherwise in this Code, no temporary structure shall be used or occupied for any purpose, and no land shall be used for any temporary enterprise, whether for profit or not-for-profit, unless a temporary use permit has been obtained. Applications for temporary use permits shall be treated in the same way as applications for special use permits. A temporary use permit shall be valid for not more than **one (1) year** unless it is properly renewed (**See Section 40-10-29**).

40-3-8 MEETING MINIMUM REQUIREMENTS. Except as specifically provided otherwise:

(A) Only one principal building or structure shall be permitted on any residential lot; and

(B) No portion of any minimum area, minimum dimensions, or minimum yards required for any lot, structure, or use shall be counted to satisfy the minimum area, dimensions, or yards requirements for any other lot, structure or use. (**See Sec. 40-8-2**)

40-3-9 ACCESS REQUIRED. No building shall be erected on any lot unless such lot abuts, or has permanent easement of access to, a public street or a private street.

40-3-10 FRONT SETBACKS - CORNER/THROUGH LOTS. Every lot with multiple frontages (such as corner or through lots) shall meet the front setback requirements of the district in which it is located on every side having frontage.

40-3-11 FRONT SETBACKS IN CERTAIN BUILT-UP AREAS. Except as specifically provided otherwise, in the Central Business district and in all residential zoning districts, where lots having **fifty percent (50%)** or more of the frontage on one side of a street between intersections (that is, in one block) are developed with buildings, and the front setbacks of those lots do not differ by more than **ten (10) feet**, the minimum

required front setback on that block shall be the average of the existing front set-backs; provided however, that in any built-up area, no front setback shall be less than **fifteen (15) feet**, nor shall any front setback greater than **fifty (50) feet** be required.

40-3-12 YARD INTRUSIONS. To the extent indicated below, the following features of principal buildings may intrude into yards without thereby violating the minimum setback requirements:

<u>FEATURES</u>	<u>MAXIMUM INTRUSIONS</u>
(A) Cornices, chimneys, planters or similar architectural features	Two (2) feet.
(B) Fire escapes	Four (4) feet.
(C) Patios	Six (6) feet.
(D) Porches and stoops, if unenclosed, unroofed, and at no higher than two (2) steps above ground level	Six (6) feet.
(E) Balconies, decks, porches	Four (4) feet.
(F) Canopies, roof overhangs	Four (4) feet.

40-3-13 HEIGHT - EXCEPTIONS.
(A) **Necessary appurtenances.** Chimneys, church spires, parapet walls, cooling towers, elevator bulkheads, fire towers, water towers, antennas, or other necessary appurtenances commonly constructed above the roof line shall be permitted to exceed the maximum height limitations, no more than **fifteen (15) feet**, for the district in which they are located if they comply with all other pertinent ordinances of the City. **(Ord. No. 09-1; 03-17-09)**

(B) **Intersections.** On corner lots, in the triangular portion of land bounded by the street lines and a line joining these street lines at points **thirty (30) feet** from the point of intersection, no obstruction, whether natural or man-made, shall intrude into the air space that is between **two (2)** and **ten (10) feet** above the level of the adjacent street. **(See Figure 1 at the end of this Code.)**

40-3-14 SEWER AND SEPTIC TANKS. In all districts, property owners of all buildings and places where people live, work, or assemble shall provide for the sanitary disposal of all sewage in accordance with the following requirements:

(A) Whenever the public sanitary sewerage system is reasonably accessible (that is, when the distance from the property in question to the nearest public sewer with available capacity does not exceed **one hundred (100) feet**, all sewage shall be discharged into such system whether or not a private sewerage system already exists or is more convenient.

(B) Whenever the public sewerage system is not reasonably accessible, a private sewerage system shall be installed and used. All private sewerage systems shall be designed, constructed, operated, and maintained in conformity with the following requirements:

- (1) Illinois Private Sewage Disposal Licensing Act, (**Ill. Comp. Stat., Ch. 225; Sec. 225/1 through 225/23**) as amended from time to time; and
- (2) Illinois Private Sewage Disposal Code No. 4.002, promulgated by the Director of the **Illinois Department of Public Health**, as amended from time to time; and
- (3) Pertinent, current regulation issued by the **Illinois Environmental Protection Agency**; and
- (4) Applicable codes and regulations of the City, particularly the **Subdivision Code** and the **Utilities Code**.

The Administrator shall not issue any Certificate of Zoning Compliance unless, following consultation with the City Engineer, he is satisfied that these requirements will be met.

40-3-15 ACCESSORY USES - PERMITTED.

(A) Any accessory use shall be deemed permitted in a particular zoning district if such use:

- (1) meets the definitions of "accessory use" found in **Section 40-2-2**;
- (2) is accessory to a principal structure or use that is allowed in a particular zoning district as permitted or special use; and
- (3) is in compliance with restrictions set forth in **Section 40-3-16**.

(B) If an accessory structure is attached to a principal structure, it shall be considered part of such structure. (**See Definition of "Attached" in Section 40-2-2**)

40-3-16 ACCESSORY USE RESTRICTIONS.

(A) **Height.** No accessory use shall be higher than **twenty-five (25) feet** in any Zoning District; provided, there shall be no height limit on accessory structures related to agriculture.

(B) **Schedule.** No accessory use in any zoning district shall be located in any part of any yard (front, side or rear) that is required because of the setback regulations of such district; as provided in **Section 40-3-17** at the conclusion of the Code.

(C) **Yard Coverage.** Accessory uses shall not cover more than **thirty percent (30%)** of a required rear yard.

(D) **Use As Dwelling.** Use of any accessory structure as a dwelling is strictly prohibited throughout the City.

40-3-17 AREA BULK REGULATIONS. To facilitate public understanding of this Code, the Area-Bulk Regulation Schedule is hereby adopted and declared to be an integral part of this Code, and it may be amended in the same manner as any other part of this Code. The Schedule is found at the conclusion of this Code.

40-3-18 - 40-3-19 RESERVED.

DIVISION II - PLANNED DEVELOPMENTS

40-3-20 PLANNED DEVELOPMENT DEFINED. As used in this Division, the term “planned development” or “PD” means a development wherein, in accordance with an approved development plan:

- (A) common open space is reserved;
- (B) various housing types and other structures and uses may be mixed and/or
- (C) overall average density does not exceed the usual zoning district limit.

40-3-21 OBJECTIVES. This Section authorizes development of Planned Developments and establishes procedures in order to achieve the objectives enumerated in **Section 40-1-2** and the following objectives:

- (A) to provide a regulatory mechanism whereby the City can be assured that upon completion, approved development projects will substantially conform to the plans or models which constituted the basis for the issuance of the necessary zoning and subdivision permits;
- (B) to permit development of a wide variety of housing types and other structures and uses in a single comprehensively planned project;
- (C) to preserve the natural topography, scenic features, mature trees and historic structures existing on sites proposed for development;
- (D) to encourage innovative site layouts and coordinated architectural treatment of different housing types and other structures;
- (E) to ensure the provision of usable, common, open space in planned developments, and to spur installation of various amenities therein;
- (F) to facilitate the economical installation of standard streets, sewers, utilities, and other improvements.

40-3-22 COMPLIANCE WITH REGULATIONS GENERALLY REQUIRED.

Except as specifically provided otherwise in this Code, planned developments--including all structures and uses therein--shall, at a minimum, be built in conformity with all applicable codes and ordinances, including the Zoning Code and the Subdivision Code.

40-3-23 DISTRICTS WHERE ALLOWED. Planned Developments may be built in any Zoning District, but only upon the issuance of a special-use permit by the City Council after a hearing before the Board of Appeals. **(See Sec. 40-10-26)**

40-3-24 PERMISSIBLE DEVIATION FROM CODE REQUIREMENTS. The Planned Development concept is intended to afford both the developer and the City considerable flexibility in formulating development proposals. Consequently, to the extent indicated in this Section, Planned Developments may deviate from generally applicable Code requirements without a variance. Any proposed deviation not listed below, however, shall require a variance.

(A) **Mixed Uses.** Planned Developments may include all types of residential structures and any other uses approved by the Board of Appeals, provided that in approving such mixed uses, the Board of Appeals may attach any conditions necessary to protect the public welfare.

(B) **Lot and Structure Requirements.** In Planned Developments, the Board of Appeals may approve any reasonable deviation from the lot and structure requirements of the particular zoning district so long as the different uses within the PD are appropriately interrelated and property abutting the PD is adequately protected from any potential adverse impacts of the development. "Lot and structure requirements" means minimum individual lot area, width and depth; minimum setbacks; and maximum structure height.

(C) **Accessory Uses.** In PDs the Board of Appeals may allow the developer to disregard the usual restrictions on accessory uses other than the prohibition against using an accessory structure as a dwelling.

(D) **Location of Parking/Loading Spaces.** By permission of the Board of Appeals, off-street parking and loading spaces in PDs need not be located in accordance with generally applicable requirements. The minimum number of such spaces, however, shall not be less than the number required as per **Article V** of this Code.

40-3-25 PROCEDURES FOR PLANNED DEVELOPMENTS. Every applicant for Planed Development approval shall comply with the procedural requirements of this Section. The required procedures are as follows:

- (A) Filing development plan with the Zoning Administrator;
- (B) Review of plans by Plan Commission, if any;

(C) Provision by the developer of adequate assurance for the completion of required improvements as per the development plan and subdivision regulations;

(D) Recommendation by Plan Commission; if any;

(E) Public hearing by the Board of Appeals as per the requirements of

Article X - Administration;

(F) Decision of the Board of Appeals regarding approval/rejection of the development plan;

(G) Recording of development plan with the County Recorder of Deeds.

40-3-26 APPLICATION; INFORMATION REQUIRED. Every applicant for approval of a development plan shall submit to the Administrator, in narrative and/or graphic form, the items of information listed below:

40-3-26.1 WRITTEN DOCUMENTS.

(A) Legal description of the total site proposed for development;

(B) Names and addresses of all owners of property within or adjacent to the proposed Planned Development;

(C) Statement of the planning objectives to be achieved by the PD through the particular approach proposed by the applicant, including a description of the character of the proposed development and the rationale behind the assumptions and choices made by the applicant;

(D) Development schedule indicating the approximate date when construction of the PD or stages of the PD can be expected to begin and to be completed;

(E) Statement of the applicant's intentions with regard to the future selling or leasing of all or portions of the PD, such as land areas, dwelling units, etc.

(F) Data indicating:

(1) total number and type of proposed dwelling units;

(2) gross and net acreage of parcel;

(3) acreage of gross and usable open space; and

(4) area of any commercial uses.

40-3-26.2 GRAPHIC MATERIALS.

(A) Existing site conditions, including contours at **ten (10) foot** intervals and locations of watercourses, flood plains, unique natural features, and wooded areas;

(B) Proposed lot lines and plot designs;

(C) Proposed location, size in square feet and general appearance of all existing and proposed buildings (both residential and non-residential) and other structures and facilities;

(D) Location and size in acres or square feet or all areas to be conveyed, dedicated, or reserved as common open spaces, public parks, recreational areas, school sites, and similar public and semi-public uses;

(E) Existing and proposed vehicular circulation system, including off-street parking and loading areas and major points of ingress and egress to the development (notations of proposed ownership--public or private--should be included where appropriate);

(F) Existing and proposed pedestrian circulation system, including its relationship to the vehicular circulation system and proposed treatments of points of conflict;

(G) Existing and proposed utility systems, including sanitary sewers, storm sewers, and water, electric, gas and telephone lines;

(H) General landscape plan indicating the treatment of both private and common open spaces and the location of required buffer strips;

(I) Enough information on land areas adjacent to the proposed PD to indicate the relationship between the proposed development and existing and proposed adjacent areas;

(J) Any additional information required by the City to evaluate the character and impact of the proposed PD.

(K) Appropriate seals of the licensed surveyor, engineer or architect.

40-3-27 CRITERIA CONSIDERED. The Board of Appeals shall compile a written report which either accepts or rejects the Development Plan. In making their decision, the Board of Appeals shall consider the following criteria:

(A) The extent to which the proposed development is consistent with the Comprehensive Plan and with the purposes of this Code and of all other applicable codes and ordinances;

(B) The extent to which the proposed development deviates from the regulations that are generally applicable to the property (including, but not limited to, the use, lot and building regulations of the district), and the apparent merits, if any, of said deviations.

(C) Whether the proposed design of the PD makes adequate provisions for vehicular and pedestrian circulation, off-street parking and loading, separation of residential and commercial uses, open space, recreational facilities, preservation of natural features, and so forth;

(D) The compatibility of the proposed PD with adjacent properties and surrounding area; and

(E) Any other reasonable criteria that the Board of Appeals may devise.

40-3-28 DECISION BY BOARD OF APPEALS. The Board of Appeals shall not approve any PD unless:

(A) The developer has posted a performance bond or deposited funds in escrow in the amount of the City Engineer deems sufficient to guarantee the satisfactory completion of all required improvements; and

(B) The City Attorney has stated that all legal instruments (particularly the restrictive covenants) are satisfactory; and

(C) The proposed PD, as evidenced by the Development Plan, complies with all applicable codes, regulations and ordinances. (Deviations to the extent permitted under **Section 40-3-27** shall not be deemed as noncomplying.)

40-3-29 CHANGES IN APPROVED PLANS. No changes shall be made to any approved PD Development Plan, except as follows:

(A) Minor changes, if required by engineering or other circumstances not foreseen at the time the final development plan was approved.

(B) All other changes shall require a public hearing before the Board of Appeals.

(C) No approved change shall have any effect until it is recorded with the County Recorder of Deeds as an amendment to the recorded copy of the Development Plan. **(See Article X - Division V)**

40-3-30 FAILURE TO BEGIN DEVELOPMENT. If a substantial amount of construction has not begun within the time stated in the approved construction schedule, the Development Plan shall lapse upon written notice to the applicant from the Zoning Administrator and shall be of no further effect. However, in his discretion and for good cause, the Zoning Administrator may extend for a reasonable time the period for the beginning of construction. If a final Development Plan lapses as per this Section, the following shall be applicable:

(A) The special-use permit shall be automatically revoked; and

(B) any zoning permits shall automatically become null and void; and

(C) all regulations applicable before the PD was approved shall automatically be in full effect.

40-3-31 MUNICIPAL EXEMPTION. In conjunction with any existing or proposed development, the City shall be exempt from all of the provisions of this Section.

ARTICLE IV

REGULATIONS FOR SPECIFIC DISTRICTS

DIVISION I - AGRICULTURAL DISTRICT (A-1)

40-4-1 "A-1" - AGRICULTURAL DISTRICT. The "A-1" Agricultural District encompasses areas that are presently undeveloped or sparsely developed and that, for various reasons, should remain so for the foreseeable future. Some tracts of land in this district are fertile and relatively level and best suited for agricultural pursuits. Other tracts in this district have such poor soils, steep slopes, inadequate natural drainage, and/or other problems, or are simply so distant from existing developed areas that the provision and maintenance of roads, utilities, and storm water drainage systems would be impractical or burdensomely expensive to the tax-paying public.

40-4-2 SPECIAL RESTRICTIONS. In the "A-1" District, only **one (1) principal dwelling** shall be situated on any **one (1) lot**.

40-4-3 LOT AND BUILDING REQUIREMENTS. Every principal building erected in the "A-1" District shall conform to the following requirements:

(A)	Minimum Lot Area	3 Acres
(B)	Minimum Lot Width at the established building line	150 feet
(C)	Minimum Lot Depth	200 feet
(D)	Minimum Setbacks	
	(1) From front lot line	50 feet
	(2) Total for both side yard lines	25 feet
	(3) From either side lot line	10 feet
	(4) From rear lot line	25 feet
	(5) From side yard abutting street	50 feet
(E)	Maximum Building Height	35 feet
	(Does not apply to accessory agricultural structures)	

40-4-4 PERMITTED USES. The following uses shall be permitted in the "**A-1" - Agricultural District**:

Agriculture, including all uses commonly classified as such, provided the requirements of **Section 40-5-12** are met.

Cemeteries.

Government uses of this municipality.

Nurseries, greenhouses, temporary produce stands.

Parks and playgrounds.

Single-family dwellings. **(See Art. V)**

Towers, structures and other facilities designed or intended to be used for the support, enclosure, shelter or protection of distribution equipment utilized by entities engaged in the transmission of telephone messages including but not limited to cellular, personal communications services, special mobile radio transmitters and any other personal wireless service.

Accessory uses in accordance with **Section 40-3-13**.

40-4-5 SPECIAL USES. The following uses may be allowed by special-use permit in accordance with **Section 40-10-24**, et seq. of this Code in the "**A-1**" - **Agricultural District:**

Agricultural implement sales.

Amusement facilities, such as go-cart tracks, archery ranges, etc.

Animal hospitals.

Churches and other places of formal worship.

Clubs or lodges, private; but not those which have as their chief activity a service customarily carried on as a business.

Golf courses, all sizes and types.

Home occupations. **(See Sec. 40-5-7)**

Kennels, commercial.

Manufactured and modular homes.

Nursing homes, sanitariums.

Travel trailer parks (not including mobile home parks). **(See Sec. 40-5-2)**

Truck trailers.

Utility substations.

40-4-6 RESERVED.

DIVISION II - SINGLE-FAMILY DISTRICTS

40-4-7 "SR-1" - SINGLE-FAMILY RESIDENCE DISTRICT (LARGE LOT). In the "SR-1", Single-Family Residence District, land is principally used for or is best suited for detached, single-family dwellings and related educational, religious and recreational facilities. The regulations for this district are intended to stabilize and preserve sound existing single-family neighborhoods, and to promote the development of subdivisions offering a range of new conventionally constructed single-family housing. Other types of residences (mobile homes, manufactured mobile homes, duplexes, apartments, etc.) are prohibited uses in this district.

40-4-8 SPECIAL RESTRICTIONS. In the "SR-1" District, only **one (1)** principal building (single-family dwelling) shall be situated on any **one (1) lot**.

40-4-9 LOT AND BUILDING REQUIREMENTS. Every principal building erected in the "SR-1" District shall conform to the following requirements:

(A)	Minimum Lot Area	10,000 sq. ft.
(B)	Minimum Lot Width at the established building line	80 feet
(C)	Minimum Lot Depth	100 feet
(D)	Minimum Setbacks	
	(1) From front lot line	25 feet
	(2) Total for both side yard lines	25 feet
	(3) From either side lot line	10 feet
	(4) From rear lot line	25 feet
	(5) From side yard abutting street	25 feet
(E)	Maximum Building Height	35 feet
(F)	Minimum Off-Street Parking <u>Per Dwelling Unit</u>	2 spaces
(G)	Maximum Percent Coverage Per Lot	25%

40-4-10 PERMITTED USES. The following uses shall be permitted in the "SR-1" - Single-family Residential District:

Agriculture, including all uses commonly classified as such, provided the requirements of **Section 40-5-12** are met.

Single-family dwellings.

Accessory uses in accordance with **Sections 40-3-15 and 40-3-16**.

Government uses of this municipality.

40-4-11 SPECIAL USES. The following special uses may be allowed by special-use permit in accordance with **Section 40-10-24 et seq.** of this Code in the “**SR-1” District**:

Bed and breakfast establishments.

Cemeteries and mausoleums in conjunction therewith.

Churches and other places of formal worship.

Community residences.

Day care or nursery schools.

Government uses other than those of the municipality.

Home occupations. **(See Section 40-5-7)**

Modular homes. **(See Section 40-2-2)**

Private recreational areas or campus, when not operated for profit.

Public libraries, community centers or grounds.

Railroad rights-of-way and trackage.

Schools: Public, denominational or private, elementary or high, including playgrounds, garages for school buses, and athletic fields auxiliary thereto.

Utilities: Electrical substations, gas regulator stations, other public utility distribution facilities, plants and pumping stations.

40-4-12 - 40-4-15 RESERVED.

DIVISION III - SINGLE-FAMILY DISTRICT (SR-2)

40-4-16 "SR-2" - SINGLE-FAMILY DISTRICT (SMALL LOT). The "SR-2", Single-Family Residence District encompasses areas suitable for single-family dwellings as well as related educational, religious and recreational facilities. The regulations for this district are intended to stabilize and preserve sound existing subdivision offering a range of new single-family housing. Other types of residences (mobile homes, manufactured homes, duplexes, apartments, etc.) are permitted in this district by special-use.

40-4-17 SPECIAL RESTRICTIONS. In the "SR-2" District, only **one (1) principal building** (single-family dwelling) shall be situated on any **one (1) lot**.

40-4-18 LOT AND BUILDING REQUIREMENTS. Every principal building erected in the "SR-2" District shall conform to the following requirements:

(A)	Minimum Lot Area	7,000 sq. ft.
(B)	Minimum Lot Width at the established building line	50 feet
(C)	Minimum Lot Depth	100 feet
(D)	Minimum Setbacks	
	(1) From front lot line	25 feet
	(2) For both side yard lines	20 feet
	(3) From either side lot line	7.5 feet
	(4) From rear lot line	25 feet
	(5) From side yard abutting street	25 feet
(E)	Maximum Building Height	35 feet
(F)	Minimum Off-Street Parking <u>Per Dwelling Unit</u>	2 spaces
(G)	Maximum Percent Coverage Per Lot	25%

40-4-19 PERMITTED USES. The following uses shall be permitted in the **"SR-2" - Single-family Residential District:**

Agriculture, including all uses commonly classified as such, provided the requirements of **Section 40-5-12** are met.

Single-family dwellings.

Accessory uses in accordance with **Section 40-3-16**.

Government uses of this municipality.

40-4-20 SPECIAL USES. The following uses may be allowed in the “**SR-2**” District by special-use permit in accordance with **Section 40-10-24**, to-wit:

Bed and breakfast.

Churches and other places of formal worship.

Community residences, small.

Duplexes.

Government uses other than those of the municipality.

Home occupations. (**See Section 40-5-7**)

Modular homes. (**See Section 40-2-2**)

Private recreational areas or campus, when not operated for profit.

Public libraries, community centers or grounds.

Railroad rights-of-way and trackage.

Schools: Public, denominational or private, elementary or high, including playgrounds, garages for school buses, and athletic fields auxiliary thereto.

Utilities: Electrical substations, gas regulator stations, other public utility distribution facilities, plants and pumping stations.

40-4-21 - 40-4-30 RESERVED.

DIVISION IV - MULTIPLE-FAMILY DISTRICTS (MR-1)

40-4-31 "MR-1" - MULTIPLE-FAMILY RESIDENCE DISTRICT. The "MR-1", Multiple-Family Residence District is established to stabilize and conserve existing neighborhoods that predominantly consist of single-family and multiple-family dwellings and to promote the development of comparable new areas in order to accommodate all persons desiring this type of residential environment.

40-4-32 LOT AND BUILDING REQUIREMENTS. Every principal building in the "MR-1" District shall conform to the requirements indicated below:

NOTE: Detached single-family and two-family dwellings erected in the "MR-1" District shall comply with all applicable regulations of the "MR-1" District.

(A)	Minimum Lot Area	10,000 sq. ft. 4,500 sq. ft. per unit, which- ever is greater.
(B)	Minimum Lot Width at the established building line	80 feet
(C)	Minimum Lot Depth	100 feet
(D)	Minimum Setbacks	
	(1) From front lot line	25 feet
	(2) For both side yard lines	25 feet
	(3) From either side lot line	10 feet
	(4) From rear lot line	25 feet
	(5) From side yard abutting street	25 feet
(E)	Maximum Building Height	35 feet
(F)	Minimum Off-Street Parking Per Dwelling Unit	2 spaces
(G)	Maximum Percent Coverage Per Lot	30%

40-4-33 PERMITTED USES. The following uses shall be permitted in the "**MR-1" - Multiple-Family Residential District:**

Any use permitted in the "**SR-1" District.** (**Section 40-4-10**)

Bed and breakfast.

Community residences, small.

Duplex (two-family dwellings).

40-4-34 SPECIAL USES. The following uses may be allowed in the "**MR-1" District** by special-use permit in accordance with **Section 40-10-24:**

Any special-use in the "SR-1" District. (**See Section 40-4-11**)

Day care center.

Multi-family (triplex, etc.)

Nursing homes.

Utility substations.

40-4-35 - 40-4-36 RESERVED.

DIVISION V - MULTIPLE-FAMILY DISTRICTS (MR-2)

40-4-37 "MR-2" - MULTIPLE-FAMILY RESIDENCE DISTRICT. The "MR-2", Multiple-Family Residence District is established to stabilize and conserve existing neighborhoods that predominantly consist of multiple-family dwellings and to promote the development of comparable new areas in order to accommodate all persons desiring this type of residential environment.

40-4-38 LOT AND BUILDING REQUIREMENTS. Every principal building in the "MR-2" District shall conform to the requirements indicated below:

NOTE: Detached single-family and two-family dwellings erected in the "MR-2" District shall comply with all applicable regulations of the "MR-2" District.

(A)	Minimum Lot Area	10,000 sq. ft. 2,500 sq. ft. per unit, which- ever is greater.
(B)	Minimum Lot Width at the established building line	80 feet
(C)	Minimum Lot Depth	100 feet
(D)	Minimum Setbacks	
	(1) From front lot line	25 feet
	(2) For both side yard lines	25 feet
	(3) From either side lot line	10 feet
	(4) From rear lot line	25 feet
	(5) From side yard abutting street	25 feet
(E)	Maximum Building Height	35 feet
(F)	Minimum Off-Street Parking Per Dwelling Unit	2 spaces
(G)	Maximum Percent Coverage Per Lot	30%

40-4-39 PERMITTED USES. The following uses shall be permitted in the "MR-2" - Multiple-Family Residential District:

Any use permitted in the "MR-1" District. (Section 40-4-33)
Multiple-family dwellings.

40-4-40 SPECIAL USES. The following uses may be allowed in the "MR-2" District by special-use permit in accordance with Section 40-10-24:

Any use permitted as a special-use in Section 40-4-34.
Convenience shops and quick shops (e.g., small drugstore, food store, laundromat).

40-4-41 - 40-4-45 RESERVED.

DIVISION VI - MOBILE HOUSING DISTRICT (MH-1)

40-4-46 "MH-1" - MOBILE HOUSING DISTRICT. The "MH-1", Mobile Housing District is primarily intended to provide areas suitable for the placement of manufactured homes on individual lots and for the establishment of mobile home parks. This district is intended to preserve other residential districts for conventionally constructed single-family dwellings.

40-4-47 MOBILE HOUSING LOT OWNERSHIP. All manufactured housing or modular units located outside an approved mobile home park shall be located on property owned by the owner of the housing unit.

All units shall meet the Housing and Urban Development Federal Code known as the **"National Manufactured Home Construction and Safety Standards"** or the **"Illinois Mobile Home and Manufactured Housing Safety Act"**. All units shall meet all local maintenance codes.

40-4-48 LOT AND BUILDING REQUIREMENTS, GENERALLY.

NOTE: Special lot and building requirements are applicable to mobile home parks. **(See Section 40-4-51)**

(A)	Minimum Lot Area	7,000 sq. ft.
(B)	Minimum Lot Width at the established building line	60 feet
(C)	Minimum Lot Depth	100 feet
(D)	Minimum Setbacks	
	(1) From front lot line	25 feet
	(2) Total for both side yard lines	25 feet
	(3) From either side lot line	10 feet
	(4) From rear lot line	25 feet
	(5) From side yard abutting street	25 feet
(E)	Maximum Building Height	35 feet
(F)	Maximum Percent Coverage Per Lot	25%
(G)	Minimum Off-Street Parking Per Unit	2 spaces

40-4-49 PERMITTED USES. The following uses shall be permitted in the **"MH-1" - Mobile Housing District:**

Any use permitted in the **"MR-1" District. (See Section 40-4-33)**

Manufactured homes on individual lots and modular homes, provided said units conform to all applicable requirements of the Revised Code. **(See Chapter 23)**

40-4-50 SPECIAL USES. The following special uses may be permitted in the "MH-1" District by special-use permit in accordance with **Section 40-10-24**:

Boarding house.
Churches and related religious facilities.
Convenience stores and quick shops.
Government uses other than those of the municipality.
Home occupations, but only in conformity with **Section 40-5-7**.
Mobile home parks in conformity with all applicable requirements of this Code.
Multiple-family dwellings.
Nursing homes.
Schools.
Utility substations.

40-4-51 MOBILE HOME PARKS. No mobile home park shall be established except in conformity with the requirements of this Section:

(A) **Minimum Lot Size, Setback Requirements.**

- (1) **Minimum Lot Area.** No mobile home park shall be located on a tract less than **three (3) acres** in area.
- (2) **Minimum Dimensions.** No mobile home park shall be developed on any tract that is less than **two hundred fifty (250) feet** in both width or depth.
- (3) **Minimum Setbacks.** No part of any mobile home or other structure in any mobile home park shall be situated closer than **twenty-five (25) feet** to any boundary line of the park.
- (4) **Maximum Height.** No structure in any mobile home park shall be more than **thirty-five (35) feet** in height.

(B) **Spacing of Mobile Homes.**

- (1) Every mobile home space shall meet the following requirements:
 - (a) Minimum Area 7,000 square feet
 - (b) Minimum Width 60 feet
 - (c) Minimum Depth 100 feet
- (2) Mobile homes within any park shall be placed so that no part of any mobile home is closer than:
 - (a) 10 feet to any park street;
 - (b) 25 feet to any boundary line of the park; or
 - (c) 20 feet to any part of any other mobile home or structure.

40-4-52 - 40-4-55 RESERVED.

DIVISION VII - NEIGHBORHOOD BUSINESS DISTRICT (B-1)

40-4-56 DESCRIPTION. The "B-1", Neighborhood Business District, as delineated on the zoning map, encompasses small commercial enclaves located within predominantly residential areas. Only selected small-scale sales and service facilities that constitute a convenience to residents of the immediate neighborhood may locate in this district. These commercial establishments must be compatible in design and operation with an essentially residential environment.

40-4-57 SPECIAL RESTRICTIONS. The following use restrictions shall apply:

(A) **Retail Only.** Every commercial or service establishment located in this district shall deal directly with consumers.

(B) **Enclosed Buildings.** All commercial, service and storage activities shall be conducted within completely enclosed structures.

(C) **Limited Size.** The gross floor area of any commercial or service establishment located in this district shall not exceed **three thousand (3,000) square feet.**

(D) **No Drive-Ins.** No commercial or service establishment shall offer goods or services directly to customers waiting in parked motor vehicles, or sell food or beverages for consumption on the premises in parked motor vehicles. Thus, service stations, drive-in restaurants, etc. are excluded from this district.

(E) **Access Ways.** Any access way (driveway) to any off-street parking lot or loading berth shall be located at least **ten (10) feet** from any lot line.

(F) **Refuse Containers.** All refuse generated by any establishment located within this district shall be stored in tightly-covered containers placed in visually-screened areas.

(G) **Screening.** Along the side and rear lot lines of any lot abutting any residential district, screening (a wall, solid fence, or closely-planted shrubbery) at least **six (6) feet** high and of sufficient density to completely block the view from the adjacent residential property shall be provided.

(H) **Signs.** See Article VI.

40-4-58 LOT AND BUILDING REQUIREMENTS. Every principal building erected in the "B-1" District shall conform to the requirements indicated below:

(A)	Minimum Lot Area	10,000 sq. ft.
(B)	Minimum Lot Width	75 feet
(C)	Minimum Lot Depth	100 feet
(D)	Minimum Setbacks	
	(1) From front lot line	25 feet
	(2) Total for both side yard lines	15 feet

	(3)	From either side lot line	5 feet
	(4)	From rear lot line	25 feet
	(5)	From side yard abutting street	25 feet
(E)		Maximum Structure Height	35 feet
(F)		Off-Street Parking	See Article VII

40-4-59 PERMITTED USES. Provided all the use restrictions of this district are observed, the following uses are permitted:

Churches and other places of formal worship.
 Clubs and lodges.
 Commercial establishments.
 Community residence, small.
 Government uses of this municipality.
 Home occupations.
 Libraries, museums.
 Medical/dental clinics. **(Ord. No. 09-11; 03-03-09)**
 Offices.
 Service establishments.
 Accessory uses in accordance with Section **40-3-16.**

40-4-60 SPECIAL USES. Provided all the use restrictions of this district are observed, the following uses may be allowed by special-use permit.

Dwelling units, if located above the first story.
 Governmental uses other than those of this municipality.
 Quick shop.
 Taverns.
 Utility substations.

40-4-61 - 40-4-62 RESERVED.

DIVISION VIII - CENTRAL BUSINESS DISTRICT (B-2)

40-4-63 DESCRIPTION. The "B-2", Central Business District encompasses the concentrated pedestrian-oriented commercial area of this municipality. Stores and other facilities providing a wide range of retail goods and services to the general public may be located within this district.

- 40-4-64 USE RESTRICTIONS.** The following use restrictions shall apply:
- (A) **Retail Only.** Every commercial or service establishment located in this district shall deal directly with consumers.
 - (B) **Processing Incidental.** Any processing or treatment of goods on any premises must be clearly incidental to the retail business conducted on such premises.
 - (C) **Unenclosed Activities--Special-Use Permit.** In this district, a special use permit is required to conduct any commercial, service or storage activities outside a completely enclosed building.
 - (D) **No Drive-Ins.** No commercial or service establishment shall offer goods or services direct to customers waiting in parked motor vehicles, or sell food or beverages for consumption on the premises in parked motor vehicles. Thus, service stations, drive-in restaurants, etc. are excluded from this district.
 - (E) **Refuse Containers.** All refuse generated by any establishment located within this district shall be stored in tightly-covered containers placed in visually-screened areas.
 - (F) **Screening.** Along the side and rear lot lines of any lot abutting any residential district, screening (a wall, solid fence, or closely-planted shrubbery) at least **six (6) feet** high and of sufficient density to completely block the view from the adjacent residential property shall be installed.
 - (H) **Signs.** See Article VI.

40-4-65 LOT AND BUILDING REQUIREMENTS. Every principal building erected in the "B-2" Central Business District shall conform to the requirements indicated below:

- | | | |
|-----|--|--|
| (A) | Minimum Lot Area | None |
| (B) | Minimum Lot Width at established building line | 30 feet |
| (C) | Minimum Lot Depth | None |
| (D) | Minimum Setbacks | Generally none required except
as necessary to achieve compliance
with applicable off-street parking and
loading requirements. (See Article VII)
However, any lot abutting a residential |

district shall conform to the front and side
setback requirements of such district.
60 feet

(E) Maximum Building Height

40-4-66 PERMITTED USES. Provided all the use restrictions of this district
(See Section 40-4-64) are observed, the following uses are permitted:

Auditoriums, meeting rooms, and other places of assembly.
Clubs and lodges.
Commercial establishments, except those listed in **Section 40-4-67.**
Government uses of this municipality.
Libraries, museums.
Offices.
Service establishments, except those listed in **Section 40-4-67.**
Accessory uses in accordance with Section **40-3-16.**

40-4-67 SPECIAL USES. Provided all the use restrictions of this district (**See
Section 40-4-53**) are observed, the following uses may be allowed by special-use permit.

Any use that involves commercial, service or storage activities conducted outside
completely enclosed buildings.

Any use, such as drive-in restaurants, drive-in banks, service stations, etc., that offers
goods or services directly to customers waiting in parked vehicles, or that sells food or
beverages for consumption on the premises in parked motor vehicles.

Churches and other places of formal worship.
Community residence, large.
Dwelling units, if located above the first story.
Governmental uses other than those of this municipality.
Medical/dental clinics.
Nursing homes.
Quick shops.
Taverns.
Utility substations.

40-4-68 - 40-4-69 RESERVED.

DIVISION IX - HIGHWAY BUSINESS DISTRICT (B-3)

40-4-70 DESCRIPTION. The "B-3" Highway Business District is intended to accommodate and regulate strip commercial developments and compatible uses. Since such businesses--both retail and wholesale--draw their patrons primarily from the motoring public, they typically require direct access to major streets and large lots for off-street parking and loading.

40-4-71 USE RESTRICTIONS.

(A) **Repairs Indoors.** All repair and maintenance services shall be conducted within completely enclosed structures. Storage areas may be open to the sky, but shall be enclosed by walls or solid fences at least **eight (8) feet** high.

(B) **Refuse Containers.** All refuse generated by facilities located within this district shall be stored in tightly-covered containers placed in visually-screened areas.

(C) **Screening.** Along the side and rear lot lines of any lot abutting any residential district, screening (a wall, solid fence, or closely-planted shrubbery) at least **six (6) feet** high and of sufficient density to completely block the view from the adjacent residential property shall be installed.

(D) **Parking.** See Article VII.

(E) **Signs.** See Article VI.

40-4-72 LOT AND BUILDING REQUIREMENTS. Every principal building erected in the "B-3" Highway Business District shall conform to the requirements indicated below:

(A)	Minimum Lot Area	20,000 sq. ft.
(B)	Minimum Lot Width at established building line	125 feet
(C)	Minimum Lot Depth	150 feet
(D)	Minimum Setbacks	
	(1) From front lot line	50 feet
	(2) Total for both side yard lines	50 feet
	(3) From either side lot line	20 feet
	(4) From rear lot line	25 feet
	(5) From side yard abutting street	50 feet
(E)	Maximum Building Height	45 feet
(F)	Maximum Percent Coverage Per Lot	50%

40-4-73 PERMITTED USES. Provided all the use restrictions of this district (See Section 40-4-71) are observed, the following uses are permitted:

Any use permitted in the "B-2" district.

Churches and other places of formal worship.

Clubs and lodges.

Commercial establishments, any type, including drive-in facilities. Such uses as the following are especially appropriate in this district:

- bowling alleys
- furniture and appliance sales
- greenhouses
- lumber and building supplies sales
- miniature golf courses
- manufactured home and recreational vehicles sales
- motor vehicles sales.

Government uses of this municipality.

Offices.

Service establishments, any type, including drive-in facilities. Such uses as the following are especially appropriate in this district:

- animal hospitals
- banks and other financial institutions
- motels
- motor vehicles services
- restaurants
- service stations **(See Sec. 40-5-4)**

Accessory uses in accordance with Section **40-3-16**.

40-4-74 SPECIAL USES. Provided all the use restrictions of this district are observed, the following uses may be allowed by special-use permit:

Freight and bus terminals, and related transportation facilities.

Governmental uses other than those of this municipality.

Research and development facilities not involving explosives, flammable gases, or liquids, or live animals.

Utility substations. **(See Section 40-5-10)**

Warehousing and wholesaling of any goods except explosives, flammable gases, or liquids, or live animals.

40-4-75 RESERVED.

DIVISION X - INDUSTRIAL DISTRICT

40-4-76 "I-1" - INDUSTRIAL DISTRICT. The "I-1", Industrial District is intended to provide for areas where light industry, research facilities, warehouses, and wholesale businesses may locate without detriment to the remainder of the community. In these areas, a satisfactory correlation of factors required by such uses exists or can be readily achieved.

40-4-77 USE RESTRICTION.

(A) **Nuisances Prohibited.** No production, processing, cleaning, servicing, testing, repair, sale, or storage of goods, materials or equipment shall unreasonably interfere with the use, occupancy, or enjoyment of neighboring properties or the community as a whole. Unreasonable interferences include, but are not limited to, excessive traffic congestion, loud or shrill noises, excessive emission of smoke, emission of toxic gases, excessive glare, and noxious odors.

(B) **Activities Enclosed.** All production, processing, cleaning, servicing, testing or repair activities shall be conducted within completely enclosed buildings. Storage areas may be open to the sky, but shall be enclosed by walls or fences (whether solid or chain-link), including gates, at least **eight (8) feet** high.

(C) **Buffer Strips.** Wherever any industrial use located in this district abuts any other district, a **twenty (20) foot** wide view and noise control buffer strip shall be installed. Such buffer strip shall consist of densely planted shrubbery that is at least **five (5) feet** high when planted and that can be expected to reach a height of **ten (10) feet** when full grown.

(D) **Parking.** See Article VII.

(E) **Signs.** See Article VI.

40-4-78 LOT AND STRUCTURE REQUIREMENTS.

(A)	Minimum Lot Area	20,000 sq. ft.
(B)	Minimum Lot Width at the established building line	125 feet
(C)	Minimum Lot Depth	150 feet
(D)	Minimum Setbacks	
	(1) From front lot line	25 feet
	(2) From any side lot line	25 feet
	(3) From rear lot line	25 feet
	(4) From side yard abutting street	50 feet
(E)	Maximum Structure Height	60 feet
(G)	Maximum Percent Coverage Per Lot	40%

40-4-79 PERMITTED USES. Provided all the use restrictions of the "I-1" Industrial District are observed, the following uses are permitted: **(See Section 40-4-77)**

Assembly, manufacturing or processing of any commodity from semi-finished materials, provided explosives or live animals are not involved.

Freight and bus terminals and related mass transportation facilities.

Government uses of this municipality.

Research and development facilities not involving explosives, or flammable gases or liquids.

Service stations. **(See Section 40-5-4)**

Towers, structures and other facilities designed or intended to be used for the support, enclosure, shelter or protection of distribution equipment utilized by entities engaged in the transmission of telephone messages including but not limited to cellular, personal communications services, special mobile radio transmitters and any other personal wireless service.

Warehousing or wholesaling of goods, except explosives, flammable gases or liquids, or live animals.

Utility substations. **(See Section 40-5-10)**

Accessory uses in accordance with **Section 40-3-16.**

40-4-80 SPECIAL USES. The following uses may be permitted as special-uses in this District by special-use permit in accordance with **Section 40-10-24**, to-wit:

Any permitted use in the "B-2" or "B-3" District. **(See Sections 40-4-66 and 40-4-73)**

Assembly, manufacturing, processing, warehousing, or wholesaling involving explosives, flammable gases, or liquids, or live animals.

Government uses other than those of this municipality.

Junk Yards. **(See Section 40-5-6)**

Research and development facilities involving explosives, or flammable liquids or gases.

40-4-81 - 40-4-83 RESERVED.

DIVISION XI - FLOOD PLAIN DISTRICT

40-4-84 "O-FP" - FLOOD PLAIN OVERLAY DISTRICT. The "O-FP", Flood Plain Overlay District delineates areas in the vicinity of watercourses and tributaries in the Municipality subject to special requirements.

In the absence of flood protection measures, these areas are subject to periodic flooding which may result in injury to or loss of life and property, disruption of private and governmental services, impairment of the municipal tax base, and the need for extraordinary relief measures. The regulations of this Section are intended to restrict permitted development in flood plains to:

- (A) Uses which inherently have low flood damage potential and
- (B) to other uses allowed in the primary zoning districts provided appropriate protective measures have been taken.

40-4-85 PERMITTED AND/OR SPECIAL USES. This overlay district has no effect on the classification, whether permitted, special, or prohibited, of uses in the primary zoning districts. Rather, this overlay district imposes additional restrictions on both permitted and special uses.

40-4-86 ADDITIONAL RESTRICTIONS. All uses, whether permitted or special, that are located in the area covered by the **"O-FP", Overlay District** shall not only meet all the applicable requirements of the primary district, but shall also be adequately protected against flood damage. To assure such protection, the Administrator, following consultation with technically-qualified persons, may require as necessary:

- (A) Anchorage or addition of weight to structures to resist flotation;
- (B) installation of watertight doors and bulkheads;
- (C) use of special paints, membranes, mortars so as to reduce seepage through walls.
- (D) installation of pumps to lower water levels in structures or to relieve external foundation wall flood pressure;
- (E) reinforcement of walls to resist rupture or collapse caused by water pressure or floating debris;
- (F) installation of valves or controls on sanitary and storm drains so that the drains can be closed to prevent backup of sewage or storm runoff into structures;
- (G) location of electrical equipment and appliances above the level of the regulatory flood elevation;
- (H) location of storage facilities for chemicals, explosives, flammable liquids, toxic substances, etc., above the regulatory flood elevation;

(I) filling and earth-moving to raise the level of proposed building site above the regulatory flood elevation; and/or

(J) any other reasonable flood protection measures.

In no case shall the Zoning Administrator approve any proposed flood protection measure which would result in an increase in the volume or velocity of floodwater leaving the lot in question.

(See Chapter 14 for Flood Plain Code)

ARTICLE V

SUPPLEMENTARY ZONING REGULATIONS

40-5-1 APPLICABILITY OF ARTICLE. This Article establishes lot and structure requirements, design standards, and use limitations for specific, potentially troublesome, structures, and uses. These regulations apply in every zoning district where the specific structure or use is permitted or allowed by special use permit. But if more stringent regulations are applicable in any particular district, such regulations shall prevail.

40-5-2 RECREATIONAL VEHICLES. The regulations of this Section do not apply to travel trailers or other recreational vehicles parked in a permitted travel-trailer park that conforms to the requirements of this Code and the City Code. The requirements of paragraphs (A), (C), and (D) do not apply to travel trailers or other recreational vehicles parked on a permitted recreational vehicle sales lot.

(A) Not more than **two (2)** trailers, or other type recreational vehicle per dwelling shall be parked outside of an enclosed garage on any lot. All trailers or other type recreational vehicles shall be placed on a parking surface as defined in **Section 40-7-3(D)** of this Code and in conformity with **Section 40-7-5** of this Code.

(B) No travel trailer or other recreational vehicle shall be used as a dwelling or permanent storage.

(C) No trailer or other recreational vehicle shall be used as an office or for any other commercial purpose.

(D) Travel trailers or recreational vehicles shall be required to have setbacks as required for accessory buildings.

(E) No travel trailer or other recreational vehicle shall be parked on any front yard.

(F) No unlicensed mobile home may be located in a travel trailer or recreational vehicle park.

(G) No trailer or other type recreational vehicle shall be parked on a public street or alley for more than a **seventy-two (72) hour** period.

40-5-3 BUFFER STRIPS, FENCES, WALLS AND HEDGES. Buffer strips, fences, walls or hedges used for any purpose shall, in all districts, conform to the following:

(A) Whenever a commercial, multi-family or industrial district abuts a residential district or is across a street, alley or similar obstacle from a residential district, a buffer strip of landscaping and/or other treatment shall be required. If a buffer strip is live landscaping, a temporary artificial screening shall be provided until such time as landscape screening reaches maturity. Width shall be **twenty (20) feet**, except that between areas zoned "I" and the designated zones, the width shall be **thirty (30) feet**.

Where an existing "SR-1" abuts a district requiring a buffer, the minimum setback from the buffer in that district requiring a buffer shall be **ten (10) feet** providing that a street does not come between the districts.

(B) No new permanent barbed wire or electrically charged fence less than **eight (8) feet** in height shall be erected or maintained anywhere except in connection with agricultural uses; when the agricultural use abuts a property line or a public right-of-way, the use of such fencing shall require the issuance of a Special Use Permit.

(C) No fence, wall, or other obstruction shall be erected on or within **three (3) feet** of any alley or public right-of-way; temporary barricades shall require the written permission of the Zoning Administrator.

(D) No fence, wall or other obstruction shall be erected in violation of the **Illinois Drainage Code. (See 70 ILCS Sec. 2-1 through 2-13)**

(E) No fence, wall or other obstruction shall exceed **eight (8) feet** in height in any district except the Industrial District (I) where the maximum height shall not exceed **ten (10) feet**; exemption, planting screen, in addition, in areas near street intersections, special height restrictions shall be applicable to fences, walls, or other obstructions. **(See Section 40-3-14)**

(F) No fence, wall or other obstruction shall be erected in any front yard setback area, with the exception of landscape fences specifically approved by the Zoning Administrator. **(See Definition of Landscape Fence, Section 40-2-2)**

(G) No fence, wall or other obstruction shall be erected on or within **two (2) feet** of a property line without the mutual consent of the abutting property owners; in such instances, an applicant for an Initial Certificate of Zoning Compliance shall include on the application a statement to the effect that abutting property owners are aware of the type and proposed location of the fence, wall or other obstruction to be erected and have given their written consent.

(H) No fence, wall or other obstruction which completely encloses a lot shall be erected without the provision of a gate or similar type of moveable barrier for accessibility.

40-5-4 SERVICE STATIONS.

(A) All gasoline pumps and other service facilities shall be located at least **twenty-five (25) feet** from any street right-of-way line, side lot line, or rear lot line.

(B) Every access way shall be located at least **two hundred (200) feet** from the principal building of any fire station, school, public library, church, park, or playground, and at least **thirty (30) feet** from any intersection of public streets.

(C) Every device for dispensing or selling milk, ice, soft drinks, snacks, and similar products shall be located within or adjacent to the principal building.

(D) All trash receptacles, except minor receptacles adjacent to the gasoline pumps, shall be screened from view.

(E) Whenever the use of a service station has been discontinued for **twelve (12) consecutive months** or for **eighteen (18) months** during any **three**

(3) year period, the Administrator shall order that all underground storage tanks be removed or filled with material approved by the Fire Chief.

(F) A permanent curb of at least **four (4) inches** in height shall be provided between the public sidewalk and the gasoline pump island, parallel to and extending the complete length of the pump island.

40-5-5 NURSING HOMES AND GROUP HOMES.

(A) The lot on which any group home is situated shall have a minimum width and depth of **two hundred (200) feet**, and a minimum area of **two (2) acres**.

(B) The lot on which any nursing home is situated shall have a minimum width and depth of **two hundred (200) feet**, and a minimum area of **one and one-half (1.5) acres**.

40-5-6 JUNK YARDS.

(A) No part of any junk yard--which includes any lot on which any **three (3)** or more inoperable vehicles are stored--shall be located closer than **five hundred (500) feet** to the boundary of any residential district.

(B) All vehicles, parts, and equipment shall be stored within a completely enclosed structure or within an area screened by a wall, solid fence, or closely-planted shrubbery at least **eight (8) feet** high and of sufficient density to block the view from adjacent property.

40-5-7 HOME OCCUPATIONS.

(A) **Limitations on Use.** A home occupation shall be considered a special-use in any residence district, provided the home occupation is subject to the following limitations.

- (1) **Employees.** The use shall be conducted entirely within a dwelling or permitted accessory building and carried on by the inhabitants living there. No more than **one (1)** other individual may be employed who does not reside on the premises.
- (2) **Dwelling Alterations.** In any residential district, a principal residential building shall not be altered—to accommodate a home occupation—in such a way as to materially change the residential character of the building.
- (3) **Floor Space.** The total area used for the home occupation shall not exceed **twenty-five percent (25%)** of the gross floor area of the dwelling, or **three hundred (300) square feet**, whichever is less.
- (4) **Sign Restrictions.** There shall be no exterior advertising other than identification of the home occupation by a sign

which shall be attached to the dwelling or the accessory building and shall not exceed **three (3) square feet** in area and shall not be illuminated.

- (5) **Exterior Storage.** There shall be no exterior storage on the premises of material or equipment used as a part of the home occupation.
- (6) **Nuisances.** There shall be no offensive noise nor shall there be vibrations, smoke, dust, odors, heat or glare noticeable at or beyond the property line. All nuisances are prohibited.
- (7) **Unlawful Storage.** There shall be no storage or use of toxic, explosive or other dangerous or hazardous materials upon the premises.
- (8) **Parking Requirements.** A home occupation, including studios or rooms for instruction, shall provide off-street parking area adequate to accommodate needs created by the home occupation as prescribed in **Section 40-7-8.**
- (9) **Covenants.** The use must be in conformance with all valid covenants and agreements recorded with the County Recorder of Deeds, covering the land underlying the dwelling.
- (10) A home occupation permit may be issued for any use allowed by the Zoning code, providing all other criteria for issuance of a home occupation permit are met. No home occupation permit shall be issued for any other use.

(B) **Permit Required.** A home occupation shall not be permitted without a special-use permit being granted by the Board of Appeals, which shall determine whether or not the proposed home occupation complies with all applicable laws and ordinances.

(C) **Activities Not Covered.** A home occupation permit shall not be required for activities such as telecommuting, involving no outside sign, little or no increase in traffic, and with only occasional visits by members of the public to the home. As used in this Section, "telecommuting" means working in the home by using a computer terminal connected to a central office or central computer.

40-5-8 SCHOOLS.

(A) The lot on which any school is situated shall have the minimum area indicated below:

<u>Type of School</u>	<u>Minimum Lot Area</u>
Nursery, Day Care Center	One hundred (100) square feet of fenced outdoor play area per child.

Other (elementary, junior high, senior high)

As required by State law (**Ill. Comp. Stat., Chap. 105, Sec. 5/35-8**) --normally **four (4) acres**, plus **one (1)** additional acre for every **one hundred fifty (150) students** in excess of **two hundred (200)**.

(B) The principal building of any school shall be located at least **twenty-five (25) feet** from all lot lines.

40-5-9 SWIMMING POOLS.

(A) Every in-ground swimming pool, whether public or private, shall be enclosed by a wall or fence at least **four (4) feet** in height and shall have a gate that shall be locked when the pool is not in use. An above-the-ground pool, **four (4) feet** or higher, need not have a fence with a gate, so long as the ladder is removed when not in use.

(B) No private swimming pool shall be located in any front yard or closer than **ten (10) feet** to any side or rear lot line.

(C) All lights used to illuminate any swimming pool shall be arranged or shielded so as to confine direct light rays within the lot lines to the greatest extent possible.

40-5-10 UTILITY SUBSTATIONS. Every electrical substation, gas regulator station, telephone exchange facility, sewage treatment plant, water storage facility, or similar facility shall be deemed a special use, and shall conform to the following regulations:

(A) Every lot on which any such facility is situated shall meet the minimum area and dimension requirements of the district in which it is located. Every part of any such facility shall be located at least **twenty-five (25) feet** from all lot lines, or shall meet the district setback requirements, whichever is greater.

(B) In any residential district, the structure housing any such facility shall be designed and constructed to be compatible with the residential character of the area.

(C) Every such facility shall be screened by close-planted shrubbery at least **ten (10) feet** in height and of sufficient density to block the view from adjacent property. Furthermore, if the Administrator determines that the facility poses a safety hazard (for example, if there are exposed transformers), he shall require that a secure fence at least **eight (8) feet** in height be installed behind the planting screen.

40-5-11 KENNELS.

(A) Kennels shall be permitted only in the A-1 District.

(B) Every kennel shall be located at least **two hundred (200) feet** from the nearest dwelling, and at least **one hundred (100) feet** from any lot line.

(C) The lot on which any kennel is situated shall have a minimum area of **three (3) acres**. (See Chapter 3 of the Code)

40-5-12 AGRICULTURAL ACTIVITIES.

(A) **Farm Animals.** No barn, stable, shed, or other structure intended to shelter farm animals shall be erected closer than **three hundred (300) feet** to any existing dwelling, or closer than **two hundred (200) feet** to any lot line of residential property, whichever distance is greater. Similarly, fences shall be erected or other means shall be taken to prevent farm animals from approaching closer than **three hundred (300) feet** to any existing dwelling or closer than **two hundred (200) feet** to any lot line or residential property, whichever distance is greater.

(B) **Farm Equipment/Commodities.** No agricultural equipment or commodities (including, but not limited to, baled crops, fertilizer, pesticides/herbicides) shall be stored outdoors closer than **three hundred (300) feet** to any existing dwelling or closer than **two hundred (200) feet** to any lot line of residential property, whichever distance is greater. If said equipment/commodities are stored within a completely enclosed structure, said structure shall be located at least **one hundred (100) feet** from any lot line of residential property.

(C) **Barbed Wire/Electrical Fences.** (See Section 40-5-3(B).)

40-5-13 LIGHTING CONTROLS. Any light used for the illumination of signs, swimming pools, or for any other purpose shall be arranged so as to confine the direct light rays away from neighboring residential properties and away from the vision of passing motorist.

40-5-14 PUBLIC BUILDINGS. In any district where municipally owned or other publicly owned buildings are permitted, the following additional requirements shall be met:

(A) In any residential or conservation district, all municipal or other publicly-owned buildings shall be located at least **twenty-five (25) feet** from all property lines.

(B) In any residential, conservation or business district, there shall be no permanent storage of heavy construction or maintenance equipment (such as excavating, road building, or hauling equipment), unless in an enclosed building or enclosed within a solid wall or fence at least **six (6) feet** in height. Such storage areas, maintenance yards, or storage warehouses shall be located at least **twenty-five (25) feet** from any front or side property line.

40-5-15 CHURCHES AND HOUSES OF FORMAL WORSHIP. The following restrictions shall apply to churches no matter if they are permitted uses or special-uses:

(A) **Lot Size.** The minimum size of the lot or tract shall be large enough to accommodate the parking requirements of said church building or house of worship **(Section 40-7-8(B))** and have a minimum frontage on a public street and at the building line of **one hundred fifty (150) feet. (Ord. No. 09-1; 03-17-09)**

(B) **Commercial and Residential Uses.** No part of a church or building for religious worship or accessory building shall be used for commercial or residential purposes, except that **one (1) parsonage** may be permitted on the same lot or tract provided the parsonage is located no more than **seventy-five (75) feet** from the principal building for religious worship.

(C) **Property Lines.** Each principal building shall be located at least **twenty-five (25) feet** from all property lines, and shall meet all other applicable requirements of the Zoning Code.

(D) **Accessory Buildings.** Accessory buildings shall meet all applicable requirements of the Zone District.

(E) **Accessory Uses.** Permitted accessory uses and functions shall be directly related to and an integral part of the customary religious worship activities except as otherwise provided by applicable provisions. **(See 805 ILCS Sec. 110/0.01 et seq.)**

ARTICLE VI

SIGN REGULATIONS

40-6-1 GENERAL PROHIBITION. Any sign not expressly permitted in this Article shall be deemed prohibited.

40-6-2 COMPUTATION OF SIGN AREA ALLOWANCE. Within the limitations and restrictions as further provided in this Article, the total area of all signs which an establishment is permitted to display shall be computed according to the following formula:

One (1) square foot of sign area per one (1) foot of street frontage or two (2) square feet of sign for each lineal foot of the front width of the business.

provided, however, that no establishment in any district shall display more than **three hundred (300) square feet** of sign on any street front.

40-6-3 DEFINITION OF SIGN AREA. As used in this Article, the term “sign area” means the area of the one imaginary square or rectangle which would completely enclose all the letters, parts, or symbols of a sign. **(See Figures 3 and 4 at End of Code)**

40-6-4 SPECIAL SITUATIONS.

(A) Except as specifically provided otherwise in this Article, if an establishment has frontage on **two (2)** or more streets, each side having such frontage shall be considered separately for purposes of determining compliance with the provisions of this Article. However, the area allowance for signs shall not be aggregated so as to permit such establishment to display on any **one (1) frontage** a greater area of signs than would be permitted by application of the formula set forth above.

(B) The side of an establishment adjacent to an off-street parking area shall not be deemed frontage unless the establishment has no other frontage.

40-6-5 SIGNS TO BE NON-HAZARDOUS, WELL-MAINTAINED.

(A) No sign shall be erected, relocated or maintained so as to prevent free access or egress from any door, window, fire escape, or driveway.

(B) No sign shall be erected or maintained in such a manner that it interferes with, obstructs the view of, or is likely to be confused with any authorized traffic control device.

(C) Every sign shall be designed and constructed in conformity with any applicable provisions of the adopted Building Code, if any.

(D) Every sign and appurtenance shall be maintained in a neat and attractive condition by its owner. The sign supports shall be kept painted to prevent rust or deterioration.

40-6-6 ILLUMINATION. Illumination of signs is permitted, subject to the following requirements:

(A) No sign shall employ red, yellow, or green lights in such a manner as to confuse or interfere with vehicular traffic.

(B) No sign other than those providing time and temperature information shall have blinking, flashing, or fluttering lights or any other illuminating device which has a changing light intensity, brightness, or color; provided, however, that this provision shall not apply to any message on any electronically-operated, changeable sign.

(C) The light from any illuminated sign shall be shaded, shielded, or directed so that it creates neither a nuisance to adjacent property nor a traffic hazard.

40-6-7 NONCONFORMING SIGNS. A nonconforming sign means any lawfully erected sign or billboard that does not conform to one or more provisions of this Article or any amendment thereto.

40-6-8 RESTRICTIONS. Any nonconforming sign as defined in **Section 40-6-5** that does not pose an imminent peril to life or property may lawfully remain subject to all the restrictions on the enlargement, alteration, or relocation, or reconstruction of nonconforming structures set forth in **Article VIII** of this Code; provided as follows:

(A) Merely changing the message displayed on a nonconforming sign shall not be construed as a prohibited alteration;

(B) Whenever any sign is nonconforming solely because it is appurtenant to a nonconforming commercial/industrial use located in the Agricultural District or in any residential district, said sign shall be treated in the same manner as it would be if it were appurtenant to a commercial/industrial use located in any Business District or in the Industrial District.

40-6-9 STRICTLY PROHIBITED SIGNS. Except as specifically noted otherwise, henceforth, the following signs and street graphics are strictly prohibited throughout the City:

(A) Signs attached to trees, fences or public utility poles, other than warning signs posted by government officials or public utilities.

(B) Defunct Signs, including the posts or other supports therefor that advertise or identify an activity, business, product, or service no longer conducted on the premises where such sign is located.

(C) Roof-mounted signs, that project or protrude above the highest point of the roof. **(See Sec. 40-6-11) (Ord. No. 08-3; 03-04-08)**

40-6-10 SIGNS PERMITTED IN ANY DISTRICT. Any sign or other street graphic enumerated below that complies with the indicated requirements is permitted in any district of the City. Such signs or street graphics shall not be debited against the displaying establishment's sign area allowance. **(See Sec. 40-6-2)**

(A) **Construction Signs** identifying the architects, engineers, contractors, and other individuals or firms involved with the construction, and/or announcing the character or purpose of the building, but not advertising any product: Such signs shall not exceed **twenty-four (24) square feet** in area, shall be confined to the site of the construction, and shall be removed within **fourteen (14) days** after the intended use of the project has begun.

(B) **Real Estate Signs**, indicating the sale, rental, or lease of the premises on which they are located: Such signs on residential property shall not exceed **six (6) square feet**; on other property, such signs shall not exceed **sixteen (16) square feet**. Not more than **one (1)** real estate sign per street front shall be erected on any lot. Such signs shall be removed within **seven (7) days** of the sale, rental or lease.

(C) **Political Signs**, announcing candidates seeking public/political office and/or political issues and other pertinent information: In any Agricultural or Residential District, political signs shall not exceed **eight (8) square feet**; in other districts, such signs shall not exceed **thirty-two (32) square feet**. Political signs shall be removed within **seven (7) days** after the election to which they pertain, by the party responsible for their erection.

(D) **Garage Sale Signs**, advertising a garage or yard sale to be held on private residential property: Such signs shall not exceed **four (4) square feet**, and shall not be posted for longer than **five (5) days**.

(E) **Public Interest Signs and Street Banners**, publicizing a charitable or non-profit event of general public interest: In the Agricultural District, and in any Residential District, public interest signs shall not exceed **thirty-two (32) square feet**. Public interest signs and street banners shall be permitted only for **sixty (60) days** before and **seven (7) days** after the event.

(F) **Governmental, Public, and Directional Signs:** Such as traffic control signs; railroad crossing signs; legal notices; signs indicating the location of underground cables; no trespassing signs; no parking signs; signs indicating the entrances and exits of parking lots; signs indicating the location of public telephones; restrooms, and so forth.

(G) **Institutional Signs** identifying a public, charitable, or religious institution: Such signs shall be located on the premises of such institution, shall not obstruct the vision of motorists, and shall not exceed **twenty-four (24) square feet**.

(H) **Integral Signs** carved into stone or inlaid so as to become part of the building, and containing such information as date of erection, name of building, and memorial tributes.

(I) **Home Occupation Signs**, identifying only the name and occupation of the residents: Home occupation signs shall not be illuminated, and shall not exceed **four (4) square feet**.

(J) **Subdivision Entrance Signs**, identifying a residential subdivision or apartment complex: Such signs shall contain no commercial advertising, and shall not exceed **twenty (20) square feet**.

(K) **Permanent House Numbers and/or Permanent Name of Occupant Signs** located on the lot to which the sign applies: such signs shall not exceed **two (2) square feet** for single-family dwelling, nor **six (6) square feet** for multiple-family dwellings.

(L) **Signs Located in the Interior of Any Building** or within an enclosed lobby or court of any building or group of buildings, provided such signs are designed and located to be viewed exclusively by the patrons or residents of such buildings.

(M) **Mobile/Portable Marquees** will be allowed so long as they have a temporary sign permit to do so and they are used for their active business advertising only and are in a B-1, B-2 or I-1 District. **(Ord. No. 08-3; 03-04-08)**

40-6-11 AGRICULTURAL; RESIDENTIAL DISTRICTS. No sign other than those listed in **Section 40-6-10** shall be erected in the Agricultural District or in any Residential District.

40-6-12 BUSINESS; INDUSTRIAL DISTRICTS. No establishment located in any Business District or in the Industrial District shall display on any street front a total area of sign in excess of the allowance derived by application of the formula set forth in **Section 40-6-2** and **40-6-10**.

Additionally, signs in any Business District or in the Industrial District shall conform to the requirements indicated in the subsections below:

- (A) **Flush-Mounted Signs.** No flush-mounted (wall) sign shall:
- (1) Project more than **eighteen (18) inches** from the wall or surface to which it is attached; or
 - (2) Extend above the roof line of the building to which it is attached.

(B) **Window Signs.** Signs permanently mounted in display windows shall not be debited against the sign area allowance of the particular establishment.

(C) **Projecting Signs.** No establishment shall display more than **one (1)** projecting sign on any street front. No projecting sign shall:

- (1) Project above the roof line of the building to which it is attached; or
- (2) Extend below a point **eight (8) feet** above the ground or pavement; or
- (3) Project over a driveway or beyond the curblineline of any public street; or
- (4) Project more than **four (4) feet** from the building to which it is attached; or
- (5) Extend to a point above **twelve (12) feet**.

(D) **Canopy or Marquee Signs.** Signs mounted flush on any canopy or marquee shall be considered flush-mounted (wall) signs, and shall meet the requirements of **Section 40-6-12(A)**. Signs suspended beneath a canopy or marquee shall be considered projecting signs, and shall meet the requirements of **Section 40-6-12(C)**.

(E) **Freestanding Signs.** No establishment shall display more than **one (1)** freestanding sign on any street front. Freestanding signs, whether mounted on the ground or post-mounted, shall comply with the following regulations:

- (1) No part of any freestanding sign shall intrude into any public right-of-way. No part of any freestanding sign that extends below a point **ten (10) feet** above the ground or pavement shall be located closer than **ten (10) feet** from the public right-of-way line.
- (2) The area of any freestanding sign, calculated in accordance with **Section 40-6-3** shall not exceed **one hundred (100) square feet**.
- (3) When attached to its structural supports, no part of any freestanding sign shall extend more than **twenty (20) feet** above the ground or pavement.
- (4) The length or width of any freestanding sign shall not exceed **twelve (12) feet**.

(F) **Billboards.** Billboards and other off-premises advertising signs are strictly prohibited in every district except the Industrial District. No billboard shall:

- (1) Be stacked on top of another billboard; or
- (2) Be located closer than **twenty-five (25) feet** to any lot line or any public right-of-way; or
- (3) Be located closer than **five hundred (500) feet** from any other billboard on the same side of the roadway; or
- (4) Extend more than **twenty (20) feet** above the ground or pavement;
- (5) Exceed **three hundred (300) square feet** in area.

40-6-13 TEMPORARY SIGNS. Temporary signs shall not remain in place for a period of more than **thirty (30) days** except when the Zoning Administrator extends the time period for an additional **thirty (30) days**. Any further time extension shall thereafter be applied for through Board of Appeals and the Board may grant such time extension as seems reasonable and necessary in compliance with this Article. A permit is required for all temporary signs. **(See Sections 40-3-7 and 40-10-29)**

ARTICLE VII

SUPPLEMENTARY OFF-STREET PARKING AND LOADING REGULATIONS

40-7-1 APPLICABILITY OF ARTICLE. Off-street parking and loading shall be provided in accordance with this Article for all structures and uses erected or established after the effective date of this Code.

40-7-2 EXISTING PARKING/LOADING FACILITIES.

(A) Existing off-street parking or loading facilities located on the same lot as the use served shall not be reduced below, or if already less than, shall not be further reduced below the requirements and standards for similar new structures or uses.

(B) When an existing structure or use is damaged or destroyed and subsequently repaired or rebuilt, additional off-street parking and loading facilities need not be provided, but parking/loading facilities equivalent to any maintained at the time of such damage or destruction shall be restored.

(C) Whenever the use of any structure or premises is intensified through addition of dwelling units, gross floor area, seating capacity, etc., additional parking and loading facilities commensurate with such increase in use-intensity shall be provided.

(D) Whenever the existing use of a structure is changed to a different use, parking or loading facilities shall be provided as required herein for such new use.

40-7-3 PARKING DESIGN AND MAINTENANCE STANDARDS.

(A) **Spaces.**

(1) Each required parking space shall be at least **ten (10) feet** wide and **twenty (20) feet** long, and shall have at least **seven (7) feet** of vertical clearance. Every space shall be situated so that no part of any parked vehicle overhangs the public right-of-way.

(2) For multi-family, business and industrial uses, markings shall be laid and restored as often as necessary to clearly delineate each parking space.

(B) **Interior Aisles.** Aisles within parking lots in Business and Industrial Districts shall be sufficiently wide to permit safe and efficient vehicular movement in the aisles, and into and out of parking spaces. Aisles designed for two-way traffic shall be at least **twenty-two (22) feet** wide. One-way aisles designed for **sixty (60) degree** parking shall be at least **eighteen (18) feet** wide.

(C)

Access Way.

- (1) Parking areas in the Business and Industrial Districts shall be designed so that ingress to and egress from a parking space is from an aisle or driveway, not directly from the public right-of-way.
- (2) No access way to any parking area shall be located within **thirty (30) feet** of any corner formed by the intersection of the rights-of-way of **two (2)** or more streets. At intersections where traffic control devices are installed, the Administrator may increase this requirement as necessary to prevent traffic hazards.
- (3) Parking lot access ways (as well as residential driveways) and public streets shall be aligned to form, as closely as feasible, right angles.
- (4) The access way to every parking lot located in any business and industrial zoning district shall be at least **twenty-four (24) feet** wide unless two one-way drives, each **twelve (12) feet** wide, are provided.
- (5) The access way to every parking area located in any residential zoning district shall be at least **ten (10) feet** wide; but if the parking area contains more than **eight (8) parking spaces** or if the access way is longer than **one hundred (100) feet**, access shall be provided either by one 2-way drive at least **twenty (20) feet** wide or by two 1-way drives, each at least **ten (10) feet** wide.

(D) **Surfacing.** Parking lots shall be graded and improved with a compacted stone base at least **seven (7) inches** thick, or a subsurface matting material, surfaced with at least **two (2) inches** of asphalt, concrete or approved comparable material. Parking lots used exclusively for employees are hereby exempt from these requirements, but shall be constructed of an approved dustless surface. These requirements shall not apply to single-family residential. **(Note: "Oil and chip" is not comparable material.) (Ord. No. 09-1; 03-17-09)**

(E) **Lighting.** Any light(s) used to illuminate any parking lot shall be arranged or shielded so as to confine direct light rays within the lot lines of the parking lot to the greatest extent possible and in no case, shall the light(s) shine on or into nearby residences.

40-7-4 LANDSCAPING. In order to reduce heat and glare, to minimize blowing of dust and trash, and to reduce the oppressive visual effects of large open parking areas, landscaping shall be provided and maintained within every parking lot that contains **twenty (20)** or more parking spaces. Parking lots used exclusively for employees are hereby exempt from these requirements, but shall be constructed of an approved dustless surface.

(A) A landscaping plan (either a separate document or an element of a more inclusive development plan) shall accompany every application for a Certificate of Zoning Compliance to develop any parking lot that will contain **twenty (20)** or more parking spaces.

(B) The landscaping plan shall include the following information:

- (1) Proposed type, amount, size and spacing of plantings, including trees, shrubbery and ground cover;
- (2) Proposed size, construction materials, and drainage of landscaped islands; and
- (3) Sketch indicating proposed spatial relationships of landscaped areas, parking spaces, automobile circulation, and pedestrian movement.

40-7-5 LOCATION OF PARKING. All off-street parking shall be located in conformity with the following requirements:

(A) **For Dwellings.**

- (1) Parking spaces accessory to dwellings located in any residential zoning district shall be located on the same lot as the dwelling. Such parking spaces shall not be located in any front yard except in the driveway, but may be located in the side or rear yards. Each parking space accessory to a multi-family dwelling shall be unobstructed so that no vehicle need be moved in order to allow another vehicle to enter/exit the parking area.
- (2) All parking spaces accessory to permitted non-dwelling uses located in the residential zoning district generally shall be located on the same lot as the use served. However, by special use permit, such parking facilities may be located on another parcel within **two hundred (200) feet** of the use served. No commercial vehicle exceeding one ton cargo capacity shall be parked anywhere in a residential district (except for normal loading, unloading, and service call), unless a special use permit has been obtained. No vehicle repair work shall be permitted on any parking lot located in any residential district, i.e. school, church, etc.

(B) **Business And Industrial Districts.**

- (1) Parking spaces accessory to any dwelling located in any business district shall be located within **two hundred (200) feet** of the dwelling. Parking spaces accessory to any other conforming use located in any business or industrial district shall be located within **five hundred (500) feet** of the use served.

- (2) No parking space accessory to any use located in business or industrial district shall be located in any residential district except by special use permit; and in no case shall any such parking areas extend more than **five hundred (500) feet** into a residential district.
- (3) In any business or industrial district, off-street parking facilities for different buildings or uses may be provided collectively if the total number of spaces so located together is not less than the sum of the separate requirements for each use, and if all regulations governing location of parking spaces in relation to the use served are observed.

40-7-6 DESIGN AND LOCATION OF OFF-STREET LOADING FACILITIES. All off-street loading facilities shall conform to the minimum standards indicated below:

(A) **Size Of Space.** Every required off-street loading space shall be at least **twelve (12) feet** wide and **forty-five (45) feet** long exclusive of aisle and maneuver space, and shall have vertical clearance of at least **fourteen (14) feet**. In no case shall a vehicle being loaded or unloaded overhang into the public right-of-way.

(B) **Access Way.** Every off-street loading space shall have a safe means of vehicular access to a street or alley. Such access way shall be at least **twelve (12) feet** wide.

(C) **Surfacing.** Every off-street loading area shall be improved with a compacted stone base at least **seven (7) inches** thick, surfaced with at least **two (2) inches** of asphaltic concrete or approved comparable material. **(No "oil and chip")**

(D) **Buffer Strips.** No loading space or area for vehicles over **two (2) ton** cargo capacity shall be developed closer than **fifty (50) feet** to the lot line of any lot located in any residential district or in the Agricultural District unless such space/area is completely enclosed by walls, a solid fence, or closely planted shrubbery at least **ten (10) feet** in height and of sufficient density to block the view from residential property.

(E) **Location.** Every off-street loading space shall be located on the same parcel of land as the use served, and not closer than **fifty (50) feet** to the intersection of the rights-of-way of **two (2)** or more streets, and not on any required front yard.

40-7-7 COMPUTATION OF REQUIRED PARKING/LOADING SPACES.
In computing the number of parking spaces required by this Code, the Zoning Administrator shall apply the following rules:

(A) In computing parking space requirements based on the number of employees, the maximum number of employees on the premises at any period of the day shall be used. **"Employee parking" means one (1) parking space shall be required per one and one-half (1.5) employees"**, unless otherwise stated.

(B) In computing parking or loading space requirements on the basis of building floor area, the **gross** floor area shall be used.

(C) Whenever it is necessary to translate gross parking lot area into number of parking spaces, **three hundred fifty (350) square feet** of gross area shall be deemed **one (1)** parking space.

(D) If computation of the number of parking or loading spaces required by this Code results in a fractional space, any fraction of **one-half (.5)** or more shall be counted as **one (1) space**.

(E) No space or portion thereof needed to satisfy the minimum applicable requirement for number of off-street parking or loading spaces shall be counted as part of the off-street parking or loading spaces required for another structure or use.

40-7-8 NUMBER OF PARKING AND LOADING SPACES REQUIRED.

Off-street parking and loading spaces shall be provided as indicated in tabular form below. For any use that is not listed in the table, the same amount of parking and loading space shall be provided as is required for the most similar listed use. The Zoning Administrator shall make the determination of similarity:

<u>Use</u>	<u>Parking Spaces Required</u>	<u>Loading Spaces Required (if any)</u>
(A) <u>Dwellings, Lodgings:</u>		
	Motels, Boarding space if the use has houses parking 20,000 sq. ft. or more of floor area	1 space per lodging unit, plus 1 employee
Mobile homes & Immobilized homes	2 spaces per unit	Not Applicable
Multi-family dwellings	2 spaces per dwelling unit	Not Applicable
Single-family & two- family dwellings	2 spaces per dwelling unit	Not Applicable
Manufactured Home	2 spaces per dwelling unit	Not Applicable
(B) <u>Educational, Institutional, Recreational:</u>		
Churches, assembly halls	1 space per 4 seats in the largest seating area	Not Applicable

<u>Use</u>	<u>Parking Spaces Required</u>	<u>Loading Spaces Required (if any)</u>
Libraries, museums	1 space per 500 sq. ft. of floor area	On review by the Administrator
Nursing Homes	1 space per 5 beds plus 1.5 spaces per employee on the major shift	To 50,000 sq. ft. of floor area..1 space; 50,001 – 100,000 sq. ft...2 spaces
Schools		
Elementary and Junior High	1 space for every 20 students that the building is designed to accommodate, plus employee parking.	On review by the Administrator
Senior High	a space for every 4 students that the building is designed to accommodate, plus employee parking.	On review by the Administrator

(C) Commercial, Office, Service:

Note: All commercial and service uses, unless specifically indicated otherwise below.	1 space per 300 sq. ft. of floor area	To 10,000 sq. ft. of floor area...1 space; more than 10,000 sq. ft...1 space plus 1 additional space per 50,000 sq. ft. of floor area in excess of 10,000 sq. ft.
Financial Institutions		
Walk-in	1 space per 300 sq. ft. of floor area, plus employee parking	(Both walk-in and drive-in): To 30,000 sq. ft. of floor area...none required; 30,001 to 100,000 sq. ft...1 space
Drive-in	5 spaces per teller window	
Beauty and Barber shops	2 spaces per chair, plus employee parking	Not Applicable
Bowling Alleys	4 spaces per bowling lane plus additional spaces as required herein for affiliated uses such as restaurants and taverns	Not Applicable, except as required for affiliated uses

Parking Spaces Loading Spaces

<u>Use</u>	<u>Required</u>	<u>Required (if any)</u>
Car Wash	3 spaces per wash lane	Not Applicable
Furniture and appliance stores	1 space per 600 sq. ft. of floor area	To 25,000 sq. ft. of floor area...2 spaces; more than 25,000 sq. ft. of floor area... 2 spaces, plus 1 additional space per 25,000 sq. ft. of floor area in excess of 25,000 sq. ft.
Home occupations	1 space per 150 sq. ft. of floor area devoted to the home occupation in addition to the parking requirements for the dwelling	Not Applicable
Offices generally, but not medical/dental offices	1 space per 300 sq. ft. of floor area	To 30,000 sq. ft. of floor area...none required. 30,001-100,000 sq. ft...1 space
Offices, medical/dental	1 space per 200 sq. ft. of floor area or 3 spaces per professional, whichever is greater.	Not Applicable
Mortuaries	1 space per 5 seats plus 1 space per funeral vehicle, but not less than 20 spaces per chapel or state room	1 space per 10,000 sq. ft. or more of floor area
Restaurants; refreshment stands		(Both sit-down and drive-in):
Sit-down	1 space per 4 seats or 1 space per 50 sq. ft. of floor area, whichever is greater	1 space per structure having 10,000 sq. ft. or more floor area
Drive-in	1 space per 25 sq. ft. of floor area	

<u>Use</u>	<u>Parking Spaces Required</u>	<u>Loading Spaces Required (if any)</u>
Service stations	2 spaces per service stall, plus employee parking	Not Applicable
Taverns	1 space per 2 seats or 1 space per 50 sq. ft. of floor area, whichever is greater	1 space per structure having 10,000 sq. ft. or more of floor area
Theaters		Not Applicable
Indoor	1 space per 4 seats	
Drive-In	On review by the Administrator	
Vehicle sales (autos, boats, trailers, etc.)	1 space per 600 sq. ft. of enclosed floor area plus: Up to 10,000 sq. ft. of open lot area devoted to sale/ display of vehicles...1 space 2,5000 sq. ft. of open lot area. Above 10,000 sq. ft...4 spaces plus 1 additional space per 5,000 sq. ft. of open lot area in excess of 10,000 sq. ft.	To 25,000 sq. ft. of floor area and open lot area...2 More than 25,000 sq. ft. of floor area and open lot area...2 spaces, plus 1 additional space per 25,000 sq. ft. in excess of 25,000 sq. ft.
(D) <u>Industrial:</u>		
Any manufacturing, warehousing, or other industrial use	Employee parking of 1 space per 1.5 employee; plus 1 space per company vehicle, plus 1 visitor space per employees on the major shift	To 20,000 sq. ft. of floor area...1 space; 20,001- 50,000 sq. ft...2 spaces; 50,001-90,000 sq. ft...3 spaces; above 90,000 sq. ft...3 spaces plus 1 additional space per 50,000 sq. ft. of floor area in excess of 90,000 sq. ft.

ARTICLE VIII

NONCONFORMITIES

40-8-1 NATURE OF NONCONFORMITIES. The requirements imposed by this Code are designed to guide the use of land by encouraging the development of structures and uses that are compatible with the predominant character of each of the various districts. Lots, structures, and uses of land or structures that do not conform to the requirements of the district in which they are located tend to impede appropriate development. For example, nonconformities are frequently responsible for heavy traffic on residential streets, the overtaking of parking facilities, the creation of nuisances, and/or the lowering of property values. **The regulations in this Article are intended to alleviate such existing/potential problems by encouraging the gradual elimination of nonconformities.**

40-8-2 NONCONFORMING LOTS. If the Zoning Board of Appeals approves a variance for any vacant lot that does not conform to **one (1)** or more of the lot size (area dimensions) requirements of the district in which it is located, that lot may, nonetheless, be developed for any use permitted in that district if such vacant lot:

- (A) was recorded in the office of the County Recorder of Deeds prior to the effective date of this Code (or pertinent amendment thereto);
- (B) has continuously remained in separate ownership from abutting tracts of land throughout the entire period during which the creation of such lot was prohibited by the applicable zoning code or other ordinances; and
- (C) is at least **fifty (50) feet** wide.

40-8-2.1 NON-URBAN AND RESIDENTIAL DISTRICTS. In the Agricultural District and in any residential district, one single-family dwelling and related accessory structure, but no other use, may be erected on any vacant nonconforming lot of the type described above provided all the bulk regulations of the particular district are observed.

40-8-2.2 BUSINESS AND INDUSTRIAL DISTRICTS. In the Industrial District and in any business district, any structure permitted in the particular district may be erected on any vacant nonconforming lot of the type described above if the bulk requirements of that district are met.

40-8-2.3 TWO OR MORE LOTS IN COMMON OWNERSHIP. If **two (2)** or more lots or combinations of lots and portions of lots with continuous frontage were of record and in common ownership on the effective date of this Code, and if **one (1)** or more of those lots does not meet the minimum lot width, depth, and area requirements of the district in which it is located, the land involved shall be considered an undivided parcel. No portion of any such parcel shall be developed except in compliance with this Code, nor shall any such parcel be divided so as to create a lot that does not meet the requirements of this Code. **(See Section 40-3-8)**

40-8-3 NONCONFORMING STRUCTURES. Any otherwise lawful structure which exists on the effective date of this Code, but which could not be erected under the terms of this Code because of requirements/restrictions concerning lot size, height, setbacks, or other characteristics of the structure or its location on the lot, may lawfully remain, subject to the following provisions:

(A) **Maintenance.** A nonconforming structure may be maintained by ordinary repairs.

(B) **Enlargement, Alterations.** A nonconforming structure shall not be enlarged or altered in any way which increases its nonconformity.

(C) **Relocation.** A nonconforming structure shall not be moved unless, after relocation, it will conform to all the regulations of the district in which it is situated.

(D) **Reconstruction.** No structure which is destroyed or damaged by any means shall be reconstructed if the Administrator determines that the cost of such reconstruction exceeds **fifty percent (50%)** of the structure's market value at the time of loss, unless after reconstruction the structure will conform to all applicable regulations of the district in which it is located. In the event the Administrator determines the estimated cost of reconstruction is less than **fifty percent (50%)** of the structure's market value at the time of loss, repairs or reconstruction shall be permitted, provided such work starts within **six (6) months** from the date the damage occurred and is diligently prosecuted to completion.

The Administrator may require that the reconstruction cost estimate be made by a bona fide construction contractor, and that the structure's market value at the time of loss be determined by a licensed real estate appraiser. The owner of the damaged structure shall be responsible for obtaining these estimates for the Administrator.

As an alternative, the market value may be determined by the Administrator by using the **"state equalized assessed value"** multiplied by the number **three (3)**.

The provisions of paragraph (D) shall not apply to single-family dwellings.

40-8-4 NONCONFORMING USES OCCUPYING A STRUCTURE. If any lawful use occupying a structure exists on the effective date of this Code, such use may lawfully continue, subject to the following provisions:

(A) **Maintenance.** Any structure housing a nonconforming use may be maintained through ordinary repairs.

(B) **Enlargement, Alteration, Reconstruction, Relocation.** No structure housing a nonconforming use shall be enlarged, structurally altered, reconstructed or relocated unless the use of the structure is changed to a permitted use.

(C) **Extension of Use.** No nonconforming use may be extended to any part(s) of the structure not intended or designed for such use, nor shall the nonconforming use be extended to occupy any land outside such structure.

(D) **Change of Use.** A nonconforming use occupying a structure may be changed to a similar use, to a more restrictive use, or to a conforming use. Such use shall not thereafter be changed to a less restrictive use.

(E) **Discontinuance of Use.** When a nonconforming use of a structure or of a structure and premises in combination is discontinued for **twelve (12)** consecutive months or for **eighteen (18) months** during any **three (3) year** period, the nonconforming use shall not thereafter be resumed. Any discontinuance caused by government action and without any contributing fault by the nonconforming user shall not be counted in calculating the length of discontinuance.

40-8-5 NONCONFORMING USE OF LAND. Any lawful use of land existing on the effective date of this Code that would not be permitted under the terms of this Code may lawfully continue, subject to the following provisions:

(A) **Intensification or Extension of Use.** A nonconforming use of land shall not be intensified, or extended to occupy a greater area of land than was occupied by such use on the effective date of this Code.

(B) **Relocation.** No nonconforming use of land shall be moved, in whole or in part, unless such use, upon relocation, will conform to all pertinent regulations of the district in which it is proposed to be located.

(C) **Change of Use.** Whenever a nonconforming use of a building has been changed to a more restrictive use or to a conforming use, such use shall not thereafter be changed to a less restrictive use. If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or more restricted classification.

(D) **Discontinuance.** When a nonconforming use of land is discontinued for a period of **twelve (12)** consecutive months or for **eighteen (18) months** during any **three (3) year** period, it shall not thereafter be resumed, and any subsequent use of such land shall conform to the applicable district regulations. Any discontinuance caused by government action and without any contributing fault by the owner or operator shall not be counted in calculating the length of discontinuance.

40-8-6 NONCONFORMITIES UNDER PERMIT AUTHORITY. The regulations of this Article shall not apply to any change in an existing structure or to any change in the use of a structure or of land for which a permit was issued prior to effective date of this Code or any pertinent amendment thereto, provided that the work authorized by such permit is completed within a reasonable time.

ARTICLE IX

ADMINISTRATION AND ENFORCEMENT

40-9-1 ZONING ADMINISTRATOR. The office of Zoning Administrator of this municipality is hereby established. He shall be appointed by the Mayor with the advice and consent of the City Council for a term of **one (1) year**. The Zoning Administrator shall be the executive head of this office.

40-9-2 DUTIES. The Zoning Administrator is hereby authorized and directed to diligently administer and enforce the provisions of this Code. This broad responsibility encompasses, but is not limited to, the following duties:

(A) To review applications pertaining to land, structures and the uses of land and/or structures;

(B) To issue or deny initial and final certificates of zoning compliance;

(C) To supervise inspections of land, structures, and the uses of land and/or structures to determine compliance with this Code, and where there are violations, to initiate appropriate action to secure compliance;

(D) To receive, file and forward to the Board of Appeals all applications for variances and appeals;

(E) To receive and file all applications for amendments and special use permits;

(F) To maintain up-to-date records of this Code including, but not limited to, district maps, certificates of zoning compliance, special-use permits, variances, interpretative decisions of the Board of Appeals, amendments and all applications related to any of these matters;

(G) To periodically review the provisions of this Code to determine whether revisions are needed, and to make recommendations on these matters to the City Council at least once each year;

(H) To cause copies of this Code (including the district map) and any amendments thereto to be printed from time to time, as necessary; and

(I) To provide information to the general public on topics related to this Code; and

(J) To republish the zoning district map not later than March 31st if any rezonings or annexations have been approved during the preceding calendar year. **(See Sec. 40-3-3)**

40-9-3 INITIAL CERTIFICATES OF ZONING COMPLIANCE. Upon the effective date of this Code, no land shall be developed, no new use or structure shall be established or erected, and no existing use or structure shall be enlarged, extended, altered, relocated or reconstructed until an initial certificate of zoning compliance has

been issued. The Administrator shall not issue an initial certificate of zoning compliance unless he determines that the proposed activity conforms to the applicable provisions of this Code.

40-9-4 ZONING APPLICATION. Every applicant for an **Initial Certificate of Zoning Compliance** shall submit to the Administrator, in graphic and/or narrative form, all the items of information listed below that are applicable to the particular project. The Administrator shall decide which items are applicable. (**NOTE: Filing fee required in Section 40-9-14.**)

ITEMS OF INFORMATION:

- (A) Name and address of the applicant;
- (B) Name and address of the owner or operator of the proposed lot, structure or use, if different from (A);
- (C) Nature of the proposed use, including type of activity, manner of operations, number of occupants or employees, and similar matters;
- (D) Location of the proposed use or structures, and its relationship to existing adjacent uses or structures;
- (E) Area and dimensions of the site for the proposed structure or use;
- (F) Existing topography of the site (USGS 10-foot contour data is acceptable), and proposed finished grade;
- (G) Existing and proposed screening, landscaping, and erosion control features on the site, including the parking area;
- (H) Height, setbacks, and lot coverage of the proposed structures;
- (I) Number and size of proposed dwelling units, if any;
- (J) Location and number of proposed parking/loading spaces and access ways;
- (K) Identification and location of all existing and proposed utilities, whether public or private; and/or
- (L) Location and square footage of existing and proposed signs by type and class.

40-9-5 DURATION OF CERTIFICATE. **Initial Certificates of Zoning Compliance** shall be valid for **one (1) year**, or until revoked for failure to abide by a corrective action order. The Administrator may renew **Initial Certificates of Zoning Compliance** for successive **one (1) year** periods upon written request, provided the applicant is making a good faith effort to complete the authorized work. (**See Sec. 40-9-7)**

40-9-6 RELATIONSHIP TO BUILDING PERMITS. Upon the effective date of this Code, no building permit for the erection, enlargement, extension, alteration, or reconstruction of any structure shall be issued until the applicant for such permit has properly obtained an initial certificate of zoning compliance pertaining to such work.

The City in compliance with the **Illinois Architecture Practice Act of 1989** and effective **January 1, 1992 (See 225 ILCS Sec. 305/1 et seq.)** requires that all new construction and structural renovations of buildings used by the general public, including multiple housing, but excluding one and two family residences, shall require architectural plans with an architect's seal from a licensed architect.

40-9-7 FINAL CERTIFICATES OF ZONING COMPLIANCE. No lot or part thereof that has been recorded or developed after the effective date of this Code, and no structure or use, or part thereof, that has been erected, enlarged, altered, relocated, or reconstructed after the effective date of this Code shall be used, occupied or put into operation until a certificate of zoning compliance has been issued. The Administrator shall not issue a final certificate of zoning compliance until it has been determined, **by inspection**, that the work authorized by the initial certificate of zoning compliance has been completed in accordance with approved plans. Failure to obtain a final certificate of zoning compliance shall constitute a separate violation of this Code.

40-9-8 CORRECTIVE ACTION ORDERS. Whenever the Zoning Administrator finds, by inspection or otherwise, that any lot, structure, or use, or work thereon is in violation of this Code, he shall so notify the responsible party, and shall institute appropriate measures to secure compliance.

40-9-9 CONTENTS OF ORDER. The order to take corrective action shall be in writing and shall include:

- (A) A description of the premises sufficient for identification;
- (B) A statement indicating the nature of the violation;
- (C) A statement of the remedial action necessary to effect compliance;
- (D) The date by which the violation must be corrected;
- (E) A statement that the alleged violator is entitled to a conference with the Administrator if he so desires;
- (F) The date by which an appeal of the correction order must be filed, and a statement of the procedure for so filing; and
- (G) A statement that failure to obey a corrective action order shall result in revocation of the certificate of zoning compliance and may result in the imposition of fines.

40-9-10 SERVICE OF ORDER. A corrective action order shall be deemed properly served upon the owner, occupant, or operator of the offending lot, structure, or use if it is:

- (A) Served upon him personally;
- (B) Sent by certified mail to his last known address; or
- (C) Posted in a conspicuous place on or about the affected premises.

40-9-11 STOP ORDERS. Whenever any work being done in violation of an **Initial Certificate of Zoning Compliance**, the Administrator's corrective action order may state that the violation be stopped immediately. In such case, the corrective action order is equivalent to a stop order. **(See Sec. 40-9-9)**

40-9-12 EMERGENCY MEASURES. Notwithstanding any other provisions of this Code, whenever the Administrator determines that any violation of this Code poses an imminent peril to life or property, he may institute, without notice or hearing, any necessary proceedings to alleviate the perilous condition.

40-9-13 COMPLAINTS. Whenever any violation of this Code occurs, or is alleged to have occurred, any person may file a written complaint on forms provided by the Administrator. The Administrator shall record such complaints, promptly investigate, and, if necessary, institute appropriate corrective action.

40-9-14 FEES. The City Council establishes the following schedule of fees for the various permits and procedures listed in this Code. The fees are intended to defray the administrative costs connected with the processing/conducting of such permits or procedures; the fees do not constitute a tax or other revenue-raising device. All such fees shall be paid in advance by the applicant to the City Clerk as follows: (All fees waived the **first (1st) year** from the effective date of this Zoning Code.)

(A) **Zoning Occupancy Fees.** The City has determined not to charge any zoning occupancy fees. **(Ord. No. 09-1; 03-17-09)**

(B) <u>Board of Appeals Fees:</u>	
Interpretation of Code (Appeal)	\$80.00
Special-Use Permit	\$80.00
Variance Permit	\$80.00
Amendments	\$80.00

(Ord. No. 08-5; 03-04-08)

40-9-15 PENALTIES.

(A) Any person who is convicted of a violation of this Code shall be fined not less than **Seventy-Five Dollars (\$75.00)**, nor more than **Seven Hundred Fifty Dollars (\$750.00)**, plus costs. Each day on which a violation continues shall be considered a separate offense.

(B) Nothing contained in this Section shall prevent the City from taking any other lawful action that may be necessary to secure compliance with this Code.

ARTICLE X

SPECIAL PROCEDURES AND PERMITS

DIVISION I - BOARD OF APPEALS

40-10-1 ZONING BOARD OF APPEALS. The Zoning Board of Appeals is hereby established in accordance with Illinois law. The Zoning Board of Appeals shall hereinafter be referred to as the Board of Appeals. **(See 65 ILCS Sec. 5/11-13-3)**

40-10-2 MEMBERSHIP, ELECTION, COMPENSATION. The Board of Appeals shall consist of **seven (7) members**, all of whom shall reside within the City. Each Board member shall be elected. **One (1)** of the members so elected shall be named as Chairman at the time of his/her election to be elected by the Board members. The Board of Appeals shall select **one (1)** of its members to be the vice-chairman and **one (1)** the secretary. Each Board member shall receive compensation as established by the City Council. **(Ord. No. 09-1; 03-17-09)**

40-10-3 TERM OF OFFICE - VACANCIES. Every member of the Board of Appeals, which was established pursuant to the former Zoning Code shall be entitled to serve on the Board of Appeals until the election and qualification of the initial elected Board of Appeals, whereupon the terms of all sitting members of the Board of Appeals shall expire.

Three (3) persons elected to the Board of Appeals on or after the effective date of this Code at the initial election shall hold office for **four (4) years** from the date of his/her election, and **four (4) persons** elected to the Board of Appeals at the initial election shall hold office for **two (2) years**; thereafter all terms shall be **four (4) years**.

Removal of any member of the Board of Appeals shall be in compliance with State Statutes. Vacancies on the Board of Appeals shall be filled for the unexpired term of the member whose place has become vacant in the manner provided for by State Statutes. **(Ord. No. 09-1; 03-17-09)**

40-10-4 MEETING--QUORUM. All meetings of the Board of Appeals shall be held at the call of the Chairman and at such times as the Board of Appeals may determine. All Board of Appeals meetings shall be open to the public. The Board of Appeals may adopt their own rules of meeting procedures consistent with this Code and the applicable Illinois Statutes. The Board of Appeals may select such officers as it deems necessary. The Chairman, or in his absence, the Acting Chairman may administer oaths and compel the attendance of witnesses. **Four (4) members** of the Board of Appeals shall constitute a quorum, and the affirmative vote of at least **four (4) members** shall be necessary to authorize any Board of Appeals action. **(See Sec. 40-10-6 for vote on decisions of Board of Appeals.)**

40-10-5 RECORDS. The Board of Appeals shall keep minutes of its proceedings and examinations. These minutes shall indicate the absence of any member, the vote or abstention of each member on each question, and any official action taken. A copy of every rule, variance, order or recommendation of the Board of Appeals shall be filed immediately with the City Clerk and shall be a public record.

40-10-6 DECISIONS. The concurring vote of **four (4) members** of the Board of Appeals shall be necessary to grant a variance or special-use permit. The authorization of the Board of Appeals shall be by written letter and shall contain its findings of fact. A copy shall be forwarded to the City Clerk.

40-10-7 PERIOD OF VALIDITY. No decision by the Zoning Board of Appeals granting a variance or special-use permit shall be valid for a period longer than **twelve (12) months** from the date of such decision unless (1) an application for a zoning certificate is obtained within such period and construction, moving, remodeling, or reconstruction is started, or (2) an occupancy certificate is obtained and a use is commenced. However, the Board of Appeals may grant additional extensions of time not exceeding **one hundred eighty (180) days**, each upon written application made within the initial **twelve (12) month** period without further notice or hearing, but said right to so extend said time shall not include the right to grant additional relief by expanding the scope of the variation.

40-10-8 FINALITY OF DECISIONS OF THE BOARD OF APPEALS. All decisions of the Board of Appeals, shall in all instances be the final administrative determination and shall be subject to review by a court in the manner provided by applicable **Illinois Compiled Statutes**. No applicant shall apply for the same or identical request for a period of **one (1) year** unless the facts and/or request have substantially changed.

40-10-9 OFFICE OF THE SECRETARY OF THE BOARD OF APPEALS. The Secretary of the Board of Appeals shall be appointed by the Board of Appeals to serve until a successor is appointed. The Secretary shall record the minutes of the Board of Appeal's proceedings and actions, showing the vote of each member upon each question or if absent or failing to vote, indicating such fact. The Secretary shall perform such other duties as may be assigned from time to time by the Board of Appeals.

40-10-10 - 40-10-11 RESERVED.

DIVISION II - APPEALS

40-10-12 NATURE OF AN APPEAL. Any person aggrieved by any decision or order of the Zoning Administrator in any matter related to the interpretation or enforcement of any provision of this Code may appeal to the Board of Appeals on a prescribed form. Every such appeal shall be made and treated in accordance with Illinois law and the provisions of this Division. **(See 65 ILCS Sec. 5/11-13-12)**

40-10-13 FILING, RECORD TRANSMITTAL. Every appeal shall be made within **forty-five (45) days** of the matter complained of by filing with the Administrator and the Board of Appeals a written notice specifying the grounds for appeal. Every appeal shall also be filed with the **Soil and Water Conservation District** pursuant to State law. Not more than **five (5)** working days after the notice of appeal has been filed, the Administrator shall transmit to the Board of Appeals all records pertinent to the case. **(See 65 ILCS Sec. 5/11-13-12) (See 70 ILCS Sec. 405/22.02A)**

40-10-14 STAY OF FURTHER PROCEEDINGS. An appeal stays all further action on the matter being appealed unless the Administrator certifies to the Board of Appeals after the notice of appeal has been filed with him, that for reasons stated in the certificate, a stay would cause imminent peril to life or property. In such case, further action shall not be stayed unless the Board of Appeals or the Circuit Court grants a restraining order for due cause and so notifies the Administrator. **(See 65 ILCS Sec. 5/11-13-12)**

40-10-15 PUBLIC HEARING, NOTICE. The Board of Appeals shall hold a public hearing on every appeal within a reasonable time after the filing of the appeal notice. At the hearing, any interested party may appear and testify, either in person or by duly authorized agent or attorney. Notice indicating the time, date, and place of the hearing, and briefly describing the issue to be decided shall be given not more than **thirty (30) days** nor less than **fifteen (15) days** before the hearing:

- (A) By publication in a newspaper of general circulation within this municipality; and
- (B) By certified mail to the applicant; and,
- (C) By first-class mail to all owners of property contiguous to any property affected by the appeal.

(See 65 ILCS Sec. 5/11-13-12)

40-10-16 DECISION BY BOARD OF APPEALS. The Board of Appeals shall render a decision on the appeal within **thirty (30) days** after the hearing therein. The Board of Appeals may reverse or affirm, wholly or partly, or may modify or amend the decision or order appealed from the extent and in the manner that they deem appropriate. In so doing, the Board of Appeals has all the power of the Administrator. **(See 65 ILCS Secs. 5/11-13-3 and 5/11-13-12)**

ED. NOTE: The Board of Appeals is delegated the task of hearing appeals from the decisions of the zoning administrator or other official charged with enforcement of an ordinance passed pursuant to the Zoning Enabling Act. This may, for example, entail determining whether there has been a discontinuance of a nonconforming use. It is important for the applicant to note the appeal process because of the requirement of exhaustion of administrative remedies before suit is filed as well as the more obvious reason of using a less expensive administrative process for correcting a mistake or error which may have been made by the zoning administrator. (See 65 ILCS Sec. 5/11-13-3)

40-10-17 RESERVED.

DIVISION III - VARIANCES

40-10-18 VARIANCES.

(A) A variance is a relaxation of the requirements of this Code that are applicable to a particular lot or structure.

(B) A so-called "use variance" (which would allow a use that is neither permitted nor special in the district in question) is not a variance, it is an amendment, and should be granted only as provided for in **Section 40-10-30**.

40-10-19 APPLICATION. Every application for a variance shall be filed with the Administrator on a prescribed form. Every variance application shall also be filed with the **Soil and Water Conservation District** as per State law. The Administrator shall promptly transmit said application, together with any device he might wish to offer, to the Board of Appeals. The application shall contain sufficient information to allow the Board of Appeals to make an informed decision and shall include, at a minimum, the following:

(NOTE: Filing fee required.) [See 70 ILCS Sec. 405/22.02(A)]

- (A) Name and address of the applicant;
- (B) Location of the structure/use for which the variance is sought;
- (C) Brief description of adjacent lots, structures, and/or uses;
- (D) Brief description of the problems/circumstances engendering the variance request;
- (E) Brief, but specific, explanation of the desired variance;
- (F) Specific section(s) of this Code containing the regulations which, if strictly applied, would cause a serious problem; and
- (G) Any other pertinent information that the Administrator may require.

40-10-20 PUBLIC HEARING, NOTICE. The Board of Appeals shall hold a public hearing on each variance request within **sixty (60) days** after the variance application is submitted to them. At the hearing any interested party may appear and testify either in person or by duly authorized agent or attorney. Notice indicating the time, date, and place of the hearing, and the nature of the proposed variance shall be given not more than **thirty (30)** nor less than **fifteen (15) days** before the hearing;

- (A) By certified mail to the applicant and
- (B) By publication in a newspaper of general circulation within the municipality and,
- (C) By first-class mail to all owners of property contiguous to the property affected by the proposed variance. **(See 65 ILCS Sec. 5/11-13-7)**

40-10-21 STANDARDS FOR VARIANCES. The Board of Appeals shall not recommend any variance unless they find that the proposed variance is consistent with the general purposes of this Code, and that the strict application of the district requirements would result in great practical difficulties of hardship to the applicant. More specifically the Board of Appeals shall not decide upon a variance unless they determine, based upon the evidence presented to them, that:

(A) The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in that zone; and

(B) The plight of the owner is due to peculiar circumstances; and

(C) The variance, if granted, will not alter the essential character of the locality. **(See 65 ILCS Sec. 5/11-13-4 and 5/11-13-5)**

[NOTE: A variation shall be permitted only if in the judgment of the Board of Appeals sustains each of the three conditions above.]

40-10-22 DECISION BY BOARD OF APPEALS. The Board of Appeals shall decide on every variance request within **thirty (30) days** after the final hearing thereon. A copy of the Board of Appeal's decision shall be transmitted to the applicant or appellant and to the Zoning Administrator. The Board of Appeals shall specify the terms of relief recommended (if any) in one statement and their findings of fact in another statement. The findings of fact shall clearly indicate the Board of Appeal's reasons for recommending or denying any requested variance. **(See 65 ILCS Sec. 5/11-13-5 and 5/11-13-11)**

40-10-23 RESERVED.

DIVISION IV - SPECIAL USES

40-10-24 SPECIAL-USE PERMITS. This Code divides the municipality into various districts, and permits in each district as a matter of right only those uses which are clearly compatible with one another. Certain other uses, because of their special operational or physical characteristics, may or may not have a detrimental impact on nearby permitted uses, depending upon their precise location, manner of operation and other factors. Such "special uses" require careful case-by-case review, and may be allowed only after review and approval by the Board of Appeals. **(See 65 ILCS Sec. 5/11-13-1.1)**

40-10-25 APPLICATION. Every applicant for a special-use permit shall submit to the Zoning Administrator in narrative and/or graphic form, the items of information enumerated below. The Administrator shall promptly transmit the completed application, together with any comments or recommendation he might have, to the Board of Appeals for further consideration. **(NOTE: Filing fee required in Section 40-9-14)**

ITEMS OF INFORMATION:

- (A) Name and address of the applicant;
- (B) Name and address of the owner or operator of the proposed structure or use, if different from (A);
- (C) Nature of the proposed use, including type of activity, manner of operation, number of occupants or employees, and similar matters;
- (D) Location of the proposed use or structure, and its relationship to existing uses of structures on adjacent lots;
- (E) Area and dimensions of the site for the proposed structure or use;
- (F) Existing topography of the site and proposed finished grade;
- (G) Existing and proposed screening, landscaping, and erosion control features on the site, including the parking area;
- (H) Height and setbacks of the proposed structure;
- (I) Number and size of the proposed dwelling units, if any;
- (J) Number and location of proposed parking/loading spaces and access ways;
- (K) Identification and location of all existing or proposed utilities, whether public or private; and/or
- (L) Any other pertinent information that the Administrator may require;
- (M) Location of any signs.

40-10-26 PUBLIC HEARING, NOTICE. The Board of Appeals shall hold a public hearing on every special-use permit application within **sixty (60) days** after the application is submitted to them. At the hearing, any interested party may appear and testify, either in person or by duly authorized agent or attorney. Notice indicating the time, date, and place of the hearing, and the nature of the proposed special-use shall be given not more than **thirty (30) days** nor less than **fifteen (15) days** before the hearing:

- (A) By certified mail to the applicant; and,
- (B) By publication in a newspaper of general circulation within this municipality.
- (C) By first-class mail to all owners of property contiguous to the property affected by the proposed special-use request. **(See 65 ILCS Sec. 5/11-13-6)**

40-10-27 BOARD'S DECISION, FACTORS CONSIDERED. Within **thirty (30) days** after the public hearing, the Zoning Board of Appeals shall make a decision and shall consider the following factors:

- (A) Whether the proposed design, location, and manner of operation of the proposed special use will adequately protect the public health, safety, and welfare, and the physical environment;
- (B) Whether the proposed special-use is consistent with this municipality's comprehensive plan, if any;
- (C) The effect the proposed special-use would have on the value of neighboring property and on this municipality's overall tax base;
- (D) The effect the proposed special-use would have on the public utilities and on the traffic circulation on nearby streets; and
- (E) Whether there are any facilities near the proposed special-use (such as schools or hospitals) that require special protection. **(See 65 ILCS Sec. 5/11-13-7)**

40-10-28 DECISION - FINDINGS OF FACTS. The Board of Appeals shall reach a decision on every special-use permit application within a reasonable time after public hearing. In accordance with State law, the Board of Appeals shall specify the terms and conditions of the permit to be granted (if any) in one statement, and **their findings of fact in another statement**. The finding of fact shall be responsive in the decision-making factors listed in the preceding section and shall clearly indicate the Board of Appeal's reasons for granting, with or without modifications and/or conditions, or denying the requested special-use permit. **(See 65 ILCS Sec. 5/11-13-1.1 and 5/11-13-11)**

[ED. NOTE: The applicants and property owners for a variation or special-use should review Sec. 5/11-13-7A of the Illinois Compiled Statutes relative to subpoenas for persons to appear at the zoning hearings.]

40-10-29 TEMPORARY USE PERMITS: PROCEDURE FOR. As set forth at **Section 40-3-7**, requests for temporary use permits shall be treated in the same manner as requests for special use permits. The Board of Appeals shall issue no temporary use permit for a period longer than **one (1) year** but may renew any such permit as they see fit.

DIVISION V - AMENDMENTS

40-10-30 AMENDMENTS. The City Council may amend this Code in accordance with State law and the provisions of this Section. Proposed alterations of district boundaries or proposed changes in the status of uses (permitted, special, prohibited) shall be deemed proposed amendments. Amendments may be proposed by the City Council, the Board of Appeals, the Plan Commission, the Zoning Administrator or any party in interest. **(See 65 ILCS Sec. 5/11-13-14)**

40-10-31 FILING. Every proposal to amend this Code shall be filed with the Zoning Administrator on a prescribed form. Every amendment proposal shall also be filed with the **Soil and Water Conservation District** pursuant to State law. The Administrator shall promptly transmit the proposal, together with any comments or recommendations he might wish to make to the Board of Appeals for a public hearing. **(NOTE: Filing fee required.) (See 70 ILCS Sec. 405/22.02(A))**

40-10-32 PUBLIC HEARING - NOTICE. The Board of Appeals shall hold a public hearing on every amendment proposal within **sixty (60) days** after said proposal has been submitted to them. At the hearing, any interested party may appear and testify, either in person or by duly authorized agent or attorney. Notice indicating the time, date, and place of the hearing and the nature of the proposed amendment shall be given not more than **thirty (30)** nor less than **fifteen (15) days** before the hearing:

- (A) By certified mail to the applicant; and,
- (B) By publication in a newspaper of general circulation within the municipality.
- (C) By first-class mail to all owners of property contiguous to the property affected by the proposed amendment. **(See 65 ILCS Sec. 5/11-13-14)**

40-10-33 ADVISORY REPORT - FINDINGS OF FACT. Within **thirty (30) days** after the public hearing, the Board of Appeals shall submit their advisory report to the City Council. The report shall state the recommendations of the Board of Appeals regarding adoption of the proposed amendment and their reasons therefor. If the effect of the proposed amendment would be to alter district boundaries or to change the status of any use, the Board of Appeals shall include in their advisory report findings of fact concerning each of the following matters:

- (A) Existing use and zoning of the property in question;
- (B) Existing uses and zoning of other lots in the vicinity of the property in question;
- (C) Suitability of the property in question for uses already permitted under existing regulations;

- (D) Suitability of the property in question for the proposed use;
- (E) The trend of development in the vicinity of the property in question, including changes (if any) which may have occurred since that property was initially zoned or last rezoned.

40-10-34 ACTION BY CITY COUNCIL. The City Council shall act on every proposed amendment at their next regularly scheduled meeting following submission of the advisory report of the Board of Appeals. Without further public hearing, the City Council may approve or disapprove any proposed amendment or may refer it back to the Board of Appeals for further consideration by simple majority vote of all the members then holding office.

40-10-35 WHEN TWO-THIRDS MAJORITY VOTE IS REQUIRED. The favorable vote of at least **two-thirds (2/3)** of the members of the City Council is required to pass an amendment to this Code in each of the following instances:

(A) When passage would be contrary to the recommendation of the Board of Appeals.

(B) When the amendment is opposed, in writing, by the owners of **twenty percent (20%)** of the frontage proposed to be altered, or by the owners of **twenty percent (20%)** of the frontage immediately adjoining or across an alley therefrom, or by the owners of **twenty percent (20%)** of the frontage directly opposite the frontage proposed to be altered.

40-10-36 NOTICE TO APPLICANT OF WRITTEN PROTEST. In cases of written opposition to an amendment of this Code as prescribed in **Section 40-10-35**, a copy of the written protest shall be served by the protester or protesters on the applicant for the proposed amendment and a copy upon the applicant's attorney, if any, by certified mail at the address of such applicant and attorney shown in the application for the proposed amendment.

(See 65 ILCS Sec. 5/11-13-14)

(Ord. No. 07-02; 04-03-07)