CHAPTER 22
MARENGO ZONING CODE
(Ordinance 02-8-2, Passed 8/26/02)

Section 1	Title and Authority
Section 2	Intent and Purpose
Section 3	Definitions
Section 4	Use Districts
Section 5	General Provisions
Section 6	Non-Conforming Buildings and Uses
Section 7	Accessory Buildings, Structures and Uses
Section 8	Off-Street Parking and Loading
Section 9	Wireless Telecommunications Towers and Antennas
Section 10	Residential Districts
Section 11	Business Districts
Section 12	ORI Office, Research & Light Industrial District
Section 13	M Manufacturing District
Section 14	Performance Standards
Section 15	Special Uses
Section 16	Planned Developments
Section 17	Administration
Section 18	Interpretation: Purpose and Conflict
Section 19	Fees
Section 20	Violations: Penalty
Section 21	Validity
Section 22	When Effective

Revisions:

Date:	*Section:*
10/28/02	*Section 7, Accessory Buildings, Structures and Uses*
1/27/03	*Sections 3, Definitions; Section 4.10, Intrusion Into Yards; Section 6.06, Nonconforming Structures; Section 13.02, Use Restrictions; and Section 17.06, Variations and Standards for Variations*
7/1/03	*Sections 8.04.A.1 and 8.08.A4 regarding driveways*
8/25/03	*Sections 7.02.C and 7.04 regarding accessory buildings*
3/8/04	*Sections 4.11, 4.14, 5.09, 5.12, 7.04, 7.06, 10.02, 11.02, 11.02, 11.04*
5/24/04	*Section 10*
12/11/06	*Sections 4 and 11 regarding BP, Business Park District*
1/15/08	*Sections 3, 4, 5, 7, 8 and 11*
9/28/09	*Sections 10 and 15*

Section 1 **TITLE AND AUTHORITY**

1.1 Title
1.2 Authority

Section 2 **INTENT AND PURPOSE**

Section 3 **DEFINITIONS**

Section 4 **USE DISTRICTS**

4.01 Zoning Districts
4.02 Zoning Maps
4.03 New and Annexed Land
4.04 Zoning of Streets, Alleys, Public Ways, Waterways and Railroad Rights-of-Way
4.05 Boundary Lines
4.06 General Provisions
4.07 Meeting Minimum Zoning Requirements
4.08 Access Required
4.09 Front Setbacks - Corner/Through Lots
4.10 Intrusions Into Yards
4.11 Private Garages
4.12 Lot Coverage

Section 5 **GENERAL PROVISIONS**

5.01 Scope of Regulations
5.02 Permits
5.03 Building Height, Bulk and Lot Coverage
5.04 Lot Area and Dimension
5.05 Location of Buildings
5.06 Buildings Under Construction
5.07 Buildings on a Zoning Lot
5.08 Rezoning of Public and Semi Public Areas
5.09 Vision Clearance, Corner Lots
5.10 Regulation of Space and Density of Residential Dwelling Units
5.11 Home Occupations - Regulations
5.12 Fences, Shrubs, Hedges and Decorative Structures
5.13 Yard and Building Setback Exceptions
5.14 Travel Trailers and Recreational Vehicles
5.15 Outside Display, Sales and Storage Special Permit
5.16 Use of Commercial Truck Trailers and Railroad Cars for Storage
5.17 Refuse Containers
5.18 Determination of Similar and Compatible Uses

Section 6 **NONCONFORMING BUILDINGS AND USES**

6.01 Purpose
6.02 Nonconforming Lots
6.03 Residential Districts
6.04 Business, ORI and Manufacturing Districts
6.05 Two or More Lots in Common Ownership
6.06 Nonconforming Structures
6.07 Nonconforming Uses Occupying a Structure
6.08 Nonconforming Use of Land

Section 7 **ACCESSORY BUILDINGS, STRUCTURES AND USES**

7.01 Uses Permitted as Accessory Buildings, Structures and Uses
7.02 Location of Accessory Buildings, Structures and Uses
7.03 Construction of Accessory Buildings and Structures
7.04 Number, Height and Size of Accessory Buildings and Structures
7.05 Distance Between Buildings or Structures
7.06 Regulations for Specific Accessory Buildings, Structures and Uses
7.07 Wireless Telecommunications Towers and Antenna Regulations
7.08 Antennas in Residential Zoning Districts

7.09 Antennas in Business and Manufacturing Districts
7.10 Amateur Radio Facilities With Surface Area Exceeding 10 Square Feet
7.11 Additional Regulations for Antennas and Antenna Support Structures in All Zoning Districts
7.12 Non-conforming Accessory Buildings, Structures and Uses

Section 8 **OFF-STREET PARKING AND LOADING**

8.01 Purpose
8.02 General Provisions, Parking and Loading
8.03 Additional Regulations, Parking
8.04 Location of Parking Areas
8.05 Off-Street Loading and Unloading
8.06 Formulas for Off-Street Loading and Unloading Requirements
8.07 Number of Parking and Loading Spaces Required
8.08 Additional Parking Regulations

Section 9 **WIRELESS TELECOMMUNICATIONS TOWERS AND ANTENNAS**

9.01 Purpose
9.02 Definitions
9.03 Applicability
9.04 General Requirements
9.05 Permitted Uses
9.06 Administratively Approved Uses
9.07 Special Use Permits
9.08 Buildings or Other Equipment Storage
9.09 Removal of Abandoned Antennas and Towers
9.10 Nonconforming Uses

Section 10 **RESIDENTIAL DISTRICTS**

10.01 Purpose
10.02 ER Estate Residential District
10.03 R-1 One-Family District
10.04 R-2 One-Family District
10.05 R-3 One-Family District
10.06 R-5 Multiple Family District

Section 11 **BUSINESS DISTRICTS**

11.01 Purpose
11.02 B-1 Central Business District
11.03 B-2 General Business District
11.04 B-3 Regional Shopping District
11.05 BP, Business Park District

Section 12 **ORI OFFICE, RESEARCH & LIGHT INDUSTRIAL DISTRICT**

12.01 Purpose
12.02 Use Restrictions
12.03 Lot and Building Requirements
12.04 Permitted Uses
12.05 Special Uses

Section 13 **M MANUFACTURING DISTRICT**

13.01 Purpose
13.02 Use Restrictions
13.03 Lot and Building Requirements
13.04 Permitted Uses
13.05 Special Uses

Section 14 **PERFORMANCE STANDARDS**

14.01 Purpose
14.02 Noise
14.03 Air Pollution
14.04 Water Pollution
14.05 Open Burning

14.06 Toxic or Noxious Matter
14.07 Odors
14.08 Fire and Explosive Hazards
14.09 Vibration
14.10 Glare or Heat

Section 15 **SPECIAL USES**

15.01 Purpose
15.02 General Requirements
15.03 Standards for Special Uses
15.04 Motor Vehicle Special Uses
15.05 Motor Vehicle Service Stations
15.06 Kennels
15.07 Rest Homes, Nursing Homes
15.08 Group Homes
15.09 Earth Materials Extraction, Processing, Site Reclamation and Related Operations
15.10 Adult Businesses
15.11 Bed and Breakfast Establishments
15.12 Conditions of Approval

Section 16 **PLANNED DEVELOPMENT**

16.01 Purpose
16.02 Where Permitted
16.03 Minimum Area
16.04 Required Sewer and Water
16.05 Procedure, Application and Referral
16.06 Preliminary Application for Development Plan
16.07 Planned Development Final Approval
16.08 General Standards
16.09 Bulk Regulations
16.10 Approval
16.11 Time Limit
16.12 Minor Modification of Plans
16.13 Performance

Section 17 **ADMINISTRATION**

17.01 Zoning Administrator
17.02 Certificate of Zoning Compliance
17.03 Certificate of Appropriateness
17.04 Continuance of Existing Uses
17.05 Planning and Zoning Commission
17.06 Variations and Standards for Variations
17.07 Special Uses and Standards for Special Uses
17.08 Text Amendments and Standards for Text Amendments
17.09 Re-zonings (Map Amendments) and Standards for Re-zonings
17.10 Conditions
17.11 City Council Action
17.12 Change of Zoning
17.13 Implementation of Variations/Special Uses
17.14 Revocation of Variations/Special Uses
17.15 Public Hearing Requirements
17.16 Written Protests
17.17 Hearing Officer Alternative Process

Section 18 **INTERPRETATION: PURPOSE AND CONFLICT**

Section 19 **FEES**

Section 20 **VIOLATIONS: PENALTY**

Section 21 **VALIDITY**

Section 22 **WHEN EFFECTIVE**

CHAPTER 1
GENERAL PROVISIONS

1.01 Marengo Municipal Code
1.02 Definitions
1.03 Repeal of Ordinances
1.04 Ordinances Repealed Not Reenacted
1.05 Jurisdiction
1.06 Penalties
1.07 Citations or Hang On-Tickets
1.08 Responsibility for Acts
1.09 Separability of Provisions
1.10 Effective Date
1.11 Copies on File

1.01 MARENGO MUNICIPAL CODE

A. TITLE: This Code of ordinances may be known and cited as the Marengo Municipal Code. Any references to "this Code" or "Code" herein shall also mean the Marengo Municipal Code.

B. AMENDMENTS: Any additions or amendments to this Code are incorporated in this Code so that a reference to the Marengo Municipal Code includes such additions and amendments.

C. NUMBERING OF SECTIONS: Each section number of this Code shall consist of two component parts separated by a period, the figure before the period referring to the chapter number and the figure after the period referring to the section within the chapter.

D. NUMBERING ADDITIONS: The decimal system shall be used for all additions and amendments to this Code. When a chapter or section is added the new chapter or section shall be given a decimal character.

1.02 DEFINITIONS

A. Terms used in this Code, unless specifically defined in this Code, have the meanings prescribed by the Illinois Compiled Statutes for the same terms.

B. Unless found elsewhere in this Code, terms used herein are defined in Appendix A.

1.03 REPEAL OF ORDINANCE

A. All general ordinances or parts previously adopted by the Mayor and City Council, inconsistent with those included in this Code are repealed and the following are specifically continued in full force and effect:

1. Ordinances authorizing contracts or the issue of municipal notes or bonds.

2. Ordinances levying taxes or making special assessments;

3. Ordinances budgeting and appropriating funds or establishing salaries.

4. Ordinances granting franchises or rights to corporations;

5. Ordinances relating to the establishment, dedication, opening, grading, naming, improvement, altering, railroad crossings, widening or vacating of any streets, alleys, sidewalks, parks or public grounds.

6. Ordinances respecting the annexation of territory to the City, or the conveyance or acceptance or real property or easements in real property;

7. Ordinances authorizing or relating to particular public improvement;

8. Ordinances relating to zoning and subdivisions;

9. Any other special ordinances not in conflict with the provisions of this Code.

B. The provisions of this Code, so far as they are the same in substance as those of existing ordinances are continuations of such ordinances and not new enactments. Any act done, offense committed or right accruing or acquired, or liability, penalty, forfeiture or punishment incurred prior hereto shall not be affected, but may be enjoyed, asserted, enforced, prosecuted or inflicted as fully and to the same extent as if the repeal had not been effected.

1.04 ORDINANCES REPEALED NOT REENACTED

No ordinance or part of any ordinance previously repealed shall not be considered re-ordained or re-enacted by virtue of this Code, unless specifically reenacted. The repeal of any curative or validating ordinance does not impair or affect any cure or validation already effected thereby.

1.05 JURISDICTION

Unless otherwise provided in this Code, 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.

1.06 PENALTIES

A. STANDARD PENALTY: Unless another penalty is specifically provided by this Code for violation of any particular provision, section or chapter, any person violating any provision of this Code, 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 $25 nor more than $750 and prosecution fees if allowable.

B. COMMITMENT: The person upon whom any fine or penalty is imposed for violation of any provision of this Code or any ordinance of the City, upon order of the court before whom the conviction is had, may be committed to the County or State jail, as provided by law, or to any other place provided by statute.

C. EACH DAY OF VIOLATION: Each act of violation and each day upon which a violation occurs constitutes a separate offense.

D. APPLICABILITY: The penalty provided by this section applies to the amendment of any section of this Code or a Code adopted herein by reference whether or not such penalty is reenacted in the amendatory ordinance.

E. REFERENCE TO SECTIONS: Reference to a section of this Code shall be understood also to refer to and include the penalty section relating thereto, unless otherwise expressly provided.

F. FAILURE OF OFFICERS TO PERFORM DUTIES: The failure of any officer or employee of the City 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 in the section creating the duty.

G. COLLECTION: In the event any fee, including, but not limited to those relating to retained personnel, fines, penalties, repair, abatement, restitution and reimbursement, found in any section of the Code that is due the City and is not paid, the cost of collecting said fee shall be added to the fee. Collection costs shall include, but not be limited to, prosecution and attorney fees.

1.07 CITATIONS OR HANG-ON TICKETS *Amended, 09-7-2, 06-8-1, 02-2-2, 01-10-6*

A. PAYMENTS: Any of the following described offenses may be settled and compromised in the following manner: Settlement payment when made within seven days of the time a notice is delivered to the offender, as listed in Column A, and settlement payment when made within 14 days of the time a notice is delivered to the offender, as listed in Column B. Provided, however, this settlement and compromise procedure shall not be allowed where the offender has violated the same ordinance two previous times within 12 consecutive months.

OFFENSE	**Column A in $**	**Column B in $**
Alcoholic beverages, Section 40.06	100	200

OFFENSE	Column A in $	Column B in $
Building violations, other than listed in Chapter 24	100	300
Consumption on premises, drinking on public streets, Section 3.22B	50	100
Curfew, Section 40.03	100	200
Curfew, Section 43.16	25	25
Damaging property, Section 40.03	100	200
Damaging property, Section 43.09	25	50
Disorderly conduct, Section 40.01	100	200
Disorderly conduct, Section 43.01	25	50
Dogs and other animals, Chapter 14	50	100
Drug paraphernalia, Section 40.08	100	200
Failure to have a building permit, Chapter 24	150	300
Failure to obtain a business license, Section 32.01	25	50
Failure to have a vehicle license, Chapter 42	75	150
Failure to display a vehicle license, Chapter 42	75	150
False alarm, Section 12.09	25	50
Garage sale, Section 31.01	25	50
Garbage, Chapter 13	25	50
House numbering, per day, Section 6.21	25	50
Liquor, sale to persons under 21 years of age, Section 33.25	200	300
Littering, Section 43.10	25	50
Noise, Section 43.08	75	150
Nuisance and burning, Section 12.08	25	50
Parental responsibility, Section 40.04	50	100
Parental responsibility, Section 43.17	25	50
Parking, Chapter 15, except for Sections 15.06-A, 15.06-E, 15.06-F	25	50
Parking, Sections 15.06-A, 15.06-E and 15.06-F	10	25
Parks and Playgrounds, Chapter 8	25	50
Persons responsible for unlawful activities on their premises, Section 40.09	100	200
Raffle, Section 31.02	25	50
Setting off fireworks, Section 43.06	25	50
Sign Code, Chapter 16	25	50
Streets, deposit of dirt and mud, Section 24.17-C	50	100
Street gang activity, Section 40.05	100	200
Trespassing, Section 43.11	25	50
Traffic, Chapter 15, except moving and parking violations	25	50
Water, emergency limitations, Section 24.17	50	100
Weapons, Section 43.05	25	50
Unauthorized use of parking space for persons with disabilities, Sec-	100	200

OFFENSE	Column A in $	Column B in $
tion 15.08		
Weed, grass nuisance, Section 12.07	25	50
Weapons, Section 40.07	100	200

B. SETTLEMENTS: Settlement payments shall be made to the City Police Department who shall provide the alleged offender with a receipt in the amount of such payment.

C. DISPOSITION OF PAYMENTS: The amounts paid to the City Police Department in settlement of the foregoing claims shall be promptly deposited by the City Police Department with the City Treasurer and shall be credited by the Treasurer to the General Fund.

D. PROSECUTION: The City shall refrain from prosecuting any alleged offender of the foregoing offenses after receipt of such settlement payment.

1.08 RESPONSIBILITY FOR ACTS

Every person concerned in the commission of an act prohibited by this Code, whether he/she directly commits the act, or prosecutes, counsels, aids or abets in its commission, may be prosecuted and on conviction is punishable as if he/she had directly committed such act.

1.09 SEPARABILITY OF PROVISIONS

Each section, paragraph, sentence, clause and provision of this Code is separable 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.

1.10 EFFECTIVE DATE

This Code of ordinances shall take effect immediately upon its passage. Publication shall be in book form under the authority of the Mayor and City Council, as provided by law.

1.11 COPIES ON FILE

Copies of this Code shall be kept available at City Hall for public inspection or purchase during City Hall business hours. The cost of said Code shall be determined from time to time by the City Council.

CHAPTER 2
CITY COUNCIL

2.01 Government of City, Wards
2.02 Election, Terms and Powers
2.03 Regular and Committee of the Whole Meetings
2.04 Special Meetings
2.05 Presiding Officer
2.06 Quorum
2.07 Order of Business; Sergeant at Arms
2.08 Open Meetings Act
2.09 City Council Committees
2.10 Special Committee Assignments
2.11 Salaries of Officials
2.12 Rules of Order and Procedure
2.13 At Cost Participation in Employee Benefit Plans by Elected Officials

2.01 GOVERNMENT OF CITY, WARDS

A. CITY COUNCIL: The City shall be governed by a City Council which shall consist of a Mayor and eight aldermen. The Mayor shall be elected at large and two aldermen shall be elected from each ward.

B. ELECTION WARDS ESTABLISHED: The City is divided into four wards, bounded as followed:

Ward 1: All that portion of the City lying south of the centerline of Grant Highway and west of the centerline of Maple Street except the following: beginning at the intersection of the centerline of Grant Highway and the centerline of State Street; and south along the centerline of State Street to the property line between Forest Street and Kent Street; thence west along said property line to the property line between Standford Drive and Dietz Street; thence south to the centerline of South Street; thence east along the centerline of South Street to the centerline of Maple Street; thence north to the centerline of Grant Highway; thence northwest along the centerline of Grant Highway to the centerline of State Street, being the place of beginning.

Ward 2: Beginning at the intersection of the centerline of Grant Highway and the centerline of State Street; and south along the centerline of State Street to the property line between Forest Street and Kent Street; thence west along said property line to the property line between Stanford Drive and Dietz Street; thence south to the centerline of South Street; thence east along the centerline of South Street to the centerline of Maple Street; thence north to the centerline of Grant Highway; thence northwest along the centerline of Grant Highway to the centerline of State Street, being the place of beginning; also

All property south of the railroad tracks and east of the centerline of East Street; also all property east of Prospect Street and south of the centerline of Jackson Street extended east.

Ward 3: All property west of the centerline of State Street and north of the centerline of Grant Highway; and

Commencing at the centerline of State Street and the centerline of Van Buren Street; thence east to the centerline of Paige Street; thence north on the centerline of Paige Street to the centerline of Telegraph Street; thence east on Telegraph Street to the centerline of Prospect Street; thence south on the centerline of Prospect Street to the Chicago and Northwestern railroad tracks; thence westerly along said railroad tracks to the centerline of East Street; then south to the centerline of Grant Highway; thence northwesterly along the centerline of Grant Highway to the centerline of State Street; thence northerly to the place of beginning; and

Ward 4: All property bounded on the north by the north City limits; on the west by the centerline of State Street; and on the south by a line described as commencing at the centerline of State Street and Van Buren Street; thence easterly to the centerline of Paige Street; thence north on the centerline of Paige Street to the centerline of Telegraph Street; thence east along the centerline of Telegraph Street to the centerline of Prospect Street and south along the centerline of Prospect Street to the centerline of Jackson Street extended easterly; thence east along said line to the easterly City limits.

2.02 ELECTION, TERMS AND POWERS *Amended, 07-4-1, 01-5-1*

A. The members of the City Council shall be elected and serve for a four-year term, and until their successors are elected and qualified, as provided by law. The term of office for each elected member shall begin at the first regular or special meeting following receipt of the official election results.

B. The powers of the City Council shall be purely legislative (the preparation and enactment of laws and administrative rules) except as may otherwise be provided by any other ordinance herein, act or by any article of the Illinois Municipal Code. The City Council shall approve for payment all expenses and liabilities of the City.

2.03 REGULAR MEETINGS

All regular meetings of the City Council shall be held on the second and fourth Monday of every month in the City Hall, 132 East Prairie Street, Marengo, Illinois, at 7:30 p.m.

2.04 SPECIAL MEETINGS

Special meetings of the City Council may be called by the Mayor or any three members of the City Council, provided that written notice of such meetings shall be given to each member of the City Council no less than 48 hours prior thereto, the following accomplished.

1. Written notice is given to all members of the public body by delivering to their residence a notice of the meeting which shall include the date, time, place, and subject matter of the special meeting. Minutes of the special meeting shall indicate how notice was provided to

the members.

2. Notice of the meeting shall be posted at the location of the meeting at the City Hall and at the police station. Said posted notice shall indicate the date, time, place and subject matter of the special meeting.

3. Notification of the special meeting shall be given to all news media requesting notification as provided by law.

2.05 PRESIDING OFFICER

The Mayor shall be the presiding officer of the regular and special meetings of the City Council, and of other meetings when the City Council convenes as a Committee of the Whole. In the absence of the Mayor, the Clerk shall open the meeting and the temporary chairman shall be selected pursuant to Section 3.01-D herein.

2.06 QUORUM

A majority of the elected members of the City Council shall constitute a quorum thereof, but no ordinance shall be passed except upon the affirmative vote of a majority of the elected members of the City Council or according to the Open Meetings Act.

2.07 ORDER OF BUSINESS; SERGEANT AT ARMS

A. ORDER OF BUSINESS: The order of business at all meetings of the City Council shall be determined by the Mayor.

B. SERGEANT AT ARMS: The Chief of Police shall attend every meeting of the City Council and shall act as Sergeant at Arms. In the absence of the Chief of Police, the City Council shall appoint a responsible person to act as Sergeant at Arms. The Sergeant at Arms is authorized to prevent any unlawful disturbance or demonstration at such meetings, and shall provide for the good order of the meeting room prior to every meeting of the City Council.

2.08 OPEN MEETINGS ACT

All City meetings shall comply with the Illinois Open Meetings Act (5 ILCS 120/1, *et seq*.)

2.09 CITY COUNCIL COMMITTEES *Amended, 07-6-4*

There is hereby established the General Administration Committee, the Community Development Committee and the Transportation Committee of the City Council. Annually, the Mayor shall appoint four aldermen to each committee and the chairman of each committee. Matters referred to the General Administration Committee shall include community events, finance, grants, insurance, legislation, personnel, personnel policies and procedures, police and public safety and such matters as may be assigned to the committee from time to time by the Mayor. Matters referred to the Community Development Committee shall include building,

public properties, public works, subdivision, zoning and such matters as may be assigned to the committee from time to time by the Mayor. Matters referred to the Transportation Committee shall include long-term multi-modal transportation planning, parking matters, road network related items that affect City Transportation, pedestrian safety, traffic studies and other matters that may be assigned to the committee from time to time by the Mayor.

All meetings shall be held pursuant to the Open Meetings Act. The Chairman shall be responsible for the minutes of the meeting.

2.10 SPECIAL COMMITTEE ASSIGNMENTS

The Mayor may appoint a special committee to conduct investigations, make detailed studies of pending proposals or projects and deliver specific findings to the City Council for final action.

The findings of any special committee shall be reduced to a written report. On presentation to and acceptance of the committees report to the City Council the special committee shall be disbanded.

Any special committee must conform to the requirements of the Open Meetings Act (5 ILCS 120/1 *et seq.*) by posting a public notice of all committee meetings where two or more elected officials are in attendance. Minutes must be taken at all special committee meetings.

2.11 SALARIES OF OFFICIALS *Amended, 08-9-5, 05-10-1, 00-11-2*

A. ALDERMEN: The City shall pay each Alderman a salary of $3,600 per fiscal year, to be paid in monthly installments. As additional compensation, Aldermen shall be given the option to participate, at their own cost, in various insurance and benefit plans offered to City employees.

B. MAYOR: The City shall pay the Mayor $10,000 per fiscal year, to be paid in monthly installments. As additional compensation, the Mayor shall be given the option to participate, at his or her own cost, in various insurance and benefit plans offered to City employees.

C. CLERK: The City shall pay the Clerk $3,000 per fiscal year, to be paid in monthly installments. As additional compensation, the Clerk shall be given the option to participate, at his or her own cost, in various insurance and benefit plans offered to City employees.

D. LIQUOR COMMISSIONER: The City shall pay the Liquor Commissioner $2,000 per fiscal year, to be paid in monthly installments.

E. TREASURER: The City shall pay the Treasurer $2,000 per fiscal year, to be paid in monthly installments.

2.12 RULES OF ORDER AND PROCEDURE

The following rules of order and procedure shall govern the deliberations and meeting of the City Council and the committees thereof.

1. DUTIES:

   A. PRESIDING OFFICER, DUTIES OF THE PRESIDING OFFICER: The presiding officer shall preserve order and decorum and may speak to points of order in preference to other members and shall decide all questions of order subject to appeal. The presiding officer may speak to matters being considered by the City Council without relinquishing the chair.

      In case of any disturbances or disorderly conduct, the presiding officer shall have the power to require the City Council room to be cleared.

   B. MEMBERS, DUTIES OF MEMBERS: While the presiding officer is putting the question, no member shall walk across or out of the City Council chambers.

      Every member, previous to their speaking or making a motion, shall address themselves to the presiding officer and shall not proceed with their remarks until recognized and named by the chair. They shall confine themselves to the question under debate, avoiding personalities and refraining from impugning the motives of any other member's argument or vote.

      When two or more members address the chair at the same time, the presiding officer shall name the member who is first to speak.

2. VISITORS: Except during the time allotted for public discussion and comment, no person other than a member of the City Council shall address that body, except with the consent of two of the members present. The City Council by a majority vote may limit the time available for public comment.

3. PRESENTATION OF NEW BUSINESS AND DEFERMENT: Upon the request of any two City Council members present, any report of a committee of the City Council shall be deferred (for final action thereon) to the next regular meeting of the City Council after the report is made.

4. DEBATE: No member shall speak more that once on the same question, except by unanimous consent, and then not until every other member desiring to speak shall have had an opportunity to do so; provided, however, that the proponent of the matter under consideration or the chairman of the committee whose report is under consideration, as the case may be, shall have the right to open and close debate. No member shall speak longer than five minutes at any one time, except by consent of the City Council. In closing debate on any questions, as above provided, the speaker shall be limited to five minutes, except by special consent of the City Council.

5. CALL TO ORDER: A member, when called to order by the chair, shall thereupon discontinue speaking and take their seat, and the order of ruling by the chair shall be binding and conclusive, subject only to the right of appeal.

6. VOTING: Every member who shall be present when a question is stated from the chair shall vote thereon or abstain at the time that their name is first called. A failure to vote shall be counted as an abstention and will count in the manner established by law. Any member required to abstain on a matter due to conflict of interest shall so declare.

7. ORDINANCES:

   a. Style of Ordinances: The style of all ordinances shall be "BE IT ORDAINED by the Mayor and City Council of the City of Marengo, McHenry County, Illinois," as provided by statute.

   b. "Yea" and "Nay" Vote: The yeas and nays shall be taken on the passage of all ordinances and on all propositions to create any liability against the City, or for the expenditure or appropriation of its money, and in all other cases at the request of any member of the City Council. Such vote shall be entered on the journal of the proceedings, as is provided by statute.

   c. Record of Ordinances: The Clerk shall record, in an ordinance book used for such purpose, all ordinances passed by the corporate authorities.

   d. Publication: All ordinances imposing any fine, penalty, imprisonment or forfeiture or making any appropriation, shall be published as required by statute, either in a newspaper or in pamphlet form, in which case the ordinance in its pamphlet form shall be displayed for not less than 10 days in a public place in the City Hall.

   e. Time of Taking Effect: No ordinance that must be published to comply with the foregoing section shall go into effect until 10 days after it is so published unless a statement of the urgency of the ordinance is contained in it and it achieves passage by a two-thirds vote of the members of the corporate authorities then holding office. In all other cases, the ordinances shall go into effect upon the passage thereof, as provided by statute, even though the operation of the ordinance may not take effect until a later date.

8. ADOPTION OF *ROBER'S RULES OF ORDER*: The rules of parliamentary practice contained in the latest published edition of *Robert's Rules of Order* shall govern the City Council in all cases to which they are applicable and in which they are not inconsistent with the special rules of this City Council or the statutes or laws of the state.

9. TEMPORARY SUSPENSION OF RULES; AMENDMENT OF RULES: These rules may be temporarily suspended, repealed, altered or amended by a two-thirds vote of the corporate authorities then holding office.

10. CENSURE OF MEMBERS; EXPULSION OF MEMBERS: Any member of the corporate authorities acting or appearing in a lewd, disorderly or disgraceful manner, or who uses opprobrious, obscene or insulting language to or about any member of the corporate authorities, or who does not obey the order of the chair, shall be, on motion, censured by a majority vote of the corporate authorities and, in addition, may be fined not to exceed $100 for each such occurrence. With the concurrence of two-thirds of the corporate authorities elected, the corporate authorities may expel a member, but not a second time for the same offense.

2.13 AT-COST PARTICIPATION IN EMPLOYEE BENEFIT PLANS BY ELECTED OFFICIALS *08-9-5*

A. POLICY: It is the policy of the City that the City's elected officials are valuable public servants and should be entitled to participate, at their own expense and without expenditure of City funds, in the insurance and benefits plans offered to City employees.

B. EXERCISE OF OPTION: Any elected official taking office after the April 2009 municipal elections may, within 30 days of taking office, elect to participate in any insurance of benefit plan offered generally to City employees. The exercise of this option must be made by notifying the Administrator in writing. After 30 days of taking office, the elected official may only opt in or opt out of the benefit plans as practicable in the discretion of the Administrator.

C. CALCULATION OF COST: Within seven days of an elected official taking office, the Administrator shall notify the elected official of (1) his or her right to participate in employee benefit plans at cost, and (2) the available plans and the annual premium for each. If no annual premium is available, the proper periodic premium shall be indicated.

D. PERMITTED PLANS: Elected officials shall be entitled to participate in the following plans, if available to City employees, and these plans only, at their own expense and at the marginal cost thereof as if the participating elected official was an additional employee:

1. Vision insurance;
2. Dental insurance; and
3. Life insurance.

E. PAYMENT FOR PARTICIPATION: Any elected official who elects to participate in a plan under this Section shall tender the full annual premium to the Administrator. If there is no premium, the total periodic premiums for one year shall be tendered.

E. NO PAYMENT BY CITY: Under no circumstances shall the City pay for any premium, deductible or other cost under insurance or benefit plans for an elected official. The elected official must pay for all marginal payments related to his or her participation in the plan.

F. EXCEPTION – DEDUCTION: Notwithstanding Sections 2.13-D and E, an elected official who elects to participate in an employee insurance or benefit plan may pay for

the plan by authorizing the City to deduct from his or her monthly compensation an amount sufficient to pay the cost of the official's participation in the insurance and benefit plans so elected. To the extent the elected official's compensation is less than the premium, the elected official shall be responsible for any balance.

G. OPTION AS COMPENSATION: The option to participate in the above-specified benefit and insurance plans at cost is compensation to elected officials. The exercise, or lack of exercise, or a change in the exercise of the option to participate in the said plans, shall be deemed not to be a change in compensation. Rather, the option itself is a non-monetary emolument. It shall be deemed paid for the duration of the term on the day of taking office.

CHAPTER 3
CITY ADMINISTRATION

3.01 Mayor
3.02 Clerk
3.03 Treasurer
3.04 Attorney
3.05 City Administrator
3.06 Planning and Zoning Commission
3.07 Reserved
3.08 Economic Development Commission
3.09 Bonds of Officers
3.10 Officers and Employees of the City
3.11 City Records
3.12 Illinois Municipal Retirement Fund
3.13 Corporate Seal
3.14 Fiscal Year
3.15 City Datum, Bench Mark
3.16 Indemnification
3.17 Code of Ethics

3.01 MAYOR *Amended, 09-8-4*

A. ELECTION AND TERM: The Mayor shall be elected for a four-year term and shall serve until his successor is elected and qualified, as provided by law.

B. DUTIES: The Mayor shall be the Mayor of the City Council and shall preside at properly called meetings of the City Council. S/he shall devote to the duties of the office whatever time the faithful discharge thereof may require. The Mayor at all times may examine and inspect the books, records and papers of any agent, employee or officer of the City. The Mayor shall perform all the duties which are prescribed by law, including City ordinances, and shall take care that the laws and ordinances are faithfully executed.

The Mayor, from time to time, may and annually give the City Council information relative to the affairs of the City, and may recommend for its consideration such measures as s/he believes expedient.

C. APPOINTMENT OF OFFICERS: The Mayor shall have the power and authority to 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. Any vacancies occurring in an appointive office shall be filled in like manner.

D. MAYOR PRO TEM: During any temporary absence or disability of the Mayor, the City Council shall select one of their own as Mayor Pro Tem, who shall possess the powers and authority of the Mayor as provided by law and by ordinance.

E. EMERGENCIES: In the event of an accident, disaster or other circumstance creating a public emergency, the Mayor may award contracts, make purchases and incur other obligations of the City for the purpose of meeting said emergency, up to $500. In the event such expenditure is for any claim against the City, a signed waiver shall be required from the party making the claim at the time of payment. As soon as practical, the Mayor shall file with the City Council a written statement of such emergency, the necessity for such action and an itemized account of all expenditures or obligations incurred.

F. ACTING MAYOR: In the event of a vacancy in the office of Mayor, the City Council may appoint one of their own as the acting Mayor to serve until the vacancy is filled as provided by law.

G. EMERGENCY INTERIM EXECUTIVE: Pursuant to the Emergency Interim Executive Succession Act (5 ILCS 275/1 *et seq.*), the following officers are designated as the emergency interim successors to the office of Mayor in the following order:

1. The Alderman with the highest number of years in office.

2. The Alderman with the second highest number of years in office.

3. The Alderman with the third highest number of years in office.

The powers and duties of the emergency interim successor shall be pursuant to the Emergency Interim Executive Succession Act.

H. BOND: Before entering upon the duties of office, the Mayor shall execute a bond in such amount and with such sureties as may be required by law and by ordinance, conditioned upon the faithful performance of the duties of the office. The City shall pay the premium on such bond.

The Mayor shall act for and on behalf of the City on formal occasions and receptions. In the Mayor's absence or inability to attend any such function, the City Council may select any other City officer to so act.

3.02 CLERK

A. ELECTION AND TERM: The City Clerk ("Clerk") shall be elected (or appointed if a vacancy occurs in the Office of City Clerk) and shall serve a four-year term, and until a successor is elected and qualified as provided by law.

B. GENERAL DUTIES, OATH, BOND: The Clerk shall have all powers and perform all duties provided by the laws of the State of Illinois and the ordinances of the City. The Clerk shall, before entering upon the duties of the office, take and subscribe the usual oath thereof and execute a bond in such amount and with such sureties as may be required by law or by ordinance, conditioned upon the faithful performance of the Clerk's duties. The cost of the bond shall be borne by the City.

C. DUTIES: The Clerk shall, in addition to the duties imposed by law, perform the following duties:

1. To attend all meetings of the corporate authorities and keep a full and accurate record of their proceedings.

2. To record all ordinances passed by the City Council, in a suitable book or books kept for that purpose. At the foot of the record for each ordinance there shall be a note of the date of the passage, approval and publication thereof, which record memorandum or certified copy thereof shall be evidence of the passage and publication of such legal ordinance for all purposes. The original of all ordinances passed by the City Council shall be filed with the Clerk.

3. To deliver to the Mayor all ordinances or resolutions to be approved or otherwise acted upon by the Mayor.

4. To maintain custody of and retain possession of the corporate seal of the City and to affix the same to all papers and documents when required.

5. To have custody of and safely keep and preserve in the Clerk's office all papers, books, records, maps, documents and effects of every description belonging to the City and not in actual use and possession of other City officers. To deliver upon demand any of the aforesaid articles, when not needed for immediate use to any officer of the City having a right to them. Upon his removal or resignation or the expiration of the term of office, to deliver all of such effects to the successor in the office of the Clerk.

6. To sign and keep a record of all licenses and permits issued by and on behalf of the City and the applications therefor that are not the responsibility of any other officer or official.

7. To file and keep in the Clerk's office the original of all ordinances passed or a pamphlet thereof when the same are published in pamphlet form. When any ordinance is published in a newspaper, to secure from the publisher thereof and attach to such ordinance a certificate of such publication.

8. To prepare all commissions, licenses, permits and other official documents required to be issued under the laws and ordinances of the City and to affix

the corporate seal thereto. In like manner to attest all deeds for the sale of real estate conveyed by the City, unless otherwise provided by special ordinance.

9. Shall attest the signature of the Mayor to any and all proceedings of the City Council.

D. ABSENCE: In case the Clerk is absent from any regular or special meeting the Deputy Clerk, if any, shall act as Clerk Pro Tem. In the absence of both the Clerk and Deputy Clerk, the Mayor may appoint one of the Aldermen as Clerk Pro Tem; such appointment shall not prohibit such Alderman from acting in the capacity of Trustee also.

E. FAILURE TO PERFORM DUTIES: It shall be unlawful for the Clerk to knowingly and wilfully destroy any of the records of the City or knowingly or wilfully omit or fail to perform any of the duties of office. For the violation of any of the provisions of this Section 3.02, upon conviction, a fine may be imposed of not less than $25 nor more than $750 for each offense.

F. SALARY: The annual salary of the Clerk shall be that sum found in Section 2.17-C of this Code.

G. DEPUTY CLERK: Subject to the advice and consent of the Mayor and City Council, the Clerk may appoint one Deputy Clerk, who need not be a resident of the City. Because the Clerk's position is part-time, said appointment should be a full-time employee of the City. When performing the duties of Deputy Clerk, compensation shall be at the hourly rate paid to the City employee. The Deputy Clerk shall report to the Administrator.

3.03 TREASURER *Amended, 08-9-1*

A. CREATION OF OFFICE AND APPOINTMENT: There is hereby created the office of City Treasurer ("Treasurer"), an executive office of the City. The Treasurer shall be appointed by the Mayor, by and with the advice and consent of the City Council, and shall serve at the pleasure of the Mayor and City Council. The Treasurer shall report to the Mayor and City Administrator.

B. DUTIES: The Treasurer shall perform the following duties:

1. Shall receive all money paid in to the City, either directly or from other City officers, and shall make out all checks of the City and pay out City funds only on vouchers, orders or checks properly signed by the Mayor and any one of either the Administrator, Treasurer or Clerk; verifying that the signatures are authentic or hand-stamped by the individual whose name is represented. Signatory priority shall be as stated herein. In the event there is a vacancy in the office of Administrator, the City Administrator's assistant is authorized to sign checks.

2. Shall deposit the City funds in such legal depositories as may be designated by the City Council by resolution or ordinance, and shall keep the City funds separate and distinct from his own funds and any others with the City funds, and he shall not make private or personal use of the City funds. Depositories designated by the City Council are: First National Bank of Marengo, Marengo; First National Bank of Chicago, Marengo; Harris Bank Marengo, Marengo; Prairie State Bank, Marengo; and The Illinois Funds, Springfield

3. Shall keep and maintain accurate books and records of account showing all moneys received by him the purpose for which such money was paid out, and shall keep a record showing at all times the financial condition of the City, and shall make monthly reports to the City Council showing the funds received and disbursed during the month, and shall make an annual report to the Council between the first and 10th day of May of each fund, showing the total amount of all receipts and expenditures of the City, and showing all of his transactions as Treasurer during the preceding year.

4. Shall keep a register of all warrants, bonds or orders filed with the Treasurer or paid by the Treasurer, and of all vouchers, as provided by law or by ordinance.

5. From time to time the Treasurer may invest City funds not immediately necessary to meet City obligations in such depositories or in such securities as the Treasurer may deem in the best interest of the City, provided however, that at the next regular meeting of the Mayor and City Council, the Treasurer shall request ratification of the action in making any investment.

6. In addition, the Treasurer shall perform such other duties as may be required by law or by ordinance.

C. BOND: Before entering upon the duties of office, the Treasurer shall execute a bond in such amount and with such sureties as may be required by law and by ordinance, conditioned upon the City against any loss due to any neglect of duty or wrongful act on the part of the Treasurer. The City shall pay the premium of such bond.

3.04 ATTORNEY

A. CREATION OF OFFICE AND APPOINTMENT: There is hereby created the office of City Attorney, an executive office of the City. The City Attorney shall be appointed by the Mayor, by and with the advice and consent of the City Council. The City Attorney need not be a resident nor a qualified elector of the City.

B. DUTIES: The City Attorney shall be the legal advisor of the City, and shall render advice upon all legal questions affecting the City whenever requested to do so by the Mayor,

Administrator, Chief of Police or upon authorization of the City Council. Upon the request of the Mayor or the City Council, the City Attorney shall reduce legal advice opinions to writing.

The City Attorney shall prosecute or defend any and all suits or actions at law or in equity to which the City may be a part, or in which the City may be interested, or which may be brought against or by any officer of the City on behalf of the City or in the capacity of such person as an officer of the City.

The City Attorney shall act to enforce in full all judgments, decrees or orders rendered or entered in favor of the City, and to carry out to completion all special assessment and condemnation proceedings as directed by the Mayor and City Council.

C. BOND: The City Attorney shall not be required to furnish bond before entering upon the duties of the office.

3.05 CITY ADMINISTRATOR

A. APPOINTMENT: The City Council is hereby authorized to employ a City Administrator ("Administrator"). Such Administrator shall be retained and removed by the Mayor and Aldermen voting jointly. The Administrator need not be a resident or a qualified elector of the City. The City may contract for the services of the Administrator.

B. COMPENSATION: Compensation of the Administrator shall be as determined by the City Council.

C. DUTIES: The Administrator shall perform all duties assigned to him by the Mayor and City Council. Except for the Chief of Police, all City employees shall report to the Administrator.

D. BOND: Before entering upon the duties of his position, the Administrator shall execute a bond in the amount of $100,000 and with such sureties as may be required by law and by ordinance, conditioned upon the faithful performance of the Administrator's duties and to indemnify the City against any loss due to any neglect of duty or wrongful act on the part of the Administrator. The bond of the premium for said bond shall be borne by the City.

3.06 PLANNING AND ZONING COMMISSION *01-4-4*

A. CREATION: A Planning and Zoning Commission is hereby created for the City to carry out the duties of a plan commission and zoning board of appeals. When used in this Section 3.06, "Commission" shall be construed to mean the Planning and Zoning Commission and "Commissioners" shall be construed to mean the members of the Commission.

B. MEMBERSHIP: The Commission shall consist of a chairman and six members to be appointed by the Mayor with the advice and consent of the City Council. The Mayor shall be an ex-

officio member of the Commission. The Chairman shall be appointed annually by the Mayor with the advice and consent of the City Council. Annually, the Commissioners shall elect one of its own to serve as vice-chairman.

C. TERM OF OFFICE: The first appointees shall serve for the following terms, or until their respective successors, in similar manner, have been appointed and qualified: one for one year, one for two years, one for three years, one for four years, one for five years, one for six years and one for seven years. Successors to each member so appointed shall serve five-year terms except that vacancies shall be filled for the unexpired term of the membership vacated. The term of each Commissioner shall expire April 30 of the year of the expiration of its respective term of office. Thereafter, the appointments shall be made at the first meeting of the fiscal year of the City Council.

D. VACANCY: Any vacancy on the Commission shall be filled in the same manner as the original appointment.

E. REMOVAL: The Mayor, with the approval of the City Council, may remove any member of the Commission for cause after a public hearing.

F. COMPENSATION: The Chairman and members of the Commission shall receive, as compensation, $50 and $30, respectively, for each attended commission meeting.

G. PLAN COMMISSION, ZONING BOARD OF APPEALS REFERENCE: Any ordinance, code, regulation, etc., of the City or state statute that references the Plan Commission and/or Zoning Board of Appeals shall mean the Planning and Zoning Commission.

H. DUTIES OF THE PLANNING AND ZONING COMMISSION: The duties of the Planning and Zoning Commission are as follows:

1. To prepare and recommend to the City Council a comprehensive plan of public improvements looking to the present and future development of the City. After its adoption by the City Council this plan shall be known as the Official Plan of the City of Marengo. Thereafter, from time to time, the Commission may recommend changes in the Official Plan. This plan may include reasonable requirements with reference to the streets, alleys and public grounds in unsubdivided land situated within the corporate limits or in contiguous territory not more than 1½ miles beyond the corporate limits and not included in any municipality. These requirements shall be effective whenever this unsubdivided land is subdivided after the adoption of the Official Plan.

   Following the adoption of the Official Plan no map or plat of any subdivision presented for record affecting land within the corporate limits of the City or in contiguous territory outside of and not more than 1½ miles from those limits and not included in any other municipality, shall be entitled to record

or shall be valid unless the subdivision thereon shall provide for streets, alleys and public grounds in conformity with the Official Plan.

2. To prepare and recommend to the City Council from time to time plans for specific improvements pursuant to the Official Plan.

3. To give aid to the City officials charged with the direction of projects for improvements embraced within the Official Plan and to further the making of these projects, and generally promote the Official Plan.

4. To exercise such other powers, germane to the powers granted by this Code as may be conferred by the City and are granted a City under the Illinois Municipal Code (65 ILCS), including, but not limited to Sections 5/11-12-1 to 5/11-12-12.

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

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

   The Commission shall select a reasonable time and place for the hearing of the appeal, give due notice thereof to all interested parties and shall render a written decision on the appeal without unreasonable delay. Any person may appear at the hearing and present testimony in person or by a duly authorized agent or attorney. The Commission may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination of the Building Commissioner.

6. To recommend to the City Council after holding a public hearing on application for variations from the strict enforcement of any provisions of

this the Marengo Zoning Ordinance, in accordance with the rules and standards set forth therein.

7. To recommend to the City Council, after holding a public hearing, on applications for special uses listed in each of the several zoning districts.

8. To recommend to the City Council, after holding a public hearing, on applications for planned developments referred to it by the City Council and to hear and decide other matters referred to it or upon which it is required to pass under the provisions of the Marengo Zoning Ordinance.

9. To recommend to the City Council, after holding a public hearing, on petitions for amendment of the provisions of the Marengo Zoning Ordinance and the boundary lines of zoning districts established therein.

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

11. To file immediately in the office of the City Clerk every rule, order, requirement, decision or determination of the Commission after any meeting or hearing, which shall be a public record.

12. Nothing contained herein shall be construed to authorize the Commission to change any of the provisions of the Marengo Zoning Ordinance or district boundary lines established hereby. The concurring vote of four members shall be necessary to reverse any order, requirement, decision or determination of the Building Commissioner or to decide in favor of the applicant any matter upon which the Commission is authorized to act.

13. Additional duties of the Commission are also outlined in the Marengo Zoning Ordinance, this Code and the Illinois Municipal Code.

I. SPECIAL ZONING COMMISSION: The Commission shall serve as a special zoning commission whenever a text amendment is proposed to the Marengo Zoning Ordinance.

J. MEETINGS: All meetings of the Commission shall be held at the call of the Chairman and at such other times as the Commission and/or City Council may determine. The presence of four members shall be necessary for a quorum. All meetings shall be open to the public. The Chairman, or Acting Chairman, may administer oaths and compel the attendance of witnesses.

The Commission shall keep minutes of its proceedings, keep record of its examinations and other official actions, prepare findings of fact and record the individual votes upon every question. Expenses incurred by the Commission in the performance of official duties are to be itemized and shall be reimbursed by the City.

3.07 RESERVED

3.08 ECONOMIC DEVELOPMENT COMMISSION *05-6-2; Amended, 08-5-1*

A. ESTABLISHMENT: It is hereby established a citizens commission which shall be known as the Marengo Economic Development Commission ("Commission") for the purpose of structuring sound economic development programs through conducting such research and inventory of resources for the preparation of industrial fact profiles to be used in presentations to industrial and commercial prospects considering expansion or location in the Marengo area. The Commission shall make its findings and recommendations to the City Council in the manner provided herein.

B. MEMBERSHIP The membership of the Commission shall be composed of 11 Commissioners; residency in the City shall not be required by four members. The Commissioners shall be appointed by the Mayor with the advice and consent of the City Council. One of the nine Commissioners shall be appointed chairperson by the Mayor with the advice and consent of the City Council.

The term office for each Commissioner shall be three years beginning on May 1.

Upon expiration of a member's term, successors shall be appointed for three-year terms by the Mayor, with the advice and consent of the City Council. In addition to the 11 members herein provided, the Mayor shall serve as an ex officio, non-voting member.

C. POWERS AND DUTIES: The Commission shall have the following powers and duties:

1. To investigate and become informed about existing businesses, commercial enterprises and industries in the City and to promote rehabilitation and expansion wherever and whenever possible.

2. To investigate and become informed about the economic climate in the City and, after findings of fact, make recommendations to the City Council.

3. To provide information to the management of various industries and commercial enterprises which may be interested in locating their plants, facilities or businesses within the City and to promote the City for such purpose, in the event that, in the opinion of the Commission, such industries are of such a kind and nature that would enhance the City economically and would contribute to its natural expansion and growth.

4. To evaluate economic forces for optimum contributions to creation of jobs and provision of service for the citizens of the City; for improvement of the tax base; for minimal impact on the natural environment and the community's ability to provide basic services.

5. To recommend to the City Council the provision or procurement of professional services to carry out the activities of the Commission.

D. FUNDING: The Commission shall be authorized to expend no municipal funds other than those appropriated and approved by the City Council.

E. VOLUNTEERS: The Commission is authorized to enlist the volunteer services of such other members of the community who will assist in achieving the goals of sound economic growth, recognizing broad community involvement will assure broad community support.

F. REPORTING AND RECORDING KEEPING: The Commission shall comply in all respects with the Open Meetings Act (5 ILCS 120/1 *et seq.*) and shall keep comprehensive minutes of all meetings which describe clearly and completely each and every subject discussed at said meeting and any action taken by the Commission. Copies of said minutes shall be provided to the City Council together with any support data, documents and attachments. The Commission shall meet no less than six times per calendar year. The Commission may also hold additional special meetings, as necessary, as part of its business visitation program. City staff shall supply the Commission with program status reports during those months when the Commission is not scheduled to meet. The Commission shall make periodic reports on its progress and shall make recommendations to the City Council regularly, but in no case, not less than once every six months.

G. COMPENSATION: Commissioners shall be paid a per diem in such amount as is established from time to time by the City Council; but in no case shall the Commissioners be paid for more than one meeting per month.

H. VACANCIES: If a vacancy occurs on the Commission, said vacancy shall be filled by the appointment of a Commissioner by the Mayor with the advice and consent of the City Council. However, no such appointment shall be made until the expiration of 30 days after the occurrence of the vacancy.

3.09 BONDS OF OFFICERS

A. Every officer and employee of the City, as may be required so to do by law or by ordinance, before entering upon the duties of the office or position of employment, shall give a bond in such amount and with such sureties as may be required by law or by the City Council, which shall be subject to the approval of the City Council, and which shall be conditioned upon the faithful performance of the duties of the office or position of employment. Unless otherwise provided for by law or by ordinance, such bonds shall have as surety a company or corporation licensed to act as

surety in the State of Illinois and to do business in the State of Illinois. The premiums of such bonds shall be paid out of the general funds of the City.

B. The penalty of bonds of certain elected and appointed officers and employees of the City shall not be less than:

Mayor	$ 10,000
Treasurer	$ 100,000

3.10 OFFICERS AND EMPLOYEES OF THE CITY *Amended, 02-2-1, 01-8-2, 01-3-2*

A. EFFECT OF SECTION: The provisions of this Section 3.10 shall apply alike to all officers and employees of the City, regardless of the time of the creation of the office or position of employment, and regardless of the time of the appointment of the officer or employment of the employee.

B. APPOINTMENTS: The Mayor, by and with the consent of the City Council, shall make appointments to fill all appointive offices. The respective department heads shall select all employees and fill all positions of employment of the City, with the advice and consent of the City Council, with the exception of Police Department personnel, which fall under the jurisdiction of the Marengo Police Commission.

C. TERMS OF OFFICE, VACANCIES: Every appointed officer of the City shall hold office for a period of one year from the date of appointment and until a success is appointed and qualified. However, the term of office shall expire no later than the end of the last municipal year in the Mayor's term unless otherwise provided by statute.

D. ASSIGNMENT OF DUTIES: The City Council shall have the power and authority to assign to any appointed officer any duty which is not assigned by ordinance or by law to some other specific officer, and the City Council shall mediate and determine all disputes or questions relating to the respective powers and duties of such officers.

E. RECORDS: All records kept or maintained by any officer or employee of the City shall be open to inspection by the Mayor or any member of the City Council at all reasonable times, whether or not such records are required to be kept by statute or ordinance.

F. MONIES RECEIVED: Every officer of the City shall daily turn over all monies received in their official capacity to the Treasurer, with a statement showing the source from which the same was received, and shall take the Treasurer's receipt therefore.

G. OATH: Before entering upon the duties of their respective offices, all City officers, whether elected or appointed, shall take and subscribe the oath or affirmation as set forth in the Illinois Municipal Code.

H. SALARIES AND WAGES: All officers and employees of the City shall receive such salaries or wages as may be provided from time to time by ordinance. No officer or employee receiving a salary from the City shall be entitled to retain any portion of any fees collected or received in the performance of any duties as a City officer or employee, in the absence of specific authorization to the contrary as may be provided by law or by ordinance.

I. CONSERVATORS OF THE PEACE: The Mayor, Aldermen, Chief of Police and policemen shall be conservators of the peace, and shall have such powers of arrest, commitment and detention as may be prescribed by law or by ordinance.

J. TERMINATION OF OFFICE OR EMPLOYMENT: Every officer and employee of the City, upon the termination of an office or employment, shall deliver to his successor all books and records which may be the property of the City. If no successor has been elected, chosen or appointed within seven days after the termination of such office or position of employment, such property shall be delivered to the Clerk or to the Treasurer, and a receipt taken therefor.

3.11 CITY RECORDS

A. DEFINITIONS: Except as provided in Appendix A, terms used in this Section 3.11 mean as follows:

Act: Freedom of Information Act, 5 ILCS 140.1 *et seq*.

City Record: An original, not a copy, of all records, reports, forms, writings, letters, memoranda, books, papers, maps, photographs, microfilms, cards, tapes, recordings, electronic data processing records, recorded information and all other documentary materials, regardless of physical form or characteristics, having been prepared, or having been or being used, received, possessed or under the control of the City. A City Record includes, but is expressly not limited to:

1. Administrative manuals, procedural rules and instructions to staff unless exempted by the Act;

2. Final opinions and orders made in the adjudication of cases, except employee grievance or disciplinary cases;

3. Substantive rules;

4. Statements and interpretations of policy which has been adopted by the City Council;

5. Final planning policies, recommendations and decisions;

6. Factual reports, inspections reports and studies prepared by or for the City;

7. All information in any account, voucher or contract dealing with the receipt or expenditure of City funds;

8. The names, salaries, titles and dates of employment or election of all employees and officers of the City;

9. Materials containing opinions concerning the rights of the City or of any other person;

10. The name of every official and the final records of voting in all proceedings of the City;

11. Applications for any contract, permit, grant or agreement except as exempted from disclosure by the Act;

12. Each report, document, study or publication prepared by independent consultants or other independent contractors for the City;

13. All other information required by law to be made available for public inspection or copying; and

14. Information relating to any grant or contract made by or between the City and another public body or private organization.

B. RECORD DEPOSITORIES: City Records shall be kept in the City's official place of business, the City Hall or City maintenance building, as appropriate, or such other depositories as designated by the City Council, and be available for public inspection or copying, pursuant to the Act, during City Hall business hours.

C. POSSESSION OF CITY RECORDS: Within five days after notification by the Administrator or Clerk, to be made by certified mail, return receipt requested, any person shall deliver to the Clerk all property, books and effects in his possession, belonging to the City, or pertaining to the office he has held. Upon his refusal to do so, he shall be liable for all damages caused thereby and subject to a fine of not less than $500 for each violation; each day that the violation continues shall be considered a separate offense. The Clerk shall deliver those records deemed necessary to the successor in office to carry out his duties.

D. LOCAL RECORDS ACT: The disposition of any City Record shall be in accordance with the Local Records Act, 50 ILCS 205/1 *et seq*.

3.12 ILLINOIS MUNICIPAL RETIREMENT FUND

All persons who are employed by the City and who occupy an office or are employed in a position normally requiring performance of duty for less than 1,000 hours per year for the City are excluded from participation and eligibility for IMRF benefits. This provision shall not affect persons

employed prior to January 1, 1982 in a position normally requiring performance of duty for 600 hours or more per year by the City.

3.13 CORPORATE SEAL

The corporate seal of the City shall be as follows: A circular disc with the words "City of Marengo, Illinois" inscribed on the outer circle and, on the inner circle, the words "Incorporated August 14th, 1893" inscribed.

3.14 FISCAL YEAR

The fiscal year of the City shall begin on May 1st of each year and ending on April 30th of the following year.

3.15 CITY DATUM, BENCH MARK

The City datum is hereby established as a rectangular bench mark, cut in the face of the stone, 50 feet below the top of the stone door sill of the brick building located on the southeast corner of State Street and Washington Street.

3.16 INDEMNIFICATION

A. In the event a lawsuit is filed against any former or current elected City officer for acts relating to the City or City business affairs while in office, the City shall retain and pay counsel of its choice to defend the City shall also indemnify the officers for any acts for which he or she is found liable within the scope of his or her office, duty or employment with the City. The protection afforded to officers in this Section 3.16 shall apply where defense and indemnity is not adequately provided for, without any conflict of interest, by the City's liability insurance carrier.

B. The City shall defend and indemnify all former and current City employees for acts within the scope of their duties and employment not otherwise covered by the liability insurance carrier of the City.

3.17 CODE OF ETHICS *04-5-3*

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

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

C. DEFINITIONS: In addition to the definitions found in Appendix A of this Code, the terms, whether capitalized or not, used in this Section 3.17 shall mean as follows:

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

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

Collective Bargaining has the same meaning as that term is defined in Section 3 of the Illinois Public Labor Relations Act (5 ILCS 315/3).

Compensated Time means, with respect to an Employee, any time worked by or credited to the Employee that counts toward any minimum work time requirement imposed as a condition of his or her employment, but for purposes of this Section 3.17, does not include any designated holidays, vacation periods, personal time, compensatory time off or any period when the Employee is on a Leave of Absence. With respect to Officers or Employees whose hours are not fixed, "compensated time" includes any period of time when the Officer or Employee is on premises under the control of the Employer and any other time when the Officer or Employee is executing his or her official duties, regardless of location.

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

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

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

Employer means the City of Marengo.

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

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

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

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

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

Political Activity means any activity in support of or in connection with any campaign for elective office or any Political Organization, but does not include activities (i) relating to the support or opposition of any executive, legislative or administrative action, (ii) relating to collective bargaining, or (iii) that are otherwise in furtherance of the person's official duties.

Political Organization means a party, committee, association, fund or other organization (whether or not incorporated) that is required to file a statement of organization with the State Board of Elections or a county clerk under Section 9-3 of the Election Code (10 ILCS 5/9-3), but only with regard to those activities that require filing with the State Board of Elections or a county clerk.

Prohibited Political Activity means:

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

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

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

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

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

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

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

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

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

10. Preparing or reviewing responses to candidate questionnaires.

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

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

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

14. Serving as a delegate, alternate or proxy to a political party convention.

15. Participating in any recount or challenge to the outcome of any election.

Prohibited Source means any person or entity who:

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

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

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

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

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

D. PROHIBITED POLITICAL ACTIVITIES:

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

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

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

4. Nothing in this Section 3.17-D prohibits activities that are permissible for an Officer or Employee to engage in as part of his or her official duties, or activities that are undertaken by an Officer or Employee on a voluntary basis which are not prohibited by this Section 3.17.

5. No person either: (i) in a position that is subject to recognized merit principles of public employment; or (ii) in a position the salary for which is paid in whole or in part by federal funds and that is subject to the Federal Standards for a Merit System of Personnel Administration applicable to

grant-in-aid programs, shall be denied or deprived of employment or tenure solely because he or she is a member or an officer of a political committee, of a political party, or of a Political Organization or club.

E. GIFT BAN:

1. Except as permitted by this Section 3.17, no Officer or Employee, and no spouse of or immediate family member living with any Officer or Employee (collectively referred to herein as "recipients"), shall intentionally solicit or accept any gift from any Prohibited Source, as defined herein, or which is otherwise prohibited by law or ordinance. No Prohibited Source shall intentionally offer or make a gift that violates this Section 3.17.

2. EXCEPTIONS: Section 3.17-E1 is not applicable to the following:

a. Opportunities, benefits, and services that are available on the same conditions as for the general public.

b. Anything for which the Officer or Employee, or his or her spouse or immediate family member, pays the fair market value.

c. Any (i) contribution that is lawfully made under the Election Code; or (ii) activities associated with a fund-raising event in support of a Political Organization or candidate.

d. Educational materials and missions.

e. Travel expenses for a meeting to discuss business.

f. A gift from a Relative.

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

the actual knowledge of the recipient the individual who gave the gift also at the same time gave the same or similar gifts to other Officers or Employees, or their spouses or immediate family members.

h. Food or refreshments not exceeding $75 per person in value on a single calendar day; provided that the food or refreshments are (i) consumed on the premises from which they were purchased or prepared or (ii) catered. For the purposes of this Section 3.17-E, "catered" means food or refreshments that are purchased ready to consume which are delivered by any means.

i. Food, refreshments, lodging, transportation and other benefits resulting from outside business or employment activities (or outside activities that are not connected to the official duties of an Officer or Employee), if the benefits have not been offered or enhanced because of the official position or employment of the Officer or Employee, and are customarily provided to others in similar circumstances.

j. Intra-Governmental and Inter-Governmental gifts.

k. Bequests, inheritances and other transfers at death.

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

Each of the exceptions listed in this Section 3.17-E is mutually exclusive and independent of every other.

3. DISPOSITION OF GIFTS: An Officer or Employee, his or her spouse or an immediate family member living with the Officer or Employee, does not violate this Section 3.17f if the recipient promptly takes reasonable action to return a gift from a Prohibited Source to its source or gives the gift or an amount equal to its value to an appropriate charity that is exempt from income taxation under Section 501 (c)(3) of the Internal Revenue Code of 1986, as now or hereafter amended, renumbered or succeeded.

F. ETHICS ADMINISTRATOR:

1. The Administrator shall designate an appropriate City Employee to serve as the Ethics Administrator for the City.

2. The Ethics Administrator shall provide information to the Officers and Employees of the City concerning the existence and content of this Section 3.17. This may be done by incorporating the contents of this Code of Ethics

into the City of Marengo Employee Guidelines and Policy Manual and by providing this Manual to all Officers and Employees of the City.

3. The Ethics Administrator shall refer any inquiries regarding the application or interpretation of this Section 3.17 to the Administrator.

G. ETHICS COMMISSION:

1. There is hereby created a commission to be known as the Ethics Commission of the City of Marengo ("Commission" for purposes of this Section 3.17). The Commission shall be comprised of three members appointed by the Administrator with the advice and consent of the City Council. No person shall be appointed as a member of the Commission who is related, either by blood or marriage up to the degree of first cousin, to any elected Officer of the City.

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

3. At the first meeting of the Commission, the commissioners shall choose a chairperson from their number. Meetings shall be held at the call of the chairperson or any two commissioners. A quorum shall consist of two commissioners, and official action by the Commission shall require the affirmative vote of two members.

4. The Administrator, with the advice and consent of the City Council, may remove a commissioner in case of incompetency, neglect of duty or malfeasance in office after service on the commissioner by certified mail, return receipt requested, of a copy of the written charges against the commissioner and after providing an opportunity to be heard in person or by counsel upon not less than 10 days' notice. Vacancies shall be filled in the same manner as original appointments.

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

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

   b. Upon receipt of a signed, notarized, written complaint, to investigate, conduct hearings and deliberations, issue recommendations for disciplinary actions, impose fines in accordance with this Section

3.17 and refer violations of Sections 3.17-D and 3.17-E to the City Attorney for prosecution. The Commission shall, however, act only upon the receipt of a written complaint alleging a violation of this Section 3.17 and not upon its own prerogative.

c. To receive information from the public pertaining to its investigations and to require additional information and documents from persons who may have violated the provisions of this Section 3.17.

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

e. To prepare and publish such manuals and guides as the Commission deems appropriate to facilitate compliance with the terms of this Section 3.17.

f. The powers and duties of the Commission are limited to matters clearly within the purview of this Section 3.17.

6. COMPLAINTS:

a. Complaints alleging a violation of this Section 3.17 shall be filed with the Ethics Commission.

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

c. Upon not less than 48 hours' public notice, the Commission shall meet to review the sufficiency of the complaint and, if the complaint is deemed sufficient to allege a violation of this Section 3.17, to determine whether there is probable cause, based on the evidence presented by the complainant, to proceed. The meeting may be closed

to the public to the extent authorized by the Open Meetings Act. Within seven business days after receiving the complaint, the Commission shall issue notice to the complainant and the respondent of the Commission's ruling on the sufficiency of the complaint and, if necessary, on probable cause to proceed. If the complaint is deemed not sufficient to allege a violation or if there is no determination of probable cause, then the Commission shall send by certified mail, return receipt requested, a notice to the parties of the decision to dismiss the complaint, and that notice shall be made public.

d. If the complaint is deemed sufficient to allege a violation of Section 3.17-E and there is a determination of probable cause, then the Commission's notice to the parties shall include a hearing date scheduled within four weeks after the complaint's receipt. Alternatively, the Commission may elect to notify in writing the City Attorney to prosecute such actions and request that the complaint be adjudicated judicially and the Commission's notice to the parties shall indicate this fact.

e. If the complaint is deemed sufficient to allege a violation of Section 3.17-D, then the Commission shall notify in writing the City Attorney to prosecute such actions and shall transmit to the City Attorney the complaint and all additional documents in the custody of the Commission concerning the alleged violation. The Commission's notice to the parties shall indicate these facts.

f. If the Commission elects to hear a case brought under Section 3.17-E, on the scheduled date and upon at least 48 hours public notice of the meeting, the Commission shall conduct a hearing on the complaint and shall allow both parties the opportunity to present testimony and evidence. The hearing may be closed to the public only if authorized by the Open Meetings Act.

g. Within 30 days after the date the hearing or any recessed hearing of a case brought under Section 3.17-E is concluded, the Commission shall either: (i) dismiss the complaint; or (ii) issue a recommendation for discipline to the alleged violator and to the Administrator or other Officer having authority to discipline the Officer or Employee, or impose a fine upon the violator, or both. The particular findings in the case, any recommendation for discipline, and any fine imposed shall be a matter of public information.

h. If the hearing on a case brought under Section 3.17-E was closed to the public, the respondent may file a written demand for a public

hearing on the complaint within seven business days after the issuance of the recommendation for discipline or imposition of a fine, or both. The filing of the demand shall stay the enforcement of the recommendation or fine. Within 14 days after receiving the demand, the Commission shall conduct a public hearing on the complaint upon at least 48 hours' public notice of the hearing and allow both parties the opportunity to present testimony and evidence. Within seven days thereafter, the Commission shall publicly issue a final recommendation to the alleged violator and to the Administrator or other Officer having authority to discipline the Officer or Employee or impose a fine upon the violator, or both.

i. If a complaint is filed during the 60 days preceding the date of any election at which the respondent is a Candidate, the Commission shall render its decision as required under Section 3.17-G6g within seven days after the complaint is filed, and during the seven days preceding that election, the Commission shall render such decision before the date of that election, if possible.

j. A complaint alleging the violation of this Section 3.17 must be filed within one year after the alleged violation.

k. In the event a member of the Commission is the subject of an alleged violation of this Section 3.17, such commissioner shall immediately recuse himself or herself from the investigation of such alleged violation, and shall take no part in the final action of the Commission regarding such alleged violation. A substitute commissioner shall be appointed pursuant to the terms of Section 3.17-G1 above for purposes relating to this matter only.

H. PENALTIES:

1. A person who intentionally violates any provision of Section 3.17-D may be punished by a term of incarceration in a penal institution other than a penitentiary for a period of not more than 364 days, and may be fined in an amount not to exceed $2,500.

2. A person who intentionally violates any provision of Section 3.17-E is subject to a fine in an amount on not less than $1,001 and not more than $5,000.

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

4. In addition to any administrative fines imposed pursuant to Section 3.17-H3 above, any person who intentionally makes a false report alleging a violation of any provision of Section 3.17 to the Ethics Commission, the State's Attorney or any other law enforcement official may be punished by a term of incarceration in a penal institution other than a penitentiary for a period of not more than 364 days, and may be fined in an amount not to exceed $2,500.

5. A violation of Section 3.17-D shall be prosecuted as a criminal offense by the City Attorney by filing in the circuit court an information, or sworn complaint, charging such offense. The prosecution shall be under and conform to the rules of criminal procedure. Conviction shall require the establishment of the guilt of the defendant beyond a reasonable doubt.

6. A violation of Section 3.17-E may be prosecuted as a quasi-criminal offense by an attorney for the City, or the Ethics Commission, through the designated administrative procedure.

7. In addition to any other penalty that may be applicable, whether criminal or civil, an Officer or Employee who intentionally violates any provision of this Section 3.17 is subject to discipline or discharge.

I. DISTRIBUTION OF CODE OF ETHICS: The Ethics Administrator shall cause a copy of this Code of Ethics to be distributed to every Officer and Employee of the City within ninety days after enactment of this Code of Ethics. Thereafter, this Code of Ethics shall be incorporated in the City of Marengo Employee Guidelines and Policy Manual.

CHAPTER 4
POLICE DEPARTMENT

4.01	Department Established
4.02	Chief of Police
4.03	Deputy Chief
4.04	Additional and Special Police
4.05	Oath
4.06	Police Powers and Duties
4.07	Duties of Officers
4.08	Order of Command
4.09	Police Department Rules and Regulations
4.10	Police Commission
4.11	Police Pension Fund and Police Pension Board
4.12	Police Officer Training Reimbursement and Pre-Employment Agreement
Exhibit A	Police Officer Training Reimbursement and Pre-Employment Agreement

4.01 DEPARTMENT ESTABLISHED

There is hereby established an executive department of the municipal government of the City, which shall be known as the Police Department (for purposes of this Chapter 4, "Department"), and shall consist of a Chief of Police ("Chief"), Deputy Chief and of such number of lieutenants, sergeants, patrolmen and other employees as may be provided from time to time by the City Council.

4.02 CHIEF OF POLICE

The Mayor, by and with the consent of the City Council, hereby retains the right to appoint a Chief. The appointment shall be made annually to coincide with the fiscal year.

The Chief shall superintend the work of the Department, and the police and other employees of the Department shall be under his command. The Chief may exercise such powers, and shall perform such other duties as may be provided for by ordinance or resolution, or other action of the City Council. Whenever any statute, ordinance or resolution refers to the City Constable, City Marshal or similar title, it shall be construed to mean the Chief. The Chief shall be the keeper of the City jail and have custody of all persons incarcerated therein. The Chief shall be custodian of all lost, abandoned or recovered stolen property in the City; shall keep such records and make such reports concerning the Department activities as may be required by statute or ordinance; shall be responsible for the Department's performance of all its functions and all Department members, who shall serve subject to the orders of the Chief.

4.03 DEPUTY CHIEF

The position of Deputy Chief is hereby established for the Department. The Deputy Chief, who shall be appointed by the Chief with the approval of the Mayor, shall be an exempt rank immediately below that of the Chief and shall be appointed to the position pursuant to 65 ILCS

5/10-2.1-4. The appointment shall be from the rank of sworn, full-time officers of the City. The Deputy Chief shall serve at the discretion of the Chief and, if removed from the position, shall revert to the rank held immediately prior to appointment to the Deputy Chief position.

4.04 ADDITIONAL AND SPECIAL POLICE *Amended, Ord. 01-11-1*

A. APPOINTMENT: In addition to the part-time police officers and employees of the Department, the Mayor and the Chief may each appoint and employ such special police and other temporary employees as either may find necessary or desirable, at such reasonable compensation as may be approved by the City Council. The Mayor or the Chief may, at the request of any property owner, or any person engaged in business of the City and in need of special police protection, appoint such persons as special police protection as either may find necessary or desirable.

B. COMPENSATION: The City shall not be required to pay any person so employed for such special police protection but such person shall be paid for his services by the person for whom such special police protection is afforded.

C. LIABILITY: Each person so appointed, together with the person requesting such special police protection, shall execute and file with the City Clerk an agreement in writing agreeing to save the City harmless of and from any and all liability for anything which such special police may do or fail to do while serving in such capacity, and agreeing to fully indemnify the City for any such liability in case any is imposed upon it, as well as all cost and expenses connected therewith, including all legal expenses connected with defending any and all lawsuits which may be instituted against the City for the enforcement of any such alleged liability. In addition, the City Council may require such other security as it may deem desirable as a condition to any such appointment or as a condition to the continuance of any such appointment.

D. REVOCATION: The appointment of anyone as a special policeman pursuant to this Section 4.04 may, at any time, be revoked by the Chief or Mayor and City Council.

4.05 OATH

The Chief, each policeman and each employee belonging to the Department, before entering upon his duties as a member of the Department, shall take and subscribe the following oath or affirmation:

> "I do solemly swear (of affirm) that I will support the Constitution of the United States the Constitution of the State of Illinois, and the ordinances of the City of Marengo, and that I will faithfully discharge the duties of _____ of the City, according to the best of my ability."

This oath or affirmation, so subscribed, shall be filed in the office of the City Clerk.

4.06 POLICE POWERS AND DUTIES

Every employee of the Department shall have all the powers provided for under the provisions of law and by ordinance of the City. It shall be the duty of the Department to use every responsible means for maintenance of law and order in the City, for the enforcement of the ordinances of the City and for the performance of such other duties and functions usually performed by police departments.

4.07 DUTIES OF OFFICERS

A. LIEUTENANT: The lieutenant shall be immediately subordinate to the Deputy Chief. The lieutenant is charged with all juvenile matters with the City and management and administration of the records of the Department and with executing the proper performance of all other police duties for the subordinate members of the Department. In the absence of the Deputy Chief, it shall be the duty of the lieutenant to discharge the obligations and assume the responsibilities of the Deputy Chief. The lieutenant shall also be in command during all hours of duty during which the Deputy Chief is not specifically on duty.

B. SERGEANT: The sergeant shall be subordinate to the lieutenant. Any sergeant is charged with executing the proper performance of patrol and other police duties for subordinate members of the Department assigned to duty during the sergeant's shift. In the absence of the Deputy Chief or lieutenant, it shall be the duty of the senior sergeant to discharge all of the obligations and assume all of the responsibilities of the Deputy Chief or lieutenant. The sergeant shall also be in command on all patrols and during all hours of duty during which the Deputy Chief or lieutenant are not specifically on duty.

4.08 ORDER OF COMMAND

During the temporary absence of the commanding officers, the command devolves upon the subordinate present next in seniority to such commending officers. The command seniority is determined first by rank and second by continuous service in the rank. The relative rank in position and order of command shall be as follows:

1. Chief
2. Deputy Chief
3. Lieutenant
4. Sergeant
5. Patrol

4.09 POLICE DEPARTMENT RULES AND REGULATIONS

The Department shall be regulated by the standard operating procedures, rules and regulations and special orders issued by the Chief.

4.10 POLICE COMMISSION *Amended, Ord. 01-11-1*

Pursuant to 65 ILCS 5/10-2.1-1 *et seq.*, said provisions are hereby adopted and all applicable

provisions therein (or as amended by the State legislature in the future) are incorporated herein by reference as if fully set forth herein. Except for the Chief, the Police Commission shall appoint all full-time police officers when authorized by the City Council.

4.11 POLICE PENSION FUND AND POLICE PENSION BOARD

Pursuant to Article III of the Illinois Pension Code (40 ILCS 5/3-101 et seq.) the provisions of Article III are hereby adopted and all applicable provisions therein (or as amended by the State Legislature in the future) are herein by reference as if fully set forth herein. Of those persons appointed to the Police Pension Board by the Mayor, with the advice and consent of the City Council, one shall be a resident of the City.

4.12 POLICE OFFICER TRAINING REIMBURSEMENT AND PRE-EMPLOYMENT AGREEMENT *Amended, 07-2-4*

A. It shall be the contractual obligation and duty of every police officer (the "Officer") to reimburse the City for the costs incurred by the City for the administration of written and physical agility examinations; interviews; background investigations; medical, psychiatric, drug-screening and other employment-related examinations; uniforms and equipment issued by the City; Basic Law Enforcement Academy training; and salary paid during field training sessions and when attending Basic Law Enforcement Academy training. If resignation is prior to 24 months from the date of hire, reimbursement shall be 100 percent. If resignation occurs prior to 36 month, but more than 24 months, from the date of hire, reimbursement shall be 50 percent.

B. Before an Officer begins employment with the City, the Officer shall enter into a pre-employment agreement with the City. Such agreement shall be in substantial form as Exhibit A of this Chapter.

EXHIBIT A

Please print your name in all of the appropriate blanks, sign the agreement, have someone else witness your signature and submit the agreement WITH your Application for Employment.

MARENGO POLICE DEPARTMENT
PRE-EMPLOYMENT AGREEMENT

This Agreement is entered into on ___/___/___, between _____ and the City of Marengo, Illinois (hereinafter referred to as the CITY).

WTTNESSETH

WHEREAS, _____ has expressed an interest in becoming a police officer in the Marengo Police Department; and

WHEREAS, _____ understands that, should he/she be hired as a police officer in the Marengo Police Department, the CITY will incur various expenses, including but not limited to costs of administering tests and conducting interviews; costs of performing background investigations; costs of medical, psychiatric, drug screening, polygraph tests and other employment-related examinations; costs of providing uniforms and equipment; costs for training sessions and travel conducted by the City of Marengo and the Marengo Police Department personnel and staff at a basic law enforcement training facility; and, salary paid to police officers during their training; and

WHEREAS, the CITY is willing to assume the various costs associated with the examination, interviewing, and investigation of prospective police officers and the provision of uniforms and equipment, training, and salary, etc. during training for newly-hired police officers, provided the CITY receives a commitment from an applicant that he or she will remain in the Marengo Police Department for a minimum period of 36 months; and

WHEREAS, the CITY seeks to have well-trained police officers on the Marengo Police Department; and

WHEREAS, _____understands and acknowledges that, should he/she be hired as a police officer for the Marengo Police Department, he/she will be expected to remain in the employment of the CITY for a minimum of 36 months or else reimburse the CITY for the expenses incurred by the CITY in testing, interviewing, equipping, and training him/her.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein below, the parties do freely and voluntarily enter into this Agreement.

SECTION 1. The recitals stated above are incorporated herein as part of this Agreement.

SECTION 2. The City agrees:

(a) To consider _____ for employment as a police officer for the Marengo Police Department; however, _____ acknowledges that execution of this Agreement in no way constitutes a guarantee of employment with the Marengo Police Department.

(b) To administer various examinations in order to determine whether _____ _____ is an appropriate candidate for employment as a police officer for the Marengo Police Department;

(c) To provide initial uniforms and equipment;

(d) To provide such training and instruction as the CITY, in its sole discretion, deems appropriate; and

(e) To pay _____ his/her full wages during any period in which _____ is being trained.

SECTION 3. _____ agrees that should he/she be hired as a police officer for the Marengo Police Department, he/she will remain in the employment of the CITY as a police officer for a minimum of thirty-six (36) months from the date of hire. If he/she does not remain in the employment of the CITY as a police officer for a minimum of thirty-six (36) months from the date of hire, he/she will reimburse the CITY for any and all costs incurred as enumerated in Section 4 below at the following rate:

(a) 100 percent, if resignation is prior to 24 months having elapsed from date of hire;

(b) 50 percent, if resignation occurs prior to the time 36 months, but more than 24 months have elapsed.

SECTION 4. Schedule of costs to be incurred by CITY:

(a) Administration of written and physical agility examination;

(b) Interviews;

(c) Background investigation;

(d) Medical, psychiatric, drug-screening and other employment-related examinations;

(e) Uniforms and equipment issued by the City;

(f) Basic Law Enforcement Academy Training facility; and

(g) Salary paid during field training sessions and Basic Law Enforcement Academy training.

SECTION 5. This Agreement shall terminate after the completion of 36 months from the date of hire.

SECTION 6. _____ understands that employment with the Marengo Police Department is contingent upon his/her completion of a probationary period of 12 months after completing of Basic Law Enforcement Academy training or after 12 months if previously certified and not requiring Basic Law Enforcement Academy training and continued performance to the satisfaction of the Marengo Police Department. Nothing contained herein shall be construed as a promise or agreement by either the Marengo Police Department or the CITY to retain _____ as a police officer for the Marengo Police Department for 36 months or any portion thereof..

SECTION 7. The CITY and the Marengo Police Department does not, by this Agreement, waive any of the rights, privileges, or prerogatives they possess to discipline, suspend or discharge any employee pursuant to Rules of the Board of Fire and Police Commissioners, the Rules and Regulations of the Marengo Police Department, and the labor Agreement between the CITY and the Fraternal Order of Police Lodge No. 129, now in effect or as may be altered or modified in the future.

SECTION 8. _____agrees that, should it become necessary for the CITY to file suit in order to collect the costs as enumerated in Section 4 he/she will pay all costs of said suit, including reasonable attorney's fees and all interest allowed at the legal rate on the amount which is owed.

SECTION 9. _____ agrees that any outstanding debt incurred by the CITY enumerated in Section 4 will be deducted from the final payroll disbursement providing _____ is in agreement, or alternatively agrees that the CITY retains the right to commence legal proceedings against him/her to recoup any outstanding balance.

SECTION 10. _____ acknowledges that he/she has examined this Agreement, that he/she has read and understands this Agreement, and he/she has the right to consult an attorney prior to entering this Agreement.

SECTION 11. Any notice that may be required by this Agreement shall be sent to the parties at the addresses below:

City: Chief of Police
c/o Marengo Police Department
142 East Prairie Street
Marengo, Illinois 60152

Applicant: _____
Address: _____
_____

SECTION 12. The invalidity of any portion of this Agreement will not and shall not affect the validity of any other provision. In the event that any provision of this Agreement is held to be invalid, the parties agree that the remaining provisions shall be deemed in full force and effect as if they had been executed by both parties subsequent to the expungement of the invalid provision.

SECTION 13. No modification of this Agreement shall be binding unless evidenced in writing and signed by both parties.

SECTION 14. The CITY and _____ agree that any proceeding pursuant to or in connection with this AGREEMENT or amendment thereto shall be brought in the 22nd Judicial Circuit, McHenry County, Illinois and the CITY and _____ hereby consent to jurisdiction and venue in that court. This AGREEMENT has been executed and delivered at and shall be deemed to have been made in the City of Marengo, McHenry County, Illinois and shall be governed and construed in accordance with the laws of the State of Illinois.

SECTION 15. The CITY agrees that it will not seek any of the costs enumerated in Section 4 should the CITY terminate or discharge _____ from the Marengo Police Department.

Executed this _____ day of _____, 20_____.

Applicant's Signature: _____ Date: ___/___/___
Chief of Police: _____ Date: ___/___/___
City Administrator: _____ Date: ___/___/___

Witnessed: _____ Attest: _____
City Clerk

CHAPTER 5
EMERGENCY MANAGEMENT AGENCY

5.01 Establishment
5.02 Coordinator
5.03 Mobile Support Team
5.04 Mutual Aid
5.05 Emergency Action
5.06 Compensation
5.07 Purchases and Expenditures
5.08 Oath
5.09 Office
5.10 Budget; Levy of Taxes

5.01 ESTABLISHMENT

There is hereby created the Marengo Emergency Management Agency ("EMA") to prevent, minimize, repair and alleviate injury or damage resulting from disaster caused by enemy attack, sabotage or other hostile action, or from natural or man-made disaster, in accordance with the State Emergency Management Agency 20 ILCS 3305/1 *et. seq*. as amended. The Emergency Management Agency shall consist of the Coordinator and such additional members as may be selected by the Coordinator.

5.02 COORDINATOR

The Coordinator of Emergency Management Agency shall be appointed by the Mayor with the advice and consent of the City Council and shall serve until removed by same.

The Coordinator shall have direct responsibility for the organization, administration, training and operation of the Emergency Management Agency, subject to the direction and control of the Mayor and City Council as provided by statute.

In the event of the absence, resignation, death or inability to serve as the Coordinator, the Mayor or any person designated by him, shall be and act as Coordinator until a new appointment is made as provided herein.

5.03 MOBILE SUPPORT TEAM

The Emergency Management Agency shall perform such Emergency Management Agency functions within the City as shall be prescribed in and by the state Emergency Management Agency plan and program prepared by the Governor, and such orders, rules and regulations as may be promulgated by the Governor, and in addition shall perform such duties outside the corporate limits as may be required pursuant to any mutual aid agreement with any other political subdivision, municipality or quasi-municipality entered into as provided in the State Emergency Management Agency 20 ILCS 3305/1 *et. seq*. as amended.

All or any members of the Emergency Management Agency organization may be designated as members of a Mobile Support Team created by the director of the state Emergency Management Agency as provided by law.

The leader of such Mobile Support Team shall be designated by the Coordinator of the City Emergency Management Agency organization.

Any member of the Mobile Support Team who is a City employee or officer while serving on call to duty by the Governor, or the state director, shall receive the compensation and have the powers, duties, rights and immunities incident to such employment or office. Any such member who is not a paid officer or employee of the City, while so serving, shall receive from the State reasonable compensation as provided by law.

5.04 MUTUAL AID

The Coordinator may negotiate mutual aid agreements with other municipalities or political subdivisions of the State, but no such agreement shall be effective until it has been approved by the Mayor and City Council and by the state director of Emergency Management Agency.

5.05 EMERGENCY ACTION

A. STATE OR NATIONAL: If the Governor proclaims that a disaster emergency exists in the event of actual enemy attack upon the United States or the occurrence within the State of Illinois of a major disaster resulting from enemy sabotage or other hostile action, or from man-made or natural disaster, it shall be the duty of the Emergency Management Agency to cooperate fully with the state Emergency Management Service Agency and with the Governor in the exercise of emergency powers as provided by law.

B. CITY: A local disaster emergency may be declared only by the Mayor. It shall not be continued or renewed for a period in excess of seven days except by or with the consent of the City Council. Any order or proclamation shall be given prompt and general publicity and shall be filed promptly with the Clerk.

C. EFFECT: The effect of a declaration of a local disaster emergency is to activate the response and recovery aspects of any and applicable local or interjurisdictional disaster emergency plans and to authorize the furnishing of aid and assistance thereunder.

5.06 COMPENSATION

A. PAY RATE: Members of the Emergency Management Agency who are paid employees or officers of the City, if called for training by the state director or Emergency Management Agency, shall receive for the time spent in such training the same rate of pay as is attached to the position held; members who are not such City employees or officers shall receive for such training time such compensation as may be established by the City Mayor.

B. REIMBURSEMENT: The Treasurer may receive and allocate to the appropriate fund, any reimbursement by the state to the City for expenses incident to training members of the Emergency Management Agency as prescribed by the Emergency Management Agency State Director, compensation for services and expenses of members of a Mobile Support Team while serving outside the City in response to a call by the Governor or Emergency Management Agency State Director, as provided by law, and other reimbursement made by the State incident to the Emergency Management Agency activities as provided by law.

5.07 PURCHASES AND EXPENDITURES

The Mayor and City Council may, on recommendation of the Coordinator, authorize any purchase or contract necessary to place the City in a position to combat effectively any disaster resulting from the explosion of any nuclear or other bomb or missile, and to protect the public health and safety, protect property and provide emergency assistance to victims in the case of such disaster or from man-made or natural disaster.

In the event of enemy caused or other disaster, the Coordinator is authorized, on behalf of the City, to procure such services, supplies, equipment or material as may be necessary for such purposes, in view of the emergency without regard to the statutory procedure or formalities normally prescribed by law pertaining to City contracts of obligations, as authorized in the State Emergency Management Agency 20 ILCS 3305/1 *et. seq*. as amended, provided that if the Mayor meets at such time he shall act subject to the directions and restrictions imposed by that body.

5.08 OATH

Every person appointed to serve in any capacity in the Emergency Management Agency organization shall,

before entering upon his duties, subscribe to the following oath, which shall be filed with the Coordinator:

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

5.09 OFFICE

The Mayor and City Council are authorized to designate space in a City building, or elsewhere, as may be provided for by the Mayor, for the Emergency Management Agency as its office.

5.10 BUDGET; LEVY OF TAXES

The Mayor and City Council may budget the Emergency Management Agency for purposes in the manner provided by law, and may levy in addition for the Emergency Management Agency purposes only, a tax not to exceed five cents per $100 of the assessed value of all taxable property in addition to all other taxes, as provided by the State Emergency Management Agency 20 ILCS 3305/1 *et. seq.* as amended however, that amount collectable under such levy shall in no event exceed $0.25 per capita.

CHAPTER 6
STREETS, SIDEWALKS AND PUBLIC WAYS

6.01 Names of Streets
6.02 Damage to Streets
6.03 Encroachments on Streets
6.04 Obstructing Streets
6.05 Material in Public Ways
6.06 Advertising on Streets
6.07 Debris in Streets
6.08 Excavations in Streets and Rights-of-Way
6.09 Protection of Work in Streets
6.10 Openings in Streets
6.11 Street Maintenance
6.12 Curbs and Gutters
6.13 Sidewalks
6.14 Snow on Sidewalks
6.15 Damage to Public Property
6.16 Moving Structures
6.17 Burning Leaves or Rubbish
6.18 Driveways
6.19 Easements, Rights-of-Ways, Ditches/Swales
6.20 Sump Pump Discharge
6.21 Numbering Buildings
6.22 Gas Pipes
6.23 Mailbox Installation
6.24 Trees (Located on Both Private and Public Property)
6.25 Utilities in Right-of-Way *06-6-4*

6.01 NAMES OF STREETS

All streets of the City shall be known and designated by the names applied hereto, respectively, on the map of the City kept on file in the office of the City Clerk. The street names designated on such map shall continue to be the names of the streets unless and until changed by ordinance of the City Council.

6.02 DAMAGE TO STREETS

No person shall damage or deface any street, alley, sidewalk, public way, park or other City or public property, or any post, wire, lamp, street sign, traffic sign, tree, grass, vegetation, gutter, drain, manhole or any other appurtenance thereon.

6.03 ENCROACHMENTS ON STREETS *Amended, 06-6-4*

A. PERMIT: No person shall erect or maintain any structure or thing on, over or under any street, alley, sidewalk or public right-of-way except by permit from the City Council. Application for such permit shall describe the nature of the encroachment detail, as the City Council shall require. The Council, in its discretion, may issue or deny the permit and may impose any conditions to such permit as it deems appropriate. To the extent the provisions of this Section 6.03 may conflict with the provisions of Section 6.25 herein, the more restrictive provisions shall prevail.

B. AWNINGS: Awnings made of a pliable substance attached to a building and extending not less than eight feet above the surface of the sidewalk may be erected and maintained without a permit.

C. MAINTENANCE: Any encroachment on any street, sidewalk, alley or public way shall be maintained so that it does not endanger or obstruct the public.

D. VIOLATIONS: Any encroachment maintained in violation of this Section 6.03 is declared a nuisance and may be abated by the City.

6.04 OBSTRUCTING STREETS

A. FREE PASSAGE: No person shall obstruct or endanger the free passage or proper use of the public on any street, sidewalk, alley or public place, except as may be permitted by this Code.

B. EXCEPTIONS: 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.

6.05 MATERIAL IN PUBLIC WAYS

No person shall place any materials on or over any street, sidewalk or public place without a permit from the City Council.

6.06 ADVERTISING ON STREETS

No person shall paint or post any signs or bills on any streets, poles or other structures in any street or on the surface of any street or sidewalk without permission from the City Council.

6.07 DEBRIS IN STREETS

A. LITTERING: No person shall litter or deposit any foreign matter on any street, alley, sidewalk, right-of-way, park or public place, except building materials and merchandise as permitted under this Code, or as may be permitted by the Chief of Police.

B. PENALTY: Any person violating this Section 6.07 shall be liable for the cost of

removal of the foreign matter in addition to the penalty provided for violation of this Section 6.07.

6.08 EXCAVATIONS IN STREETS and RIGHTS-OF-WAY

A. PERMIT: In addition to any other governmental permit, no person shall excavate in or tunnel under any street or sidewalk in the City without first securing a permit and notifying JULIE at least 24 hours in advance of such work from the Building Department and Coordinator of Public Works.

B. DEPOSIT: A deposit shall be made pursuant to Section 24.12 of the Building Code for any excavation in streets or right-of-way.

C. RESTORATION: Restoration shall be pursuant to Section 24.12 of the Building Code including right-of-way restoration to the original or acceptable condition according to Section 6.15 herein.

D. STANDING BOND: Any public utility or other person may deposit a bond with the City to assure the proper repair of City streets whenever work is done in the City.

6.09 PROTECTION OF WORK IN STREETS

Any person constructing, repairing, or making any excavation in or tunneling under, or placing any material on or over any street, sidewalk, right-of-way or other public place shall maintain suitable barricades and other protective devices as necessary to prevent injury to any person(s) exposed to the construction process. Suitable lights shall be maintained during the night time to warn the public. No person, unless authorized by the City, shall interfere with or disturb any such warning devices.

A JULIE dig number shall be obtained and a permit shall be secured from the Building Department and the Coordinator of Public Works at least 24 hours in advance of placing any barricades in any street.

6.10 OPENINGS IN STREETS

A. PERMIT: No street, alley, tree bank, public ground or place shall be disturbed or opened, nor shall any material or thing be placed or kept therein without first making application to the Coordinator of Public Works for the privilege of making said opening and to have a written permit issued by the Coordinator of Public Works for said opening.

B. APPLICATION: Persons desiring such openings shall make application to the Coordinator of Public Works on a form furnished by the City. No permit will be issued until the permittee:

1. Completes an application for opening on a form furnished by the City and states fully all purposes for which the opening is required.

2. Contacts all individuals or corporations operating gas, electric, telephone or other public utility in the area, as well as the City itself to receive from them the information as to the existence and location of any underground facilities, so that the proper precautions can be taken to avoid serious damage to the underground structures. Before opening is started the applicant shall furnish the Coordinator of Public Works with written statements from persons named above to the effect that they have been informed of the proposed project.

3. Files a work scheduled approved by the Coordinator of Public Works indicating starting date and date of completion and number of hours each day that work will be undertaken.

4. Agrees to make an opening in such a manner as to not unreasonably interfere with vehicular and pedestrian traffic, the demand and necessity for parking spaces, and the means of egress to or from properties affected.

   If an opening requires the closing of a street permit approval is required from the City Council and the permittee shall provide for and pay all costs of detouring traffic.

5. Secures an Illinois Department of Transportation permit if required.

6. Secures appropriate City permits if opening is for the purpose of making connection to the water or sanitary sewer system.

7. Pays a permit fee, which shall be determined from time to time by the City Council.

8. Agrees to pay all costs of City engineering or inspection services if deemed necessary by the Coordinator of Public Works. Permittee may be required to place on deposit with the Clerk an estimated cost of engineering and/or inspection services. The permittee, however, shall only pay the actual costs of such services.

9. File with the Clerk a good and sufficient bond payable to the City with surety approved by the City, conditioned that such person shall faithfully observe the ordinances of the City and shall make and repair such openings and space, and shall save and keep harmless the City from all costs arising in any manner or way from the granting of such permit. The amount of the bond shall be determined by the Coordinator of Public Works but in no case shall it be less than $1,000.

10. Agrees to adequately protect all excavations with barricades, lights, or other

means of protection required by the Coordinator of Public Works. He shall also place on file the name, address and home telephone number of the person responsible for the work.

11. Agrees that materials used and methods of construction shall be in conformance with specifications established by the City Engineer or Coordinator of Public Works. All work shall be under the supervision of the Coordinator of Public Works.

12. Agrees to secure and protect the City from any liability or damage whatsoever for injury, including death, to any person or property and files with the Clerk liability insurance certificates in an amount to be established from time to time by the City Council, but in no case less than $1,000.000.

C. DEFAULT: In any case where a permittee shall be in default or shall fail to comply with the requirements of this Section 6.10, or shall fail to complete the work on the date agreed upon, the Coordinator of Public Works shall order the work completed by the City and shall so notify the permittee and surety in writing. The City shall recover the cost from the permittee or his surety.

6.11 STREET MAINTENANCE

A. DUTY IMPOSED: It shall be the responsibility of every subdivider or developer to keep and maintain the streets and ways in and around the subdivision clean and free from all dirt, mud, construction material and other debris during the period of construction.

B. STREETS: The duty imposed by Section 6.11-A herein shall apply to all streets within the subdivision, all streets designated as construction traffic routes and all perimeter streets or streets adjacent to the subdivision.

C. REQUIRED CLEANING: Every subdivider or developer shall scrape each street described in Section 6.11-B herein every day during the period of construction, and shall sweep or cause the streets to be swept once every week. In addition to the foregoing, every subdivider shall be required to scrape, sweep or remove debris from the streets as from time to time directed by the Coordinator of Public Works, the Administrator or the City Engineer.

D. SNOW AND ICE REMOVAL: In the event one or more Certificates of Occupancy have been issued for any structures located on an unaccepted street, the subdivider or developer shall be responsible for snow and ice removal. If required by the City, a subdivider or developer shall enter into a contract with the City for snow and ice removal. The cost of such service shall be approved from time to time by the City Council using the IDOT approved cost schedule..

E. PENALTIES: Any subdivider violating any provision of Section 6.11 shall be subject to one or more of the following penalties, said penalties being cumulative and in addition to any

other penalties which may be imposed:

1. A fine of not less than $25 nor more than $500 for each offense, and a separate offense shall be deemed committed on each day during or on which a separate violation occurs or continues.

2. The City may undertake the necessary cleaning as required herein and then assess the costs and expenses, including reasonable attorneys' fees, incurred by the City for such cleaning against the subdivider and may take action against the performance or construction bond for payment thereof.

3. "Stop Work Orders" for the subdivision may be issued by the City until the subdivider complies with the requirements herein. No work shall be done in the subdivision while the stop work order is in effect.

4. The City may withhold the issuance of Certificates of Occupancy for all residences within the subdivision until the subdivider complies with requirements herein.

F. NOTICE: Prior to the imposition of the penalties set forth in Sections 6.11-E-3 and 4 herein, the City shall cause a written notice to be sent to the subdivider or developer setting forth the specific violations(s) of this Code. The subdivider or developer shall have five days after the date of the notice within which time to comply with the terms of the Code. In the event the subdivider or developer does not comply with the terms herein within said five day period, the City may proceed to impose the penalties provided for in Section 6.11-E-3 and 4 herein. No notice shall be required prior to the imposition of the penalties set forth in Sections 6.11-E-1 and 2 herein.

6.12 CURBS AND GUTTERS

A. UNIFORM CONSTRUCTION: All curbs and gutters hereinafter built in the City shall be of uniform construction and built under the supervision of the City Engineer and Coordinator of Streets and Maintenance. No curb or gutter shall be constructed unless the same complies with the provisions herein stated, and all property owners complying with the provision shall pay the entire costs of constructing the curb and gutter adjacent to or abutting his property.

B. CONSTRUCTION REQUIRED: Curbs and gutters shall be constructed on all streets in the City at such times as the property owners wish, except when constructed by the City under special assessment proceedings made in connection with street improvements or when, in the discretion of the City Council, such construction is deemed necessary.

C. LOCATION: The height and location of the curb shall be determined by the City Engineer.

6.13 SIDEWALKS

A. SPECIFICATIONS: All sidewalks that may hereafter be built within the City shall be in accordance with the plans and specifications of the City Engineer.

B. PERMIT: No person shall build any sidewalk along any public street without a permit from the Building Department.

C. GRADE: The grade at which all sidewalks shall be laid shall be fixed and determined by the City Engineer and no person shall lay or construct any sidewalk within the City except at such grade.

D. NOTICE: Whenever the City Council finds it necessary and proper to construct or rebuild any sidewalks along or upon any street or public alley in the City it shall require the City Engineer or Coordinator of Public Works to examine the matter and report back to the Administrator. When such report has been made, the affected property owner(s) shall be notified in writing that a walk shall be built. Said notice shall state, in detail, the specifications governing the construction of the walk.

E. COUNCIL ACTION: If such owner or owners of the property, so notified to build such walk, refuse to build the same for a space of 15 days, after receiving the notice, the City Council shall pass an ordinance providing for the construction of such walk or walks, in accordance with the provisions of the Illinois Compiled Statutes relating thereto.

F. COST: The owner or owners of any lot, piece or parcel of ground in the City, along and in front of which the City Council orders a sidewalk to be built, either by special ordinance or otherwise, shall pay the entire cost of the building of such sidewalk, and the City shall not be responsible for any portion of the cost of any sidewalk within the City, except for such sidewalks as are laid along or in front of property owned by the City.

G. COMPLIANCE: When any walk is built, constructed or rebuilt in accordance with this Section 6.13 it shall be the duty of the Building Commissioner to see that the conditions and specifications pertaining to the construction of the walks are complied with, and the City shall have the right to accept or reject any sidewalks that do not comply with the specifications, as fixed by the City Engineer for the construction of sidewalks.

6.14 SNOW ON SIDEWALKS

The person occupying the ground floor of any building, the owner/user of any lot without a structure thereon, and the owner of any vacant building or other premises shall remove the snow and ice accumulating on the abutting sidewalks within 24 hours after any snowfall has ceased. If snow or ice cannot be removed the surface shall be sanded or otherwise treated to lessen the hazard for pedestrians until the climate permits removal.

6.15 DAMAGE TO PUBLIC PROPERTY

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.

6.16 MOVING STRUCTURES

No person shall move any building or structure on any street without a permit from the Building Department. The Building Department may impose such conditions deemed appropriate to protect the City and the public. Upon granting such permit, the applicant for such permit shall deposit $1,000 in cash with the City as security for the protection of the streets and other City property exposed during the moving process. The deposit shall be returned, less a $50 administration fee and any cost to repair public facilities damaged by the moving process. At no time shall a deposit be returned without written approval from the Coordinator of Public Works.

6.17 BURNING LEAVES AND RUBBISH

No person shall burn any leaves, paper, rubbish or other substances upon any street, sidewalk or alley.

6.18 DRIVEWAYS

A. PERMIT: No person shall construct a driveway entering any street without a permit from the Building Department. Said driveway shall be constructed according to the requirements of the Zoning Ordinance, however all driveways in areas not served by curb and gutter must be constructed of asphalt or concrete, as defined in Section 24.11 of this Code, from the lot line to the edge of the paved roadway.

B. CULVERTS: Culverts may be required in areas not served by curb, gutter and storm sewers prior to the point of entry of the driveway to the public road, as defined in Section 24.11 of this Code. The length, width, depth and location of the culvert shall be subject to the approval of the City Engineer or Coordinator of Public Works.

In the event driveways are to be altered where there have been no previous culverts or previous culverts are inadequate, new culverts shall be installed pursuant to Section 24.12 of this Code.

If, in the judgment of the City Engineer, culverts are needed to remove any obstructions in drainage ditches or swales, the City shall install a culvert of the size and length determined by the City Engineer. The cost of the culvert and repaving that portion of any driveway that may be affected shall be borne by the owner of the property.

The City shall bear the cost of installation and regraveling of that portion of any driveway that may be affected by the installation of any culvert.

Maintenance to ensure proper water flows of all culverts, ditches and swales shall be the responsibility of the abutting property owner or tenant.

6.19 EASEMENTS, RIGHTS-OF-WAY, DITCHES/SWALES

That portion of each property in the City from the front property stakes to the roadway has already been dedicated to the City to be used for utilities, surface drainage and future roadway.

1. Buildings, structures or any parts of appurtenances thereto shall not be constructed or placed in any easement so as to restrict drainage channels.

2. The placement of any fill material in the right-of-way between the property line of the property owner and the public road shall require a permit issued by the Building Department.

3. No permit to alter, build or fill any part of the dedicated roadway shall be issued by the Building Department until written approval is received from the City Engineer or Coordinator of Public Works that the proposed alteration, building or fill will in no way effect surface water run-off capacities or patterns of surrounding properties.

4. The cost of the engineering review shall be born by the person(s) desiring the modification and shall be paid prior to the review being made.

5. All ditches and swales shall have the appropriate vegetation in the form of grass to eliminate erosion and sedimentation that could be caused by water traversing the ditch or swale, unless some other form of erosion and sedimentation control is recommended by the City Engineer for the project.

6.20 SUMP PUMP DISCHARGE

No person shall construct, alter, maintain or in any way provide for the discharge of a sump pump, either directly or indirectly, to any public street, sidewalk or right-of-way.

6.21 NUMBERING BUILDINGS *Amended, 09-4-4*

A. NUMBERING BUILDINGS: All buildings abutting streets of the City shall be numbered in accordance with the City Map prepared by the City Engineer, which map shall be kept on file in the office of the Clerk.

B. RESPONSIBILITY: It shall be the duty of the owners and occupants of every building in the City to have placed thereon or on the property, in a place visible from the street showing the number of the building. The address shall be in Arabic numerals or alphabet letters (script not permitted) at least four inches high, contrasting with the background and having a minimum stroke width of 0.5 inch.

6.22 GAS PIPES

No person owning or maintaining any gas pipes or mains beneath the surface of any street in the City shall permit any leak to occur in such pipes or mains within a radius of 40 feet of any tree growing in any street or public place in the City. In the event that a leak exists or occurs in any such pipe or main, it shall be the duty of the person owning or using such defective pipe or main to repair the same immediately and stop such leak in a manner so as to prevent a recurrence of the same trouble, after receiving notice in writing from the Coordinator of Public Works, calling the attention of such person to the fact that such leak exists. If such person fails within five days after the receipt of such notice to stop such leak in a manner so as to prevent a recurrence thereof, such person shall be subject to the penalty provided for violation of this Code.

6.23 MAILBOX INSTALLATION

Mailboxes installed along City streets shall be in accordance with U.S. Postal Service regulations. Mailbox posts shall not be reinforced or fortified so as to prevent or hamper its destruction upon impact. The placement of such mailboxes shall not interfere with street maintenance projects, such as snow plowing and street cleaning. For purposes of this Section 6.23, mailboxes of masonry construction shall be considered reinforced or fortified.

6.24 TREES (LOCATED ON BOTH PUBLIC AND PRIVATE PROPERTY)

A. APPLICABILITY; INTENT:

1. APPLICABILITY: Notwithstanding any other provision of this Code, the provisions of this Section 6.24 shall apply to all trees on City-owned property or in City rights-of-way, and shall apply to such other tree-related matters as is stated herein. The City shall have the right and the authority to impose the regulations of this Chapter on all applicants, developers and other persons who place or maintain trees on City-owned property or in City rights-of-way, including, without limitation, the authority to review and approve tree species, locations and spacing under all circumstances. In the event of a conflict between the provisions of this Section 6.24 and the provisions of Chapter 22 of this Code or any other City code or ordinance, the provision deemed by the City Administrator to be most protective of promoting the proliferation and maintenance and care of trees shall apply and control.

2. INTENT: It is the intent of this Section 6.24 to promote increases in the quality of trees and tree care in the City and to promote increases in tree populations in the City whenever practicable.

B. DEFINITIONS: For the purposes of this Section 6.24, terms used herein are defined in Appendix A of this Code.

C. TREE SPECIES: The City shall maintain a list of acceptable tree species, to be used when planting in City-owned rights-of-way and on any other City-owned property. This list will consist of species currently deemed satisfactory by the City Forester. This list of trees, and no others unless approved by the City Forester, are hereby approved for planting as street trees within City-owned rights-of-way and on other City-owned property. Copies of this list shall be made available at City Hall.

D. TREE SPACING: The spacing of street trees shall be no less than 40 feet between plantings. Street trees shall be planted as close to the minimum spacing standard as possible. The Coordinator of Public Works may reduce the minimum spacing standards set forth herein for special planting areas designed or approved by a landscape architect.

E. DISTANCES FROM CURBS AND SIDEWALKS: Trees shall be planted a minimum of two feet from all curbs, curb lines and sidewalks. Parkways, as measured from the back of the curb to the closest edge of the sidewalk, smaller than four feet, shall not be suitable for parkway trees unless approved by the City Forester. Trees planted on parkways where a sidewalk exists shall be centered between the back of the curb and the closest edge of the sidewalk.

F. DISTANCES FROM CORNERS AND FIRE HYDRANTS: No street tree shall be planted closer than 35 feet to any street corner, measured from the point of nearest intersecting curbs or curb lines. No street tree shall be planted closer than 10 feet to any fire hydrant, unless the location is previously approved by the Coordinator of Public Works.

G. DISTANCES FROM UTILITIES: No street tree other than those listed as acceptable tree species in the Public Works administration file, shall be planted under or within 10 lateral feet of any overhead utility wire. Nor shall any tree other than a small tree be planted over or within five lateral feet of any underground water line, sewer line, transmission line or other underground utility.

H. CITY AUTHORITY TO CARE FOR TREES: The City and its authorized agents shall have the right, but not the obligation, to plant, prune, maintain and remove trees, plants and shrubs on City property and within any City right-of-way or utility easement, as may be necessary to ensure public safety, preserve and enhance the quality of vegetation, and beautify the City. The City also, for the same purposes, may prune or remove all portions of any tree or shrubs that overhang any City property, City right-of-way or utility easement.

The City may cause to be removed as soon as practical any tree on City property or within City right-of-way that is diseased or dying, or that poses an irreconcilable threat to a utility or that otherwise threatens the public health, safety or general welfare.

Guidelines set forth by the National Arborist Association will be used for tree trimming and maintenance activities performed by the City or its agents.

I. TOPPING PROHIBITED: No person shall cause or allow the topping of any tree on

City property or within any City right-of-way provided, however, that the City may permit the topping of a tree under exceptional circumstances, such as when the tree has been severely damaged by a storm or other cause, or when topping is otherwise the only practicable action.

J. SITE CLEARANCE PRUNING: The owner of any tree on private property that overhangs any street or right-of-way within the City shall prune the branches of such tree, if necessary, so that such tree shall not obstruct the safe passage of vehicles, the light from any street lamp, the view of any street sign or the view of any street intersection. The owner also shall prune such tree so that there is a minimum of 10 feet of clear space between the surface of the street or a minimum clear space of eight feet between the surface of the sidewalk and the lowest hanging branch on such tree. The failure to so prune is hereby declared to be a public nuisance. If the owner fails or refuses to accomplish such pruning within 14 days after written notice to do so from the Coordinator of Public Works, or his designee, the City shall have the right, but not the obligation, to cause such pruning to be accomplished by City staff, or by contractors hired by the City for such purposes.

If the owner fails to pay to the City all of the costs incurred by the City for such clearance pruning within 30 days after receipt of a written invoice, then the City shall have the right, to the extent provided by law, to place a lien on the property on which such tree was located and to perfect such lien as provided by law.

K. SAFETY PRUNING: The owner of any tree overhanging any street or right-of-way within the City shall prune all dead, diseased, decaying, broken or dangerous branches from such tree and shall prune from such tree all branches that constitute a menace to the safety of the public or to the health of any other tree. The failure to so prune is hereby declared to be a public nuisance. If the owner fails or refuses to accomplish such pruning within 14 days after written notice to do so from the Coordinator of Public Works, or his designee, the City shall have the right, but not the obligation, to cause such pruning to be accomplished by City staff or by contractors hired by the City for such purposes.

If the owner fails to pay to the City all of the costs incurred by the City for such safety pruning within 30 days after receipt of a written invoice, then the City shall have the right, to the extent provided by law, to place a lien on the property on which such tree was located and to perfect such lien as provided by law.

L. REMOVAL OF TREES AND STUMPS: The owner of any tree or stump in the City that constitutes a hazard to life or property or that harbors harmful insects or disease constituting a threat to other trees shall remove such tree within 60 days after written notice to do so from the Coordinator of Public Works, or his designee. The failure to remove such tree or stump is hereby declared to be a public nuisance. If the owner fails or refuses to accomplish such removal within the required time period, the City shall have the right, but not the obligation, at the owner's expense, to cause such tree or stump to be removed by City staff or by contractors hired by the City for such purposes.

If the owner fails to pay to the City all of the costs incurred by the City for such removal within 30 days after receipt of a written invoice, then the City shall have the right, to the extent provided by law, to place a lien on the property on which such tree was located and to perfect such lien as provided by law. No person, except those authorized or employed by the City, shall remove, destroy, break, cut, deface, trim or in any way injure or interfere with any tree growing in any street or right-of-way without the written permission of the City Forester.

M. TAMPERING: No person shall attach or place any rope, wire, sign, poster, handbill or other thing on any tree growing in any street, right-of-way, or any guard or protection of the same. No person shall remove, injure or misuse any guard or device placed or intended to protect any tree growing in any street or right-of-way.

N. PROTECTION OF TREES: Unless otherwise specifically authorized in this Code, it shall be unlawful for any person without a written Tree and Stump Removal Permit from the City to remove, injure, destroy or undertake any procedure the result of which is to cause the death or substantial destruction of any tree, within the City limits, having a diameter of 10 inches DBH or larger. Tree and Stump Removal Permits authorizing the removal of such trees may be issued by the City Forester for, but not limited to, the following reasons:

1. The tree is dead or dying;

2. The tree is diseased;

3. The tree is damaged or injured to the extent that it is likely to die or become diseased, or that it constitutes a hazard to persons or property;

4. Removal of the tree is consistent with good forestry practice; and/or

5. Removal of the tree will enhance the health of remaining trees within the immediate vicinity.

The City Forester may issue a Tree and Stump Removal Permit where it is found that removal of the tree and/or stump will avoid or alleviate an economic hardship or hardship of another nature on the lot or residence located on the lot.

Upon receipt of a Tree and Stump Removal Permit, the permittee shall replace the tree so removed in each of the following instances:

1. In the event the removal of a tree or trees will avoid or alleviate an economic hardship or hardship of another nature on the lot or the residence located on such lot.

2. In the event a tree is damaged or injured by other than natural causes to the extent that it is likely to die or become diseased, or it constitutes a hazard to

persons or property.

The permittee is encouraged to replace the tree in the event the tree is diseased, dead or dying from natural causes, or in the event the tree is damaged or injured by natural causes where it is likely to die or become diseased.

The permittee may not be required to replace the tree in the event the City Forester determines that removal of the tree is consistent with good forestry practice, or in the event the removal of such tree will enhance the health of remaining trees within the immediate vicinity.

The permittee shall make all replacements with a new tree or trees of not less than 2½ inches DBH, the cumulative DBH of which shall equal or exceed the diameter of the tree or trees so removed, provided however, that the DBH of replacement trees may be less than the diameter of the tree or trees so removed in the event the City Forester determines that full replacement would result in the unreasonable crowding of trees upon the lot. Such replacement shall be made within 12 months of the date of the removal of any trees for which such replacement is required, and such trees shall be installed at the time of year most beneficial for transplanting the particular species.

Tree and Stump Removal Permits may be denied by the City Forester for, but not limited to, the following reasons:

1. Tree does not meet any of the criteria outlined in this section;

2. Tree is rare to the area and/or is a desirable specimen;

3. Tree is to be used for milling;

4. Tree is to be used for firewood;

The owner of a tree for which a Tree and Stump Removal Permit has been denied may appeal the decision of the City Council. A written request for review must be submitted to the City Council in care of the Coordinator of Public Works. All findings and decisions of the City Council shall be final. Disregard for the decision of the City Forester or the City Council shall be considered a violation of this Section 6.24.

O. TREE PRESERVATION DURING CONSTRUCTION: In connection with projects involving the construction of new homes, additions or detached accessory buildings requiring building permits, a Tree Preservation Plan shall be filed with the building permit application in order to assure that all buildings and other structures shall be located upon a lot or parcel of land in such a way as to minimize tree damage and/or removal, consistent with the various setback requirements of the City Zoning Ordinance. The Tree Preservation Plan shall specify the following:

1. Tree preservation area and building activity area upon the lot or parcel of land for which a building permit application has been filed. (Note: The tree

preservation area shall be protected physically from the building activity area by a barrier to prevent penetration of construction vehicles, materials, spoils and equipment into or upon the tree preservation area); and

2. The general contractor, who shall be responsible for the construction, erection and maintenance of temporary fencing or other physical barrier around tree preservation areas so that all trees in tree preservation areas shall be preserved.

A Tree and Stump Removal Permit will be issued only in the event the City finds that all reasonable efforts have been undertaken in the architectural layout and design of the proposed development to preserve existing trees. No building permit will be issued unless the Tree Preservation Plan has been filed with the building permit application and approved by the City Forester.

During construction all reasonable steps necessary to prevent the destruction or damaging of trees (other than those specified to be removed) shall be taken, including, but not limited to the following:

1. No construction activity, movement and/or placement of equipment or material or spoils storage shall be permitted outside the building activity area or within the tree preservation area. No excess soil, additional fill, liquids or construction debris shall be placed within the root zone of any tree that is required to be preserved;

2. Crushed limestone, hydrocarbons and other materials detrimental to trees shall not be dumped within the root zone of any tree, nor at any higher location where drainage toward the tree could conceivably affect the health of the tree;

3. Appropriate protective fencing shall be temporarily installed for protection of remaining trees;

4. All required protective fencing or other physical barrier must be in place and approved by the City Forester prior to beginning construction. The fencing must remain in place during the entire construction period to prevent the impingement of construction vehicles, materials, spoils and equipment into or upon the tree preservation area. All fencing must be secured to metal posts driven into the ground spaced no further than 10 feet apart;

5. No attachments, fences or wires, other than those approved for bracing, guying or wrapping, shall be attached to trees during the construction period;

6. Other measures such as construction pruning and root pruning of trees

directly impacted by construction must also be indicated on the plan or on an accompanying sheet and approved by the City Forester; and

7. Unless otherwise authorized by the Tree and Stump Removal Permit, no soil is to be removed from within the root zone of any tree that is to remain.

It shall be unlawful for any person, firm or corporation to fail to abide by the terms of any Tree Preservation Plan pursuant to which a building permit or Tree and Stump Removal Permit has been issued.

If, in the opinion of the City Forester, the necessary precautions as specified in the Tree Preservation Plan were not undertaken before construction commenced, or are not maintained at any time during construction, a stop work order shall be issued by the Building Commissioner until such time as the permittee complies with the precautions herein.

Tree preservation during road construction shall be strictly enforced. Specific requirements of tree preservation during road construction are available from the City Forester.

P. APPLICATION FOR TREE AND STUMP REMOVAL PERMITS: In the event a Tree and Stump Removal Permit is applied for in connection with work for which no building permit is required, there shall be no charge for such permit. The application for a Tree and Stump Removal Permit shall contain:

1. Name of applicant;

2. Commonly known address of the lot or property where said tree or trees are proposed to be removed is located (PIN of parcel if tree is in an undeveloped area of the City);

3. A written statement indicating the reason for removing the tree or trees;

4. A general description of other trees on the lot, including size and species; and

5. Name and address of contractor or other person who will have the responsibility for tree removal and landscaping.

In the event a Tree and Stump Removal Permit is applied for in connection with construction requiring a building permit, the application shall be accompanied by:

1. The Tree and Stump Removal Permit fee, to be determined from time to time by the City Council;

2. A tree survey of the lot, which shall be drawn on a scale of not less than one inch equals 30 feet, and shall show trees having a DBH of 10 inches and

larger, including a listing of species. In the event construction activity is to take place in the root zone of such trees, protected trees on adjoining lots should be shown;

3. A Tree Preservation Plan in conformance with the requirements of Section 6.24-Q herein; and

4. A report from a certified arborist if required by the City Forester.

Q. EMERGENCIES: In order to avoid danger or hazard to persons or property, during emergency conditions requiring the immediate cutting or removal of a tree or trees protected hereunder, a Tree and Stump Removal Permit will be issued by the City Forester without formal application.

In the event of such an emergency, if neither the City Forester, Coordinator of Public Works or Street Superintendent is available to issue such a Tree and Stump Removal Permit, it shall be lawful to proceed with the cutting of the tree or trees to the extent necessary to avoid immediate danger or hazard. In such event, the person causing the cutting shall report the action taken to the City Forester within 48 hours thereof.

R. INTERFERENCE WITH CITY TREE WORK: No person shall prevent, delay or in any other way interfere with work undertaken by the City and its authorized representatives to plant, cultivate, mulch, prune, spray or remove any stump, street tree, park tree or other tree as authorized by this Section 6.24.

S. PENALTY: Any person, firm or corporation who violates any provision of this Section 6.24 shall be subject to a fine of not less than $25 nor more than $1,000 for each offense, and a separate offense shall be deemed committed on each day during or on which a violation continues to occur. Further, a separate offense shall be deemed committed for each tree injured, removed, destroyed or for any undertaking of any procedure, the result of which is to cause the death or substantial destruction of any tree, within the City limits, having a diameter of 10 inches DBH or larger.

6.25 **UTILITIES IN RIGHT-OF-WAY** *06-6-4*

A. DEFINITIONS: For purposes of this Section 6.25:

1. “City initiated improvements” or “City operations”” shall include but not be limited to, anything required by the City in annexation, final plat requirements or other agreements with third parties including those intended to benefit other property within the City, City road construction, expansion or relocation projects, public works projects or other City operations, maintenance and planning projects.

2. "Public right-of-way" shall include but not be limited to, any street, alley, parkway, other land or waterway, dedicated or commonly used for utility or cable purposes, including utility or cable easements.

3. "Utility" shall include, in addition to all other commonly and legally accepted definitions of the term, cable providers and facilities, and video service providers.

B. PERMITS:

1. PERMIT REQUIRED: No person shall erect or maintain any poles or wires on or over any street, alley or other public way or public right-of-way without a permit from the Public Works Coordinator. A permit shall also be required for the installation, maintenance or replacement of any underground facilities, including, but not limited to wires, pipes, cables, conduits and ducts, within any street, alley or other public way.

2. EFFECT OF PERMIT: A permit from the City authorizes the permit holder to undertake only certain activities in accordance with this Section 6.25, and does not create a property right or grant authority to the permit holder to impinge upon the right of others who may have an interest in the public right-of-way.

3. FEE: The permit fee shall be determined by the City Council from time to time.

C. GAS PIPES: Any person or company maintaining any gas pipe in the City shall keep such pipe free from leaks so that no injury shall be done thereby to any person or property.

D. REMOVAL, RELOCATION OR MODIFICATIONS OF UTILITY FACILITIES: Within 60 days following written notice from the City, any person or company shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any utility or cable facilities within the public right-of-way whenever the corporate authorities have determined that such removal, relocation, change or alteration is reasonably necessary for the construction, repair, maintenance or installation of any City initiated improvements or City operations on, over, under or within, such public right-of-way. To the extent this provision conflicts with the terms of an existing franchise agreement or with state law, the terms of the franchise agreement or state law shall govern. However nothing in this provision shall be interpreted as a fee to any utility or cable company for the use of the City's rights-of-way.

E. REMOVAL OF UNAUTHORIZED FACILITIES: Within 30 days following written notice from the City, any utility that owns, controls or maintains any unauthorized facility or related appurtenances within the public right-of-way shall, at its own expense, remove all or any part of such facilities or appurtenances from such public right-of-way. A facility is unauthorized and subject

to removal in the following circumstances:

1. Upon expiration or termination of the permit holder's license or franchise, unless otherwise permitted by applicable law;

2. If the facility was constructed or installed without the prior grant of a license or franchise, if required;

3. If the facility was constructed or installed without prior issuance of a required permit in violation of this Section 6.25; or

4. If the facility was constructed or installed at a location not permitted by the permit holder's license or franchise.

F. EMERGENCY REMOVAL OR RELOCATION OF FACILITIES: The City retains the right and privilege to cut or move any facilities located within the City public right-of-way as the City may determine to be necessary, appropriate or useful in response to any public health or safety emergency. If circumstances permit, the City shall attempt to notify the utility, if known, prior to cutting or removing a facility and shall notify the utility, if known, after cutting or removing a facility.

G. ABANDONMENT OF FACILITIES: Upon abandonment of a facility within the City public right-of-way, the utility shall notify the City within 90 days. Following receipt of such notice the City may direct the utility to remove all or any portion of the facility if the Public Works Coordinator determines that such removal will be in the best interest of the public health, safety and welfare. In the event the City does not direct the utility that abandoned the facility to remove it, by giving notice of abandonment to the City, the abandoning utility shall be deemed to consent to the use, alteration or removal of all or any portion of the facility by another utility or person.

H. CLEANUP AND RESTORATION: Upon completion of all construction or maintenance of facilities, the utility shall, at its own expense, remove all excess material and restore all turf and terrain in a timely manner and to the satisfaction of the City. This includes restoration of entrances and side roads. Restoration of roadway surfaces shall be made using materials and methods approved by the Public Works Coordinator. Such cleanup and repair may be required to consist of backfilling, regrading, reseeding, resodding or any other requirement to restore the right-of-way to a condition substantially equivalent to that which existed prior to the commencement of the project.

I. ANNUAL REGISTRATION REQUIRED: Every utility that occupies a City public right-of-way shall register on January 1 of each year with the Public Works Coordinator, providing the utility's name, address and regular business telephone and facsimile numbers, the name of one or more contact persons who can act on behalf of the utility in connection with emergencies involving the utility's facilities in the right-of-way and a 24-hour telephone number for each such person, and the name, address and regular business telephone and facsimile number of one or more contact

persons who shall receive any notices resulting from this Section 6.25. Each utility also shall provide evidence of insurance coverage reasonably consistent with industry standards.

J. Nothing in this Section 6.25 shall exempt any utility working in the right-of-way from any other provisions of this Chapter 6. To the extent other provisions of this Code may conflict with the provisions of this Section 6.25, the more restrictive provisions shall prevail.

K. PENALTIES: Any person who violates, disobeys, omits, neglects or refuses to comply with any provision of this Section 6.25 shall be subject to a fine in accordance with Section 1.06 herein. There may be times when the City will incur delay or other costs, including third party claims, because the utility will not or cannot perform its duties under its permit and this Section 6.25. Unless the utility shows that another allocation of the cost of undertaking the requested action is appropriate, the utility shall bear the City's cost of damages and its cost of installing, maintaining, modifying, relocation or removing the facility that is the subject of the permit and improvements. No other administrative agency or commission may review or overrule a permit related cost apportionment of the City. Sanctions may be imposed upon a utility that does not pay the costs apportioned to it.

CHAPTER 7
CITY HALL FACILITIES, COMMUNITY EVENT SIGN

7.01 City Hall Uses
7.02 City Hall Use Procedures
7.03 Community Event Sign

7.01 CITY HALL USES

A. ACCEPTED USES: Access to City Hall meeting room areas (" facility") on matters other than official City business or City-sponsored events shall be restricted to the following classes of organizations, corporations or agencies:

1. Governmental or quasi-governmental units or districts which are wholly or partly coterminous within the City; or

2. Bona fide charitable or not-for-profit organizations, entities or corporations which have a substantial involvement or provide a substantial benefit to the citizens of the City.

   An organization shall be deemed to have substantial involvement or provide a substantial benefit in the City if either a majority of its members are residents or, in the case of regional organizations, if the City falls within the region.

B. PROHIBITED USES: Prohibited uses of the facility are as follows:

1. No religious services shall be permitted. However, the offering of a prayer or invocation prior to a meeting shall not be considered a religious service.

2. No commercial enterprises, solicitation or sales of merchandise whatsoever shall be transacted.

C. CANCELLATION: The City reserves the right to deny permission, or cancel permission once permission is granted, for any reason and shall not be responsible for any loss, cost, or damage or injury of any sort, direct or indirect.

7.02 CITY HALL USE PROCEDURES

A, PROCEDURES: All requests for use of the facility shall be made in writing to the Administrator not less than 15 days prior to the date for of use. Such request shall identify one or more local residents for purposes of receiving any communication relative to the request and also to act as the responsible party for compliance with all rules and regulations pertaining to facility use. The Administrator may also request supporting documentation to confirm that the group is a permitted user.

B. CLEANUP: Any facility user shall be responsible for the condition of the facility and all property within it, and shall leave the facility and all property in its original condition. In the event the City has to cleanup, repair or replace the facility and/or any property the organization, through the designated responsible person, shall be responsible for the City incurred costs plus an administration fee equal to 50 percent of the cost.

C. HOURS: Use of the facility is restricted to the hours of 6 a.m. to 11 p.m. Any user group may post a notice, subject to the approval of the Administrator, in the front door area of City Hall

not more than 36 hours prior to the use of the facility. Said notice shall be removed immediately after the use.

D. RULES AND REGULATIONS: The Administrator shall make available to users any other rules and regulations deemed necessary for the use of the facility.

E. INDEMNIFICATION: Each organization using the facility shall indemnify and hold the City harmless from any loss, damage or claim of loss or damage or injury of any sort arising or alleged to have arisen from the use of the building. Proof of such insurance shall be provided to the Administrator prior to use of the facility.

7.03 COMMUNITY EVENT SIGN

The following guidelines, rules and regulations shall apply to the use of the Community Event Sign (for purposes of this Section 7.03, "Sign") located at North State Street:

1. Access to the Sign for announcements other than official City business or City-sponsored events shall be restricted to the following classes of organizations, corporations or agencies:

    a. Governmental or quasi-governmental units or districts which are wholly or partly coterminous with the City; or

    b. Bonafide charitable or not-for-profit organizations, entities or corporations that have a substantial involvement or provide a substantial benefit to the citizens in the Marengo community. An organization shall be deemed to have a substantial benefit in the community if either a majority of its members are City residents or, in the case or a regional organization, the City falls within the region.

2. No religious services may be announced or advertised on the Sign.

3. No commercial enterprises, solicitation or sales of merchandise whatsoever may be announced or advertised on the Sign.

4. All requests for use of the Sign shall be made in writing to the City not less than 15 nor more than 180 days prior to the date for which the announcement is sought. Each such request shall identify one or more City resident for purposes of receiving any communication relative to the request and also to act as a responsible party for compliance with all rules and regulations pertaining to sign use. The City may also request supporting documentation to confirm the group meets the qualifications of this Section 7.03.

5. No message shall remain on the Sign for less than seven days nor more than 14 days. For purposes of this Section 7.03, the time period for a message shall begin at 9 a.m. each Tuesday and conclude at 9 a.m. the following Tuesday.

6. The fee for the use of the Sign shall be determined from time to time by the City Council.

7. Requests for canceling a scheduled message must be tendered to the City, in writing, not less than 15 days prior to the scheduled appearance in order to receive a refund of the fee.

8. Reservations for the Sign shall be on a first come first served space available basis using the City's receipt of the request as the date/time of receipt.

9. All messages placed on the Sign will be with the standard fonts provided. The City reserves the right to edit the text of requested messages as it deems necessary. One complete line of blank text shall remain between messages.

10. Within 24 hours after an announcement is placed on the sign the City shall be notified of any errors in the posted announcement.

11. Each entity using the Sign agrees to indemnify and hold the City harmless from any damage or claim of loss or damage or injury of any sort arising or alleged to have arisen from its use of the sign.

12. The City shall not be responsible for any loss, cost or damage or injury of any sort, direct or indirect, associated with the message.

13. The City reserves the right to withdraw permission for a scheduled message at any time.

CHAPTER 8
PARKS AND PLAYGROUNDS

8.01 Definitions
8.02 Protection of Park Property
8.03 Vehicles, Operation
8.04 Motorized Vehicles
8.05 Speed Limit
8.06 Parking
8.07 Firearms and Weapons
8.08 Alcoholic Beverages
8.09 Advertising and Signs
8.10 Use of Park Area
8.11 Fires
8.12 Group Activity
8.13 Swimming
8.14 Operating policy
8.15 Penalties

8.01 DEFINITIONS

In addition to the definitions found in Appendix A of this Code, the term "park" as used herein shall mean all recreational areas owned and/or operated by the City.

8.02 PROTECTION OF PARK PROPERTY

A. DAMAGE TO PROPERTY: No person shall mark, deface, injure, destroy, damage, tamper with, or remove any park property, facilities or equipment, whatsoever, either real or personal.

B. SANITATION: No person shall throw, pour or in any other manner, discharge any substance or chemicals, whether liquid or solid, upon the water, grounds or property of the park which may be injurious to persons or park property.

C. REFUSE: No person shall bring in, have brought in, or put into any park, any rubbish, refuse, garbage or other such material. Any refuse and rubbish generated from use of any park shall be deposited in receptacles provided in the park.

Where no such receptacles are provided, all such rubbish or waste shall be carried away from the park by the person responsible for its presence, and properly disposed of elsewhere.

D. TREES AND VEGETATION: No person shall damage, destroy, remove or climb upon, any tree or other vegetation located in any park or recreation area.

E. ANIMALS: No person shall bring any animal into any beach, baseball or soccer field or marked perimeters of tot lots areas, whether on a leash or being ridden, except blind or other physically challenged persons being led or assisted by a guide dog. Animals on leashes will be allowed in all other City-owned parks as long as the owner has appropriate waste collection equipment and subsequently picks up any droppings eliminated by their animal.

F. GOLF: No person shall hit any golf balls in any baseball or soccer field at any time.

8.03 VEHICLES, OPERATION

No person shall operate any motor vehicle other than on roadways within City-controlled park lands except that the Superintendent of Public Works or the Chief of Police may grant special permission to individuals to operate vehicles on areas other than roadways.

8.04 MOTORIZED VEHICLES

No person shall operate a snowmobile or off-road vehicle within any parks controlled by the City except that the Superintendent of Public Works or the Chief of Police may grant special permission for a snowmobile to be operated on City-controlled park land.

8.05 SPEED LIMIT

No person shall exceed a speed of 10 miles per hour unless it is otherwise posted on any roadway or traffic way within any City controlled park.

8.06 PARKING

No person shall park a motor vehicle in any prohibited area which is posted with signs, or park any vehicle in any area for the purpose of repair, except those immediate repairs necessary to remove the vehicle from the area.

8.07 FIREARMS, WEAPONS AND FIREWORKS

A. FIREARMS, WEAPONS: No person, other than authorized police officers, shall display or use on City-controlled park lands, except as authorized by the Chief of Police, any gun, including a shotgun, rifle, pistol, revolver, air or BB-gun, or other weapon, including a slingshot, bow and arrow, switchblade knife with spring-loaded blade, throwing knife, tomahawk or throwing axe, or any martial arts devices.

B. FIREWORKS: No person, except authorized personnel, shall bring, carry or use, in any way, any fireworks or other explosive substance of any kind in any City-controlled park.

8.08 ALCOHOLIC BEVERAGES

No person shall consume or possess any alcoholic beverages on park lands, with the following exceptions:

1. The City Council may grant a daily exception permit to any organization authorizing the dispensing of beer and/or wine at any group picnic or similar function authorized in any park.

2. Such function must be open to the public and be held during hours that would not inhibit the use of the park by the general public.

3. Before the permit is issued, the permittee must file a certificate of insurance naming the City as an additional named insured.

4. Unless specifically provided otherwise, all requirements of the Chapter 33, Liquor Control and Liquor Licensing, of this Code shall apply to permits granted under this Section 8.08.

8.09 ADVERTISING AND SIGNS

A. ADVERTISING: No person shall announce, advertise or call to the public's attention in any way, any article or service for sale or hire.

B. SIGNS: No person shall paste, glue, tack or otherwise post any sign, placard, advertisement or inscription whatever on any park land or highway or road adjacent to any such park land, except as approved by the City Council.

8.10 USE OF PARK AREA

A. REGULATED: No person in a park shall picnic, lunch or camp in a place other than that designated for such purpose. Attendants shall have the authority to regulate activities in park areas whenever necessary to prevent congestion and to secure the maximum use for the comfort and convenience of all visitors.

B. NON-EXCLUSIVE USE: No person shall use any portion of the picnic areas or of any of the buildings or structures therein for the purpose of holding picnics to the exclusion of other person, nor shall any person use such area and facilities for an unreasonable length of time if the facilities are crowded, unless a Park Use Permit is granted by the City Council.

8.11 FIRES

No person shall build a fire in any place other than a fireplace or grill affixed to the property by the City, or any portable grill constructed of a suitable fireproof substance, or in any other area designated by the City. No persons shall leave a picnic area before their fire is completely extinguished.

8.12 GROUP ACTIVITY

Any group, association or organization desiring to use the park facilities for a particular purpose must first obtain a permit from the Administrator. A permit will be issued if it appears that the group, association or organization will not interfere with the general use of the park by the individual members of the public and if the group, association or organization meets all other conditions contained in the application. The Administrator may require an indemnity bond to protect the City from any liability of any kind or character and to protect the City property from damage.

8.13 SWIMMING

No person shall swim or wade in any stream, creek, lake or pond, located in any park, unless such area is expressly reserved for such activity and clearly posted as such.

8.14 OPERATING POLICY

A. HOURS: City parks shall be open daily to the public during the hours from dawn to dusk. It shall be unlawful for any person other than City personnel conducting City business therein to occupy or be present in the park during any hours in which the park is not open to the public, except as approved by the City Council upon application for a Park Use Permit provided for in Section 8.09 herein.

B. CLOSING PARKS: Any section or part of a park may be closed to the public by the Mayor at any time and for any interval of time, either temporarily or at regular or stated intervals.

8.15 PENALTIES

A. Any person who violates Sections 8.02 through 8.06 herein shall be fined not less than $100 for each offense.

B. Any person who violates any other section of this Chapter 8 shall be fined not less than $25 nor more than $500 for each offense.

C. The violation of this Chapter 8 is hereby declared to be a public nuisance to be abated in the manner provided by law.

CHAPTER 10
CEMETERY and CEMETERY BOARD OF MANAGERS

10.01 City Cemetery Established
10.02 Cemetery Board of Managers Created
10.03 Powers and Duties of the Cemetery Board of Managers
10.04 Cemetery Superintendent

10.01 CITY CEMETERY ESTABLISHED

The cemetery bounded by the north line of Prairie Street, Jackson Street and Grace Street is established as the Marengo City Cemetery. The care and supervision of the Marengo City Cemetery, including all physical and financial matters, shall be under the supervision of the Cemetery Board of Managers.

10.02 CEMETERY BOARD OF MANAGERS CREATED

The Cemetery Board of Managers is hereby created, consisting of three members, appointed by the Mayor with the advise and consent of the City Council. The Mayor shall designate the Cemetery Board of Managers chairman. Members of the Cemetery Board of Managers shall appoint a secretary and a treasurer. Each member shall serve a term of two years without compensation. Any member may be removed by the Mayor for failing to perform their duties or the misappropriation or wrongful use of funds or property.

10.03 POWERS AND DUTIES OF THE CEMETERY BOARD OF MANAGERS

A. MEETINGS: The Cemetery Board of Managers shall meet at such times as it may determine. Such meetings shall be pursuant to the Open Meetings Act.

B. CEMETERIES: The Cemetery Board of Managers shall have charge and control of the Marengo City Cemetery and over any cemetery not under the control of any corporation, corporation sole or society located within the City.

C. RECEIPTS: Receipts from the operation of the cemetery shall be deposited by the Cemetery Board of Managers treasurer into a Cemetery Board Fund. Said funds shall be used for the operation of the cemetery.

D. OPERATION OF CEMETERY: The Cemetery Board of Managers shall establish rules for the conduct of the cemetery, the cost of lots and services, and may employ such persons necessary for the operation of the cemetery. Unless authorized by the City Council, the Cemetery Board of Managers shall not expend any other City funds on the operation of the cemetery.

10.04 CEMETERY SUPERINTENDENT

The Cemetery Board of Managers may appoint a Cemetery Superintendent who shall perform duties assigned by the Cemetery Board of Managers. The compensation of the Cemetery Superintendent shall be determined from time to time by the Cemetery Board of Managers.

CHAPTER 12
NUISANCES

12.01 Definitions
12.02 Public Nuisances Prohibited
12.03 Public Nuisances Defined
12.04 Abatement of Public Nuisances
12.05 Cost of Abatement
12.06 Abandoned and Derelict Motor Vehicles
12.07 Boats, Trailers and Recreational Vehicles
12.08 Noxious Plants, Weeds, Bushes, Trees and Grass
12.09 Open Burning
12.10 False Alarms
12.11 Fire District Rapid Entry Key System
12.12 No Smoking

12.01 **DEFINITIONS** *Ord. 08-2-2*

In addition to those terms defined in Appendix A of this Code, the following terms, whether capitalized or not, are defined as follows for the purposes of this Chapter:

Authorized Private Receptacle: A City-authorized container for the collection and storage of rubbish, waste, refuse, litter, garbage or other matter.

Litter: Any discarded, used or consumed substance or waste. Litter may include, but is not limited to, any garbage, trash, refuse, debris, rubbish, grass clippings or other lawn or garden waste, newspapers, magazines, glass, metal, plastic or paper containers or other packaging, construction material, motor vehicle parts, furniture, oil, carcass of any dead animal, any nauseous or offense matter of any kind, any object likely to injure a person or create a traffic hazard, potentially infectious medical waste as identified by characteristics or listing as hazardous under Section 3001 of the Resource and Recovery Act of 1976 or pursuant to the Illinois Pollution Control Board, or anything else of an unsightly or unsanitary nature which has been discarded, abandoned or otherwise improperly disposed of, including any material which, if thrown or deposited improperly, may tend to create a danger to the public health, safety and welfare.

Park: A park reservation, playground, beach, recreation center or any other public area in the City, owned or used by the City, and devoted to active or passive recreation.

Public place: Any and all streets, sidewalks, boulevards, alleys or other public ways and any and all public parks, squares, spaces, grounds and buildings.

Refuse: All putrescible and non-putrescible solid waste (except body waste) including garbage,

rubbish, ashes, street cleanings, dead animals, abandoned vehicles and solid market and industrial wastes.

Rubbish: Non-putrescible solid waste consisting of both combustible and noncombustible wastes such as paper, wrappings, cigarettes, cardboard, metal cans, yard clippings, leaves, tree stumps, dirt, wood, glass, bedding, crockery and similar materials.

Trash: Discarded, unwanted or worthless materials or objects.

12.02 PUBLIC NUISANCES PROHIBITED

No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the City or within the police jurisdiction of the City.

12.03 PUBLIC NUISANCES DEFINED *Amended, 08-2-2*

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 the public;

2. In any way render the public insecure in life or in the use of property;

3. Greatly offend the public morals or decency;

4. 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.

5. Litter in public and private places.

B. PUBLIC NUISANCES AFFECTING HEALTH: The following acts, omissions, places and things hereby specifically declared to be public health nuisances, but shall not be construed to exclude other health nuisances coming within the definition of Section 12.03-A herein.

1. All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale the public;

2. Carcasses of animals, birds or fowl not buried or otherwise disposed of in a sanitary manner within 24 hours after death;

3. Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, abandoned vehicles or machinery, scrap

metal, discarded appliances or any material in which flies, mosquitoes, disease carrying insects, rats or other vermin may breed; or which may constitute a fire hazard.

4. All stagnant water in which mosquitoes, flies or other insects can multiply;

5. Garbage cans which are not fly-tight;

6. The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash or industrial dust within the City limits in such quantities as to endanger the health of persons of ordinary sensibilities or to threaten or cause substantial injury to property;

7. The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, creamery or industrial wastes or other substances;

8. Any use of property, substances or things within the City emitting or causing any foul, offensive noisome, nauseous, noxious or disagreeable odors, effluvia or stenches extremely repulsive to the physical senses of ordinary persons which annoy, discomfort, injure or inconvenience the health of any appreciable number of persons within the City;

9. All abandoned wells not securely covered or secured from public use;

10. Any barn, stable or shed used for keeping animals;

11. Any obstruction in or across any water course, drainage ditch or ravine;

12. Any open burning contrary to City ordinance;

13. The deposit of garbage, rubbish or any offensive substance on any street, sidewalk or public place, or on any private property, except as may be permitted by ordinance;

14. Any noxious weed on private property as defined by 505 ILCS 100/1 *et seq*.; and

C. PUBLIC NUISANCES OFFENDING MORALS AND DECENCY: The following acts, omissions, places, conditions and things are hereby specifically declared to be public nuisances offending public morals and decency, but such enumeration shall not be construed to exclude other nuisances offending public morals and decency coming within the definition of Section 12.03-A herein:

1. All disorderly houses, bawdy houses, houses of ill fame, gambling houses and buildings or structures kept or resorted to for the purpose of prostitution, promiscuous sexual intercourse or gambling;

2. All gambling devices and slot machines;

3. All places where intoxicating liquor or fermented malt beverages are sold, possessed, stored, breed, bottled, manufactured or rectified without a permit or license as provided for by this Code; and

4. Any place or premises within the City where ordinances or state laws relating to public health, safety, peace, morals or welfare are openly, continuously, repeatedly and intentionally violated.

5. Any person throwing, tossing, discarding or depositing litter in or upon any street, sidewalk or other public place within the City except in public trash receptacles, authorized private receptacles for collection or in an official City disposal facility.

D. PUBLIC NUISANCES AFFECTING PEACE AND SAFETY: The following acts, omissions, places, conditions and things are hereby declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the provisions of Section 12.03-A herein:

1. All building erected, repaired or altered in violation of the provisions of the ordinances of the City relating to materials and manner of construction of building and structures;

2. All unauthorized signs, signals, markings or devices which purport to be or may be mistaken as official traffic control devices placed or maintained upon or in view of any public highway or railway crossing;

3. All trees, hedges or other obstructions which prevent persons driving vehicles on public streets alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk;

4. All limbs of trees which project over a public sidewalk less than eight feet above the surface thereof or less than 10 feet above the surface of a public street;

5. All use or display of fireworks except as provided by the laws of the State of Illinois and ordinances of the City;

6. All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use;

7. All wires over streets, alleys or public grounds which are strung less than 15 feet above the surface of the street or ground;

8. All obstructions of streets, alleys, sidewalks or crosswalks and all excavations in or under the same, except as permitted by the ordinances of the City or which, although made in accordance with such ordinances, are kept or maintained for an unreasonable length of time after the purpose thereof has been accomplished;

9. All open and unguarded pits, wells, excavations or unused basements freely accessible from any public street, alley or sidewalk;

10. All abandoned appliances;

11. Any unauthorized or unlawful use of property abutting on a public street, alley or sidewalk or of a public street, alley or sidewalk which causes large crowds of people to gather, obstructing traffic and free use of the streets or sidewalks;

12. Any advertisements or signs affixed to any building, wall, fence, sidewalk, street or other private or public property without permission of the owner thereof;

13. Any sign, marquee or awning which is in an unsafe condition, or which overhangs any roadway, or which overhangs any sidewalk less than eight feet above the sidewalk surface;

14. Any condition or practice constituting a fire hazard;

15. Any nuisance so defined by the Illinois Compiled Statutes;

16. All unsheltered storage of old, unused, stripped, junked, and other automobiles not in good and safe operating condition, and of any other vehicles, machinery, implements, and/or equipment and personal property of any kind which is no longer safely usable for the purposes for which it was manufactured, within the corporate limits of this City;

17. All unsheltered storage of unlicensed automobiles for a period of 10 days or more within the corporate limits of the City; and

18. All signs advertising garage sales, yard sales or other similar sales other than those located on the property on which the sale is being conducted.

12.04 ABATEMENT OF PUBLIC NUISANCES

A. INSPECTION OF PREMISES: Whenever complaint is made to the Mayor that a public nuisance exists, or has existed, within the City, the Mayor shall promptly notify the Chief of Police, or some other City official whom the Mayor shall designate, who shall forthwith inspect or cause to be inspected the premises and shall make a written report of his findings to the Mayor. Whenever practicable, the inspecting officer shall cause photographs to be made of the premises and shall file the same in the office of the Administrator.

B. SUMMARY ABATEMENT:

1. Notice to Owner: If the inspecting officer determines that a public nuisance exists on private property and that there is great and immediate danger to the public health, safety, peace, morals or decency, the Mayor may direct the Chief of Police, Code Enforcement Officer or a deputy sheriff, to serve a notice on the owner, or, if the owner cannot be found, on the occupant or person causing, permitting or maintaining such nuisance and to post a copy of the notice on the premises. Such notice shall direct the owner, occupant or persons causing, permitting or maintaining such nuisance to abate or remove such nuisance within 24 hours.

2. Abatement by City: If the nuisance is not abated within the time provided or if the owner, occupant or person causing the nuisance cannot be found, the Chief of Police, the Coordinator of Public Works or some other City official whom the Mayor shall designate, may cause the abatement or removal of such public nuisance, or person causing, permitting or maintaining such nuisance to abate or remove such nuisance within 24 hours.

C. ABATEMENT BY COURT ACTION: If the inspecting officer determines that a public nuisance exists on private premises but the nature of such nuisance is not an immediate danger to the public health, safety, peace, morals or decency, he shall file a written report of his findings with the Mayor, who shall cause an action to abate such nuisance to be commenced in the name of the City.

12.05 COST OF ABATEMENT

In addition to the penalty imposed by this Code for the erection, contrivance, creation, continuance or maintenance of the public nuisance, the cost of abating a public nuisance by the City 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.

12.06 ABANDONED AND DERELICT MOTOR VEHICLES *Amended, 04-11-2*

A. LEGISLATIVE FINDINGS AND DETERMINATIONS: The City Council, in keeping with the policy of the Illinois General Assembly as found in Section 5/4-301 of the Illinois Vehicle Code (Chapter 625 of the Illinois Compiled Statutes), finds and determines that:

Abandoned and derelict vehicles constitute a safety hazard and a public nuisance; are detrimental to the health, safety and welfare of the general public by harboring disease, providing breeding places for vermin, inviting plundering, creating fire hazards and presenting physical dangers to children and others; produce scenic blights which degrade the environment and adversely affect land values and the proper maintenance and continuing development of the State of Illinois and all if its subdivisions; represent a resource out of place and an energy loss to the Illinois economy and require state and local governmental attention, in conjunction with any federal governmental attention, in order to assure the expeditious removal and recycling of these abandoned and derelict vehicles.

B. ABANDONMENT OF VEHICLES OR RETENTION OF DERELICT VEHICLES PROHIBITED: The abandonment of a motor vehicle or any part thereof or the retention of a derelict vehicle anywhere in the City, in view of the general public, is unlawful except on the property of the owner in a completely enclosed permanent building or structure. Removal of the abandoned or derelict vehicle, or any part thereof, may be authorized by order of the Chief of Police after expiration of seven days from the date of violation.

C. ABANDONMENT OF MOTOR VEHICLE; PRESUMPTION: The person to whom last was issued the certificate of title to the vehicle by the Secretary of State is presumed to be the person to have abandoned that vehicle but such presumption may be rebutted.

D. RETENTION OF DERELICT VEHICLE ON PRIVATE PROPERTY; PRESUMPTION: The person who owns the property on which the derelict vehicle is retained or who occupies the property on which the derelict vehicle is retained, or both, is presumed to be the person responsible for disposing of the vehicle in a safe and timely manner.

E. NOTICE TO POLICE: When an abandoned, derelict, lost, stolen or unclaimed motor vehicle or other vehicle comes into the temporary possession of custody of a person in this state, not the owner of the vehicle, such person shall immediately notify the Police Department when the vehicle is within the corporate limits of the City.

Upon receipt of such notification, the Chief of Police 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 until the vehicle is claimed by the owner, or any other person legally entitled to possession thereof, or until it is disposed of as provided by this Section 12.06.

F. REMOVAL OF VEHICLES:

1. When a motor vehicle or other vehicle is abandoned on a public right-of-way in the City 10 hours or more, its removal by a towing service may be authorized by order of the Chief of Police.

2. When an abandoned, derelict, unattended, wrecked, burned or partially dismantled motor vehicle or other vehicle is creating a traffic hazard because of its position in relation to the highway, a towing service may be authorized by order of the Chief of Police.

3. When a vehicle is removed from either public or private property, as authorized by order of the Chief of Police, the owner of the vehicle will be responsible for all towing costs.

G. RECORDS OF VEHICLE REMOVED: When a motor vehicle or other vehicle is authorized to be towed away, the Police Department shall keep and maintain a record of the vehicle towed, listing the color, year of the 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.

H. SEARCH FOR OWNER: When the Police Department does not know the identity of the registered owner or other legally entitled person, they will cause the motor vehicle 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 shall cause the stolen vehicle files of the Illinois State Police to be searched by a directed communication to the Illinois State Police for stolen or wanted information on the vehicle. When the Illinois State Police files are searched with negative results, the information contained in the National Crime Information Center (NCIC) files will be searched by the Illinois State Police. The information determined from these record searches will be used by the Police Department in sending a notification by certified mail to the owner or legally entitled person advising where the vehicle is held, requesting a disposition be made and setting forth public sale information.

I. NOTICE TO STATE POLICE: When the registered owner 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 or other person legally entitled to the possession of the vehicle. The information obtained by the Illinois State Police will be immediately forwarded to the law enforcement agency having custody of the vehicle for notification of owner.

J. RECLAIMING VEHICLES: Any time before a motor vehicle or other vehicle is sold at public sale or disposed of as provided herein, the owner 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 or other person under this Section 12.06 until all towing and storage charges and fines have been paid.

K. SALE OF VEHICLE: Whenever an abandoned, lost, stolen or unclaimed motor vehicle or other vehicle, seven years of age or newer, remains unclaimed by the registered owner or other person legally entitled to its possession for a period of 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 sale to the highest bidder.

Notice of the time and place of the sale shall be posted in a conspicuous place for at least 10 days prior to the sale on the premises where the vehicle has been impounded.

At least 10 days prior to the sale, the Police Department shall cause a notice of the time and place of the sale to be sent by certified mail to the registered owner 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 will not be required.

L. OLDER VEHICLES: When the identity of the registered owner or other person legally entitled to the possession of an abandoned, lost or unclaimed vehicle of seven years of age, or newer cannot be determined by any means provided for in this section, the vehicle may be sold as provided herein or disposed of in the manner authorized by this Section 12.06 without notice to the registered owner or other person legally entitled to the possession of the vehicle.

When an abandoned vehicle of more than seven years of age is impounded as specified by this section, it will be kept in custody for a minimum of 10 days for the purpose of determining ownership, the contacting of the registered owner 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 10-day period, without the benefit of disposition information being received from the registered owner, the Chief of Police will authorize the disposal of the vehicle as junk only.

A motor vehicle or other vehicle classified as an antique vehicle is excluded from this Section 12.06.

M. RECORDS: When a motor vehicle or other vehicle in the custody of the Police Department is reclaimed by the registered owner or other legally entitled person, or when the vehicle is sold at public sale or other wise disposed of as provided in this section, a record of the transaction shall be maintained by the Police Department for a period of one year from the date of the sale or disposal.

N. DISPOSITION OF SALE PROCEEDS: When a vehicle located within the corporate limits of the City is authorized to be towed away by the Chief of Police and disposed of as set forth in this Section 12.06, the proceeds of the public sale or disposition after the deduction of towing, storage and processing charges shall be deposited in the City treasury.

O. LIABILITY OF OFFICERS: Any police officer, towing service owner, operator or employee shall not be held to answer or be liable for damages or his legal representatives, or any other person legally entitled to the possession of a motor vehicle or other vehicle when the vehicle was processed and sold or disposed of as provided by this Section 12.06.

12.07 BOATS, TRAILERS AND RECREATIONAL VEHICLES

Outdoor storage of recreational vehicles is permitted only to the extent that such vehicles are stored in a safe and orderly manner in a compact and contiguous area not to exceed 180 square feet located behind the front yard building setback line. For purposes of this Section 12.07, a boat upon a trailer shall be considered a single vehicle.

12.08 NOXIOUS PLANTS, WEEDS, BUSHES, TREES AND GRASS *Amended, 08-7-1*

A. NUISANCE DECLARED: Any weeds such as or known as jimson, burdock, ragweed, thistle, cockleburr, or other weeds of like kind, and plants or bushes of the species of tall, common or European Barberry, otherwise known as Barberis Vulgaris, or its horticultural varieties, found growing in any place or location within the corporate limits of the City, are declared to be a nuisance. It shall be unlawful for any person to cause or permit any such weeds or plants to grow or remain in any place or location within the corporate limits of the City to a height in excess of eight inches. It is also hereby declared to be a nuisance and shall be unlawful for any person to cause or permit grass, except ornamental grass, to grow or remain in any place or location within the corporate limits of the City to a height in excess of eight inches, or refuse or neglect to trim trees or bushes, or remove nuisance bushes or trees in the City.

B. REMOVAL OF NOXIOUS PLANTS, WEEDS, GRASS, BUSHES AND TREES: It shall be the duty of every owner or occupant of every lot or tract of land within the corporate limits of the City to (1) cut, destroy or remove, or cause to be cut, destroyed or removed, every such weed or plant or (2) cut any grass as hereinabove described or (3) trim trees or bushes, or (4) remove

nuisance bushes or trees, upon every such lot or tract of land in such manner and on or before such time as such weeds, plants or grass reach or exceed the height of eight inches or such trees or bushes become a nuisance. Upon the failure of any such owner or occupant so to do, it shall be the duty of the Building Department to serve or cause to be served a notice, demanding the abatement of such growth as a nuisance, within a period of five days from the date of such service. Failure of any owner or occupant to comply with the provisions and demands of such notice shall constitute a violation of the provisions of this Section 12.08.

C. NOTICE: Any owner or occupant served with a 5-day notice shall be deemed to have refused or neglected to cut, trim or remove such weeds, trees, bushes, plants or grass pursuant to this Section 12.08. The written notice shall be in force for a period of 12 months from the date the notice was issued. Failure of any owner or occupant to comply with the provisions and demands of a notice served within the previous 12 months shall constitute a violation of the provisions of this Section 12.08 and it shall be a new violation every day the nuisance is allowed to continue. For purposes of this Section, an owner or occupant shall be deemed served when notice has been sent by certified mail and posted on the subject property. An owner may also be deemed served when notice has been sent via facsimile or electronic mail.

The cost of cutting, trimming or removing of weeds, grass, plants, trees or bushes shall not be a lien on the real estate affected unless a notice is personally served on, or sent by certified mail to, the person to whom was sent the tax bill for the general taxes on the property for the last preceding year. The notice shall be sent after the cutting, trimming or removal of the weeds, grass, plants, trees or bushes on the property.

D. ABATEMENT: If, upon the expiration of the 5-day period provided in the notice, for a period of 12 months from the date of service, any owner or occupant of any premises in the City upon which any such weeds, plants, trees, bushes or grass are caused or permitted to grow in violation of the provisions of this Section 12.08, it shall be the duty of the Building Department, or any department in the City directed to do so, to proceed to eliminate the nuisance by cutting, destroying or otherwise removing the weeds, plants, trees, bushes or grass and to keep an account of the expense thereof, and such expense shall be charged to the owner, or the owner and occupant jointly, of the premises, and it shall be the duty of the owner or the owner and occupant jointly to pay such expense.

E. LIEN: The City shall have a continuing lien upon the premises and real estate upon which any noxious weeds or plants or nuisance trees, bushes or grass shall be caused or permitted to grow in violation of the provisions of this Section 12.08, for or on account of which it is necessary for any expense to be suffered or incurred by the City for the cutting, destroying or otherwise removing of any weeds, plants, trees, bushes or grass. Every lien shall, upon compliance with the conditions hereinafter set forth, become and be prior and superior to the rights and interest of creditors, encumbrances, purchasers and other parties in interest in such premises and real estate.

Such lien may be preserved and enforced in the following manner: The Clerk shall, within 60 days after the accrual of such expense or cost or charge, file or cause to be filed with the Recorder of

Deeds a claim for lien, verified by the affidavit of an officer of the City having knowledge of the facts, which shall consist of a brief statement of the facts of the claim, the amount of money representing the cost and expense incurred or payable for the service, the date or dates when such cost and expense were incurred by the City and a sufficiently correct description of the lot, lots or tract or tracts of land or real estate to properly identify such land or real estate. No such lien shall be defeated in the proper amount thereof because of error or overcharging on the part of the City, nor shall any such lien be defeated upon proof that the expense or cost or charge resulted from or was incurred by reason or fault of any tenant or occupant or other person in possession other than the owner.

F. FORECLOSURE OF LIEN: If payment is not made as provided in this Section 12.08 of any amount due by virtue of its provisions when the same shall become due, the City may file or cause to be filed a petition or bill in the appropriate court for a foreclosure of mortgages. Such suit shall be commenced within two years after the accrual of such expense or cost or charge. Any decree rendered in court may be enforced and collected as other decrees or judgments in such court.

The remedy provided in this Section 12.08 shall not be construed to abridge or in any manner interfere with the right and power of the City to enforce the collection thereof by an action at law or as otherwise provided in this Section 12.08, but the remedy herein provided shall be taken and held as an additional means to enforce payment of such delinquent expense or cost or charge.

12.09 OPEN BURNING

A. PROHIBITION: The open burning of any materials or substances is hereby prohibited within the City limits, other than the preparation of food on a temporary or permanent fireplace grill or barbecue pit and as otherwise provided herein.

B. EXCEPTIONS:

1. Duly organized units of government shall be exempt from this prohibition when conducting a controlled burn and when authorized by the City Council. Any unit of government conducting an authorized controlled burn within the City shall notify the Police Department of the time and location of the controlled burn. The Chief of Police may impose such conditions and limitations upon said controlled burns as the Chief deems appropriate.

2. Residents may apply for a Recreational Bonfire Permit at the Police Department. Subject to permit approval from the Chief of Police, Recreational Bonfire Permits may only be issued if the following conditions are met:

(a) The recreational bonfire is attended by a responsible person over the age of 21 years, who shall have a garden hose connected to a water supply or other fire extinguishing equipment readily available for use.

(b) The recreational bonfire location is not less than 30 feet from any structure and adequate provisions are made to prevent fire from spreading to within 30 feet of any structure.

(c) The recreational bonfire shall only be permitted between the hours of 5 p.m. and midnight on the date listed on the Recreational Bonfire Permit. Materials burned shall only be logs.

(d) The Chief of Police shall forward a copy of the Recreational Bonfire Permit to the fire district/department having jurisdiction over the bonfire location prior to the time of the bonfire.

(e) There shall be no charge for a Recreational Bonfire Permit.

C. PENALTIES: Any person who violates Section 12.09 shall be fined not less than $100 for the first offense. The fine for a second offense shall be not less than $300 and the fine for a third and any other subsequent offenses shall be not less than $500. The violation of this Section 12.09 is hereby declared to be a public nuisance, to be abated in the manner provided by law.

12.10 FALSE ALARMS

A. AUTOMATIC DIALER ALARMS: Automatic dialer alarms that dial directly into the Police Department are not allowed to be used within the corporate limits of the City, with the exception of those used by the City and those authorized by the Chief of Police based upon special facts involving medical and/or life threatening circumstances.

B. AUDIBLE ALARMS: Any alarm that emits an audible alarm is required to have a cut-off timer that will shut the alarm off automatically after 30 minutes.

C. FALSE ALARMS: Any person owning or leasing an alarm system that transmits an alarm activation, either indirectly or directly to the Police Department, shall be deemed to have transmitted a false alarm and be in violation of this Ordinance if that person's alarm system transmits more than four false alarms within any 12-month period. For purposes of determining guilt under this Section 12.10, a person's knowledge and intent are not elements of this offense.

12.11 FIRE DISTRICT RAPID ENTRY KEY SYSTEM

A. FIRE DISTRICT RAPID ENTRY KEY SYSTEM: A Fire District Rapid Entry Key System (hereinafter referred to as "KNOX") shall be installed on all buildings equipped with a monitored fire alarm system. Installation, location and mode of KNOX box shall be approved by the fire district prior to installation.

B. EXCEPTIONS: The following situations will be exempt from the KNOX box installation requirement in Section 12.11:

1. Detached single family dwellings;

2. Alarmed buildings that are occupied 24 hours a day throughout the year;

3. Buildings with on-premises guard service with key access to all building areas.

12.12 NO SMOKING *08-1-3*

A. DEFINITIONS: In addition to those terms defined in Appendix A of this Code, for the purposes of this Section, the following terms have the meanings ascribed to them in this Section unless different meanings are plainly indicated by the context:

Bar: An establishment that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and that derives no more than 10 percent of its gross revenue from the sale of food consumed on the premises. Bar includes, but is not limited to, taverns, nightclubs, cocktail lounges, adult entertainment facilities and cabarets.

Employee: A person who is employed by an employer in consideration for direct or indirect monetary wages or profits or a person who volunteers his or her services for a non-profit entity.

Employer: A person, business, partnership, association or corporation, including a municipal corporation, trust or non-profit entity that employs the services of one or more individual persons.

Enclosed area: All space between a floor and a ceiling that is enclosed or partially enclosed with (i) solid walls or windows, exclusive of doorways, or (ii) solid walls with partitions and no windows, exclusive of doorways, that extend from the floor to the ceiling, including, without limitation, lobbies and corridors.

Enclosed or partially enclosed sports arena: Any sports pavilion, stadium, gymnasium, health spa, boxing arena, swimming pool, roller rink, ice rink, bowling alley or other similar place where members of the general public assemble to engage in physical exercise or participate in athletic competitions or recreational activities or to witness sports, cultural, recreational or other events.

Gaming equipment or supplies: Gaming equipment/supplies as defined in the Illinois Gaming Board Rules of the Illinois Administrative Code.

Gaming facility: An establishment utilized primarily for the purposes of gaming and where gaming equipment or supplies are operated for the purposes of accruing business revenue.

Healthcare facility: An office or institution providing care or treatment of diseases, whether

physical, mental, or emotional or other medical, physiological or psychological conditions, including, but not limited to, hospitals, rehabilitation hospitals, weight control clinics, nursing homes, homes for the aging or chronically ill, laboratories and offices of surgeons, chiropractors, physical therapists, physicians, dentists and all specialists within these professions. Healthcare facility includes all waiting rooms, hallways, private rooms, semiprivate rooms and wards within healthcare facilities.

Place of employment: Any area under the control of a public or private employer that employees are required to enter, leave, or pass through during the course of employment, including but not limited to entrances and exits to places of employment, including a minimum distance of 15 feet from entrances, exits, windows that open and ventilation intakes that serve an enclosed area where smoking is prohibited; offices and work areas; restrooms; conference and classrooms; break rooms; cafeterias and other common areas. A private residence or home-based business, unless used to provide licensed child care, foster care, adult care or other similar social service care on the premises, is not a place of employment.

Private club: A not-for-profit association that (i) has been in active and continuous existence for at least three years prior to the effective date of the Act, whether incorporated or not, (ii) is the owner, lessee, or occupant of a building or portion thereof used exclusively for club purposes at all times, (iii) is operated solely for a recreational, fraternal, social, patriotic, political, benevolent or athletic purpose, but not for pecuniary gain, and (iv) only sells alcoholic beverages incidental to its operation. For purposes of this definition, private club means an organization that is managed by a board of directors, executive committee, or similar body chosen by the members at an annual meeting, has established bylaws, a constitution, or both to govern its activities, and has been granted an exemption from the payment of federal income tax as a club under 26 U.S.C. 501.

Private residence: the part of a structure used as a dwelling, including, without limitation: a private home, townhouse, condominium, apartment, mobile home, vacation home, cabin or cottage. For the purposes of this definition, a hotel, motel, inn, resort, lodge, bed and breakfast or other similar public accommodation, hospital, nursing home or assisted living facility shall not be considered a private residence.

Proprietor: Any individual or his designated agent who, by virtue of his office, position, authority or duties, has legal or administrative responsibility for the use or operation of property.

Public place: Any building or vehicle used by and open to the public, regardless of whether the building or vehicle is owned in whole or in part by private persons or entities, the State of Illinois, or any other public entity and regardless of whether a fee is charged for admission, including a minimum distances of 15 feet from entrances, exits, windows that open and ventilation intakes that serve an enclosed area where smoking is prohibited. A public place does not include a private residence unless the private residence is used to provide licensed child care, foster care, or other similar social service care on the premises. A public place includes but is not limited to enclosed indoor areas used by the public or serving as a place of work including, but not limited to, hospitals, restaurants, retail stores, offices, commercial establishments, elevators, indoor theaters, libraries,

museums, concert halls, public conveyances, educational facilities, nursing homes, auditoriums, enclosed or partially enclosed sports arenas, meeting rooms, schools, exhibition halls, convention facilities, polling places, private clubs, gaming facilities, and all government owned vehicles and facilities, including buildings and vehicles owned, leased or operated by the State or State subcontract, healthcare facilities or clinics, enclosed shopping centers, retail service establishments, financial institutions, educational facilities, ticket areas, public hearing facilities, public restrooms, waiting areas, lobbies, bars, taverns, bowling alleys, skating rinks, reception areas, and no less than 75 percent of the sleeping quarters within a hotel, motel, resort, inn, lodge, bed and breakfast or other similar public accommodation that are rented to guests, but excludes private residences.

Restaurant: An eating establishment, including, but not limited to, coffee shops, cafeterias, sandwich stands and private and public school cafeterias, that gives or offers for sale food to the public, guests or employees, and/or a kitchen or catering facility in which food is prepared on the premises for serving elsewhere. Restaurant includes a bar area within the restaurant.

Retail tobacco store: A retail establishment that derives more than 80 percent of its gross revenue from the sale of loose tobacco, plants, or herbs and cigars, cigarettes, pipes and other smoking devices for burning tobacco and related smoking accessories and in which the sale of other products is merely incidental. Retail tobacco store does not include a tobacco department or section of a larger commercial establishment or any establishment with any type of liquor, food or restaurant license.

Smoke or smoking: The carrying, smoking, burning, inhaling or exhaling of any kind of lighted pipe, cigar, cigarette, hookah, weed, herbs or any other lighted smoking equipment.

B. SMOKING IN PUBLIC PLACES PROHIBITED: No person shall smoke in a public place or any place of employment or within 15 feet of any entrance to a public place or place of employment. No person may smoke in any vehicle owned, leased, or operated by the State, City or other political subdivision of the State. Smoking is prohibited in indoor public places and places of employment unless exempted by Section 12.12-E.

C. SMOKING PROHIBITED IN STUDENT DORMITORIES: Notwithstanding any other provision of this Section, smoking is prohibited in any portion of the living quarters, including, but not limited to, sleeping rooms, dining areas, restrooms, laundry areas, lobbies and hallways, of a building used in whole or in part as a student dormitory that is owned and operated or otherwise utilized by a public or private institution of higher education.

D. POSTING OF SIGNS; REMOVAL OF ASHTRAYS; DESIGNATION OF OTHER NON-SMOKING AREAS:

1. “No Smoking” signs or the international “No Smoking” symbol, consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it, shall be clearly and conspicuously posted in each public place and place of employment where smoking is prohibited by this

Section by the owner, operator, manager, or other person in control of that place.

2. Each public place and place of employment where smoking is prohibited by this Section shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited.

3. All ashtrays shall be removed from any area where smoking is prohibited by this Section by the owner, operator, manager, or other person having control of the area.

4. Notwithstanding any other provision of this Section, any employer, owner, occupant lessee, operator, manager, or other person in control of any public place or place of employment may designate a non-enclosed area of a public place or place of employment, including outdoor areas, as an area where smoking is also prohibited provided that such employer, owner, lessee or occupant shall conspicuously post signs prohibiting smoking in the manner described in this Section.

E. EXEMPTIONS: Notwithstanding any other provisions of this Section, smoking is allowed in the following areas:

1. Private residences or dwelling places, except when used as a child care, adult day care, or other healthcare facility or any other home-based business open to the public.

2. Retail tobacco stores in operation prior to January 1, 2008. The retail tobacco store shall annually file with the Illinois Department of Public Health by January 31st an affidavit stating the percentage of its gross income during the prior calendar year that was derived from the sale of loose tobacco, plants or herbs and cigars, cigarettes, pipes or other smoking devices for smoking tobacco and related smoking accessories. Any retail tobacco store that begins operation after the effective date of January 1, 2008, may only qualify for an exemption if located in a freestanding structure occupied solely by the business and smoke from the business does not migrate into an enclosed area where smoking is prohibited.

3. Private and semi-private rooms in nursing homes and long-term care facilities that are occupied by one or more persons, all of whom are smokers and have requested in writing to be placed or to remain in a room where smoking is permitted and the smoke shall not infiltrate other areas of the nursing home.

4. Hotel and motel sleeping rooms that are rented to guests and are designated

as smoking rooms, provided that all smoking rooms on the same floor must be contiguous and smoke from these rooms must not infiltrate into nonsmoking rooms or other areas where smoking is prohibited. Not more than 25 percent of the rooms rented to guests in a hotel or motel may be designated as rooms where smoking is allowed. The status of rooms as smoking or nonsmoking may not be changed, except to permanently add additional nonsmoking rooms.

F. ENFORCEMENT: The Illinois Department of Public Health, State-certified local public health departments and local law enforcement agencies shall enforce the provisions of this Section and may assess fines pursuant to Section 12.12-G. Any person may register a complaint with the Illinois Department of Public Health, a State-certified local public health department or a local law enforcement agency for a violation of this Section.

G. VIOLATIONS:

1. A person, corporation, partnership, association or other entity, who violates this Section, shall be fined no less than $100 and not more than $250 plus the City's cost of prosecution, including reasonable attorney fees. Each day that a violation continues shall be considered a separate offense.

2. A person who owns, operates, or otherwise controls a public place or place of employment that violates this Section shall be fined (i) not less than $250 for the first violation, (ii) not less than $500 for the second violation within one year after the first violation, and (iii) not less than $750 for each additional violation within one year after the first violation.

H. INJUNCTIONS: The Illinois Department of Public Health, a State-certified local public health department, local law enforcement agency or any individual personally affected by repeated violations may institute, in the circuit court, an action to enjoin violations of this Section.

CHAPTER 13
SCAVENGERS, RECYCLABLES AND REFUSE

13.01 Definitions
13.02 License Required
13.03 Application for License
13.04 License Fee; Term
13.05 Collection of Recyclables
13.06 Conditions of License
13.07 License Revocation
13.08 Duties of Customers

13.01 DEFINITIONS

In addition to the definitions found in Appendix A of this Code, the following term used in this Chapter 13 is defined as follows:

Scavenger: Any person, firm, partnership, association, joint stock company, joint venture, public or private corporation conducting any of the enumerated activities of collection and disposal of waste materials for set fees or payments.

13.02 LICENSE REQUIRED

It shall be unlawful for any person to engage in the business of scavenger or the collection or disposal of residential, commercial or industrial garbage, refuse or waste without having first obtained a Scavenger License from the City.

13.03 APPLICATION FOR LICENSE

A. APPLICATION: Application for a Scavenger License shall be made to the City and referred to the City Council. A Scavenger License shall be issued upon order of the City Council.

B. APPLICATION REQUIREMENTS: The following information shall be submitted with the application:

1. Applicant's residential and business name and address and the names and addresses of its owners and officers;

2. The location of the disposal facilities to be used by the licensee. This location shall be a site approved by the IEPA, or its successor.

3. The location where scavenger vehicles will be parked when not in use.

4. Certificates of insurance to be issued by a company approved by the City and which is authorized to issue insurance in the State, showing that the applicant has public liability insurance of not less than $1,000,000 covering the business activities within the City. The licensee shall also have insurance coverage on motor vehicles and property damage in an amount acceptable to the City. The certificate shall show the date of expiration, which shall not expire during the term of the Scavenger License. Upon cancellation or expiration without renewal of the insurance, a City issued Scavenger License shall be void.

13.04 LICENSE TERM, FEE *Amended, Ord. 01-2-6*

The annual license fee for residential and commercial scavenging shall be $350. The license period shall be from May 1 to the following April 30.

13.05 COLLECTION OF RECYCLABLES

A. PICKUP REQUIREMENTS: It shall be a prerequisite to obtaining a Scavenger License that the applicant agrees to pick up and deliver to an appropriate recycling facility the following recyclable materials: aluminum, corrugated cardboard, glass bottles and containers, newsprint and plastic milk containers. In addition, the licensed scavenger shall pick up and deliver to an appropriate facility branches, tree cuttings, leaves and lawn rakings.

B. NONPROFIT ORGANIZATIONS: Upon approval by the City Council, any not-for-profit organization or tax exempt charitable institution may pick up one or more of the categories of recyclable materials. However, City Council approval will be conditioned upon the activity's impact on the business of licensed scavengers within the City; the City Council may impose restrictions it deems reasonable, including times and dates, of said approval.

13.06 CONDITIONS OF LICENSE

A. VEHICLES:

1. Spilling Loads: It shall be unlawful for any person owning or controlling any vehicle for the purpose of carrying, carting, hauling or transporting garbage, refuse, waste or recyclables to cause any of the substances to dump, fall, scatter, spill or leak on any public way or other place. The scavenger shall use exclusively enclosed leakproof packer-type disposal truck bodies for the collection of all residential, commercial and industrial garbage. For the collection or all other refuse and rubbish, the scavenger shall have equipment to be used when necessary, tarpaulins or substantial tight covers designed to prevent the scattering of the refuse and rubbish from the container or truck.

2. Cleanliness of Vehicles: All scavenger vehicles shall be cleaned and disinfected when not in use so that the vehicles do not become offensive or in violation of federal, state or local laws.

B. PARKING; TEMPORARY STORAGE OF WASTE: Except in an emergency, it shall be unlawful to park a scavenger truck containing any garbage, refuse or other waste overnight, or for an unnecessary length of time during daylight hours within the City limits. In the event the contents of a storage container becomes frozen and unmovable it shall be permissible to store said container in an enclosed building up to 48 hours. The scavenger must notify the Superintendent of Streets and Chief of Police immediately of any emergency.

C. RESIDENTIAL PICKUP HOURS: Except in an emergency, residential pickup shall be limited to the hours between 6 a.m. and 3:30 p.m. Monday through Saturday.

13.07 LICENSE REVOCATION

In the event a licensed scavenger firm violates any provisions of this Chapter 13 or any federal, state or local laws, the City shall have the right, in addition to enforcing criminal penalties against the firm, to revoke the Scavenger License. In such case no consideration for a refund in part or whole of the license fee shall be given.

13.08 DUTIES OF CUSTOMERS

A. LOCATION FOR PICK-UP: All refuse, compostable yard waste and recyclable material shall be placed immediately behind the curbside. When a conflict arises concerning a specific location the City shall have the exclusive right to determine the final pickup point for the property in question.

B. PREPARING MATERIALS: It is the responsibility of the customer to properly bag, bundle and tag all refuse, recyclables and compostable yard waste.

C. RECEPTACLES REQUIRED: It shall be the duty of every owner, or his agent, or the occupant of any house, dwelling or other building in the City wherein people reside or lodge, or where animal or vegetable food is prepared or served, and at all times, to maintain in good order and repair a separate receptacle to be used for the purpose of depositing garbage and other similar refuse. Such receptacle shall be watertight, made or constructed of metal or plastic and shall be equipped with a close fitting cover.

D. DEPOSIT ON STREETS AND PROPERTY: It shall be unlawful for any person to deposit garbage or other similar refuse in any street, alley or public way. It shall be unlawful for any person to deposit garbage or other similar refuse upon any private property, unless such garbage or other similar refuse shall be placed in a receptacle as hereinabove described, and it shall be unlawful to place such receptacle upon any street, alley or public way.

E. LITTERING: It shall be unlawful for any person to deposit, place or locate garbage or other similar refuse in any manner so that the same could be blown about or scattered by wind or accessible to animals.

F. BURNING: It shall be unlawful for any person to burn or cause to be burned any garbage or similar refuse within the corporate limits of the City.

G. STORAGE OF RECEPTACLES: The storage of receptacles shall be in such a manner so as to be no closer to the streets or public ways than the building setback lines as required under the Zoning Code.

CHAPTER 14
DOGS AND OTHER ANIMALS

14.01 Definitions
14.02 Cruelty to Animals
14.03 Dangerous Animals
14.04 Noisy Animals
14.05 Animals Prohibited
14.06 Diseased Animals
14.07 Dog Licenses
14.08 Dogs and Cats Running at Large
14.09 Dog Bites
14.10 Dog Litter
14.11 Limit

14.01 DEFINITIONS

In addition to the definitions found in Appendix A of this Code, the following words and phrases shall have the meanings, and are hereby defined, as follows:

Animal: Every living creature, domestic or wild, not including man.

Dangerous Animal: Any lion, tiger, leopard, ocelot, jaguar, cheetah, margay, mountain lion, lynx, bobcat, jaguarundi, bear, hyena, wolf, coyote or life-threatening snake or reptile.

Domestic Animal: Any animal, except birds or fish, the ownership of which is not prohibited under the definition of "prohibited animal" set forth herein.

Owner: Any person who has:

1. A right of property in an animal;

2. Keeps an animal;

3. Has an animal in his care of custody; or

4. Who knowingly permits an animal to remain on or about any premises occupied by him.

Run at Large: To be free of restraints off the premises of the owner.

Prohibited Animal: Pigs, swine, sheep, chickens or other fowl, cattle, horses, goats or similar animals, or any naturally wild animal, except birds or fish, whether or not bred for domestic purposes. Such animals shall, however, be permitted in zoological parks, performing animal exhibitions, educational institutions or veterinary hospitals.

Vicious Animal: Any animal which bites, or in any other manner, attacks or attempts to attack, except that any animal that bites, attacks or attempts to attack any person unlawfully entering upon its owner's premises, or which is provoked to attack, shall not be deemed a vicious animal.

14.02 CRUELTY TO ANIMALS

No person shall cruelly treat any animal. Any person who inhumanely beats, under feeds, overloads or abandons any animal is guilty of a violation of this Section 14.02.

14.03 DANGEROUS ANIMALS

All persons owning or in possession of any dangerous or vicious animal shall restrain said animal from running at large within the City. Exhibitions or parades of dangerous or otherwise prohibited animals as defined in Section 14.01 herein may be conducted upon securing a permit from the Chief of Police.

14.04 NOISY ANIMALS

No person shall harbor or keep any animal which disturbs the peace by loud noises.

14.05 ANIMALS PROHIBITED *Amended, 09-7-2*

A. FARM ANIMALS: No person shall stable, keep or maintain any prohibited animals as defined in Section 14.01 herein in the City, nor shall any person ride, walk or lead such prohibited animals in the City, except by special permission granted by the City Council; provided that horses may be led through the City on a public roadway when safe to do so without disrupting traffic. And except also that the City may issue a permit for the use of any horse-drawn carriage for a particular event or ceremony.

B. EXOTIC ANIMAL: Except as provided herein, no person shall own, keep or harbor within the City any animal deemed to be dangerous including snakes, reptiles or lizards that are poisonous; any rodent weighing more than one pound, with the exception of guinea pigs; or any other exotic animals as defined in Section 2.09 of Article XVII of the McHenry County Animal Control ordinance. This prohibition shall not apply to property properly zoned for facilities such as zoos, animal shelters, animal hospitals, kennels, ponds, pet stores and scientific or research laboratories.

14.06 DISEASED ANIMALS

A. All persons owning or in possession of any animal afflicted with a contagious or infectious disease shall restrain said animal from running at large within the City where the public health may be affected. No diseased animal shall be shipped or removed from the premises of the owner except under the supervision of an animal control officer or the state veterinarian. No diseased animal shall be brought into the City.

B. The animal control officer shall secure the disposition of any diseased animal and the treatment of affected premises so as to prevent the communication and spread of the contagion or infection, except in cases where the state veterinarian is empowered to act.

14.07 DOG LICENSES

No person shall permit a dog to be or remain in the City without being registered and licensed by the McHenry County Health Department. The registrations and licensing rules of the county shall prevail. In no case shall a dog that has not been inoculated against rabies be allowed to be or remain in the City.

14.08 DOGS AND CATS RUNNING AT LARGE *Amended, 09-7-2*

A. RUNNING AT LARGE: It shall be unlawful to permit any dog or cat to run at large in the City at any time. Dogs and cats which are on any street, alley or sidewalk or other public place without being held securely on a leash or restrained shall be deemed to be running at large.

B. NUISANCE: Any dog found in the Village either without a license or running at large is hereby declared to be a nuisance and shall be impounded as provided in this Chapter.

C. DUTIES OF THE POLICE DEPARTMENT: The Police Department shall impound any dog running at large in violation of the provisions of this Chapter. The Police Department shall have charge of all dogs impounded; shall secure shelter for all such dogs and see that they are humanely treated and fed. The Police Department shall relinquish the animal to the Animal Control Division of McHenry County pursuant to any agreement between the City and the county regarding animal control.

D. REDEMPTION: The owner of any dog impounded may redeem it by paying all the costs, charges and penalties that have accrued by the City or the county.

E. DANGEROUS AND VICIOUS DOGS: Any dog that has been involved in an incident which may result in a dangerous and vicious dog determination shall be relinquished to the Animal Control Division of McHenry County for such a determination under the terms of Section 5, Dangerous and Vicious Animals, of Article XVII, of the McHenry County Animal Control ordinance. Guide dogs for the blind or hearing impaired, support dogs for the physically handicapped of police owned dogs are exempt from this Section provided such dogs are in compliance with Section 14.07 of this Code.

14.09 ANIMALS BITES

Whenever a dog or other animal bites a person, the owner of the animal shall immediately notify the Chief of Police who shall order the animal held on the owner's premises or shall have it impounded for a period of two weeks.

The animal shall be examined immediately after it has bitten any person and the animal's owner is known, the Chief shall deliver written notice to the owner who shall give up the animal to the Police Department for confinement or the owner shall confine the animal himself with the written consent of the Police Department.

14.10 DOG LITTER

It shall be unlawful for any person owning, keeping or otherwise having possession or control of a dog to walk said dog in or upon any public way or other public place in the City without having on his person sufficient equipment to remove from the public way or other public place any dog litter which may be deposited by said dog.

It shall be unlawful for any person owning, keeping or otherwise having possession or control of a dog to allow said dog to deposit any litter upon any public way or other public place in the City or upon any private property not owned by that person unless that person has the permission of the owner of the property or immediately removed said dog litter from the property.

14.11 LIMIT

A. SINGLE FAMILY DWELLING: It shall be unlawful for any person to keep on any lot or premises or portion thereof more than four dogs, cats or domestic animals as defined in Section 14.01 herein over four months of age or more than two such animals boarded for compensation or sale. If more than one person resides on any lot or premises or portion thereof, then the person who owns, leases, possesses or controls said premises shall be presumed, for purposes of this Chapter 14, to be the keeper of all animals kept thereon, regardless of the legal ownership thereof. However, in no event shall a non-resident owner of property be held liable hereunder, where there is a person on the premises.

B. MULTIPLE FAMILY DWELLING: No more than one dog or two other domestic animals shall be permitted in a multiple family dwelling unit.

C. EXCEPTIONS: This Section 14.11 shall not apply to pet shops, zoological parks, performing animal exhibitions, educational institutions, veterinary hospitals or duly organized animal shelters.

CHAPTER 15
TRAFFIC

15.01 Traffic Regulations
15.02 Parallel and Diagonal Parking
15.03 Reserved, Ord. 01-10-04
15.04 Parking Limitations/Prohibitions
15.05 School Parking Areas
15.06 Restricted Parking Areas
15.07 Parking After an Ice Storm or Snowfall
15.08 Parking Places Reserved for Persons With Disabilities
15.09 Restricted Access
15.10 Reclaimed Vehicles, Expenses
15.11 Careless Driving
15.12 One-Way Streets, Alleys
15.13 Snowmobile Routes, Local Regulations
15.14 Truck Routes
15.15 Speed Limits
15.16 Traffic Control Signals
15.17 Jake Brake Use Prohibited
15.18 Yield Intersections
15.19 Stop Intersections
15.20 Vehicles for Sale
15.21 Loading Zone
15.22 Alleys
15.23 Taxicab Stands; Bus Stands
15.24 Time Limit Parking
15.25 No License
15.26 Abandoned Vehicle
15.27 Street Cleaning
15.28 Off-Street Storage of Vehicles
15.29 Outdoor Storage of Recreational Vehicles
15.30 Enforcement Procedure

15.01 TRAFFIC REGULATIONS *Amended, 01-7-1*

A. ADOPTION AND INCORPORATION BY REFERENCE OF SPECIFIC CHAPTERS OF THE ILLINOIS VEHICLE CODE: That pursuant to 625 ILCS 5/20-204 of the Illinois Vehicle Code, the City of Marengo hereby adopts and incorporates by reference all paragraphs and sections of the Illinois Vehicle Code and subsequent amendments (625 ILCS 5/1-100 *et seq*.) in whole, as Chapter 15 of its Municipal Code (Marengo Municipal Code, Chapter 15 §§1-100 *et seq*.). The section numbers used in the Illinois Vehicle Code shall be identical to those section numbers in the Marengo Municipal Code except that the Marengo Municipal Code sections shall be preceded by the number “15” in accordance with a directive from the Circuit Clerk of McHenry County.

B. PENALTY: All penalty provisions contained or referred to or incorporated in Section 15.01 are also adopted and incorporated, including but not limited to those contained in the Unified Code of Corrections (730 ILCS 5/1-1-1 *et seq*.), as Chapter 15.907-01 of the Marengo Municipal Code, (Marengo Municipal Code, Chapter 15 pars. 1-100 *et seq*., 11-100 *et seq*., 12-100 et seq., 15-100 *et seq*., 16-101 *et seq.* and 20.101 *et seq*.), with the exception of the fine penalties listed for persons found guilty of violating Chapter 15, pars. 11-501(a)(1), 11-501(a)(2), 11-501(a)(3), 11-501(a)(4) and 6-303(a). Any person found guilty of violating Chapter 15, pars. 11-501(a)(1), 11-501(a)(2), 11-501(a)(3) and 11-501(a)(4) shall be fined not less than $1,250 nor more than $2,500 for each offense. Any person found guilty of violating Chapter 15, paragraph 6-303(a) shall be fined not less than $300 nor more than $2,500 for each offense. All other penalties listed for violations of these offenses shall be applicable.

C. APPLICABILITY: The penalty provided by this Section 15.01-C applies to the amendment of any section of this Chapter 15 adopted herein by reference whether or not such penalty is re-enacted in the amendatory ordinance.

D. REFERENCE TO SECTIONS: Reference to a section of this Chapter 15 shall be understood to also refer to and include the penalty section relating thereto, unless otherwise expressly provided.

15.02 PARALLEL AND DIAGONAL PARKING

A. PARALLEL PARKING ONLY: Parallel parking shall only be permitted along Grant Highway between West Street and Locust Street. Parallel parking shall be permitted along either curb line between Ann Street and State Street, and along the south curb line between Page Street and a point approximately 200 feet west of Page Street.

B. DIAGONAL PARKING ONLY: Diagonal parking shall only be permitted on the east side of Illinois Route 23 from north of Washington Street to 150 feet north of Prairie Street.

15.03 Reserved, Ord. 01-10-04

15.04 PARKING LIMITATIONS/PROHIBITIONS *Amended, 08-1-2, 04-11-1, 03-1-2, 01-10-04, 01-8-1*

A. SIGN RESTRICTIONS: No person shall park a vehicle at a prohibited location or for a period of time longer than indicated upon signs posted pursuant to this Section 15.04.

B. STREET PARKING RESTRICTIONS: Parking on any City street within the Central Business District, as depicted on the current Marengo Zoning Map, between the hours of 2 a.m. and 6 a.m. is prohibited. Parking on any street outside of the Central Business District between the hours of midnight and 6 a.m. is prohibited.

1. EXCEPTION: Two parallel parking spaces shall hereby be established at the northwest corner of West Prairie Street and Ford Street. The zone shall

commence at the northerly right-of-way of West Prairie Street on the east side of North Ford Street directly in front of 117 and 117½ Ford Street.

C. MUNICIPAL PARKING LOT RESTRICTIONS: Parking in City owned municipal parking lots is allowed, 24 hours a day (with a permit required between the hours of 7:00 p.m. and 6:00 a.m.) as follows:

1. In the one westernmost row of parking spaces in Municipal Parking Lot #1 (located immediately west of the Marengo Public Library).

2. In the entire easternmost row of parking spaces in Municipal Parking Lot #3, 115 E. Washington Street.

3. In the northern most row of Parking Lot #2 (located north of the Marengo Police Department and Village Hall).

Permit parking is limited to vehicle owners living in apartments with no parking, as evidenced by their lease agreement. A limit of two permits, per apartment, may be obtained, at no cost, from the City Hall. The following regulations shall also apply to Municipal Parking Lot #2: (1) Vehicles exceeding 10,000 pounds shall not be parked for more than two hours and only for the purpose of delivery, loading or unloading. No tractor-trailer shall be separated from the tractor and parked with the small parking wheels lowered. These restrictions shall not apply to any emergency vehicle including; and (2) Speed shall be restricted to 15 miles per hour.

D. Without a special permit, it shall be unlawful for any person to congregate or gather with others or to remain in areas designated as municipal parking lots for purposes other than those reasonably related to access to and from vehicles lawfully parked in said municipal parking lots.

E. As provided herein, no parking shall be allowed on private property without the consent of the owner or in the following locations:

Street/Subdivision	**Side(s)**	**From**
Ann Street, South	West	Area in front of the accessibility ramp leading to the sidewalk in front of the First Presbyterian Church
Briden Drive	All	
East Street	East, West	Except between Jackson Street and E. Van Buren Street where posted for Zion Lutheran Church
Ford Street	West	Commencing at the northerly ROW of West Prairie Street on the west side of Ford Street
Ford Street (south)	West	Grant Highway to W. Washington Street

Street/Subdivision	Side(s)	From
Franks Road	East, West	From the (102 block of Franks Road) (North) to the cul-de-sac and from the cul-de-sac to the 102 block of Franks Road (South) (1,448.3 feet, 0.3 miles)***
Grant Highway (East)	North, South	Within the City except where parking spaces are provided
Grant Highway (West)	North, South	From State Street to the City limits
Indian Trail Subdivision*	All	
Jackson Street	North	In front of the Zion Lutheran Church doors, 27 feet in length, the midpoint being immediately east of the center of the church doors fronting on Jackson Street
Johnson Street	West	400 block only
Lindow Lane	North, South	From Franks Road to the curve (200 block) (East) and from the curve (200 block) (West) to Franks Road (749.6 feet)***
Maple Street	East	Between Grant Highway and Francis Street
O'Connell Drive	All	
Page Street	All	East Prairie Street, East Grant Highway
Park Drive	East	Entire length
Prairie Street, West	North	Ann Street to West Street
Prairie Street, East	All	Taylor Street, Page Street
Prairie Street, East	North	Taylor Street to the point where curb and gutter end
Prairie Street, West	southwest corner	Commencing at the southerly ROW of West Prairie Street on the west side of South State Street and extending 33 feet south, being 12 feet in width as measured from the curb.
Prairie Street, west	northwest corner	Commencing at the northerly ROW of West Prairie Street on the west side of North State Street and extending 33 feet north, being 12 feet in width as measured from the curb.
Prospect Street		entire length

Street/Subdivision	Side(s)	From
State Street, North	East, West	railroad tracks to northern City limits
State Street, South	East, West	Grant Highway to southern City limits
Washington Street, West	South	Ann Street to West Street
Washington Street, East	All	Taylor Street, Page Street
Washington Street, East	North	Taylor Street to Prospect Street
Washington Street, East		6 parking spaces at intersection of Taylor Street**
Washington Street, East		Area in front of the accessibility ramp to the sidewalk in front of the Marengo United Methodist Church
*Except in designated parking spaces.		
**One day per week, as designated by the corporate authorities, except for members of the Marengo Senior Citizens Council, or those individuals who are 60 or more years of age.		
***School days between 8 a.m. and 3 p.m. Excepted from this parking restriction are construction personnel vehicles and construction equipment. This parking restriction to be reviewed on an annual basis.		

15.05 SCHOOL PARKING AREAS *Amended. Ord. 02-2-2*

Parking and traffic in parking areas of any and all schools for which there is a contract between the school district and City for the regulation of parking and traffic shall be subject to the regulations set forth in this Section 15.05. For the purposes of this Section 15.05, the term "parking areas" shall mean the area or areas of land near or contiguous to said schools and used as a means of access to and egress from the said schools and for the parking of motor vehicles.

No person shall park any vehicle or cause any vehicle to stop or stand in any designated safety zone or fire lane, nor shall any person park any vehicle in any designated loading zone except as provided herein.

No person shall park any vehicle or cause any vehicle to stop or stand in any restricted parking area unless authorized by the School District Board of Education. Parking in said restricted areas shall be limited to vehicles registered with the school authorities, faculty or administration vehicles and non-student vehicles on official school business.

No person shall park or abandon any vehicle in a school parking area during a snowstorm, flood, fire or other public emergency so as to constitute an obstruction to traffic.

The School District Board of Education shall erect and maintain, in the school parking areas, signs posting speed limits and designating safety zones, loading zones, fire lanes and restricted parking areas. It shall be unlawful for any person to exceed said posted speed limits or to violate the restrictions or prohibitions designated by said signs.

Any person who violates the provisions of this Section 15.05 may be punished by a fine not less than $25 nor more than $50. In addition to said fine, any vehicle parked or abandoned in violation of this Section 15.05 may be removed and stored by the City authorities, and the owner or operator of any vehicle parked or abandoned in violation of this Section 15.05 shall be liable for the payment of reasonable charges for the removal and storage of said vehicle.

15.06 RESTRICTED PARKING AREAS *Amended. Ord. 02-2-2*

A. ANN STREET: Except on Saturdays, Sundays and holidays, parking is prohibited between the hours of 6 a.m. and 6 p.m. in the following restricted parking zone: 44 feet in length on the west side of Ann Street in the vicinity of the 180-foot sidewalk servicing the First Presbyterian Church so as to allow three parking places in the area north of the no-parking zone and south of the sidewalk on West Washington Street and to allow six parking places south of the no-parking zone and north of Grant Highway, all on the west side of Ann Street.

B. DIAL-A-RIDE: Parking in the alleyway east of City Hall shall be limited to the Dial-A-Ride vehicle.

C. POLICE VEHICLES: Directly behind the Police Department.

D. TRUCK PARKING: Except for Class D vehicles equipped with only front and rear single-wheel single axles, any vehicle displaying an Illinois Class D, F, H. J, K, N, P, R, S, T, V, X or Z license registration plate, or an equivalent if registered in another state or country, shall be prohibited from parking in any residential zoning area except for the purposes of loading or unloading the vehicle.

E. 30-MINUTE PARKING: 30-minute parking shall only be permitted in the three parking spaces on the north side of Washington Street, from the leading dock easement access road east of the parking lot entrance at 131 E. Prairie Street, being approximately 68 feet.

F. TWO-HOUR PARKING: Unless otherwise posted, two-hour parking shall be permitted in the Central Business District, as defined in Appendix A herein.

15.07 PARKING AFTER AN ICE STORM OR SNOWFALL *Amended, Ord. 01-10-04*

A. It shall be unlawful for any person to park or cause to be parked any vehicle on a public street at any time after an ice storm or two inches or more of snowfall, unless the City has completed its work to cover the street with salt or sand and clear it of snow.

B. The Police Department and all members thereof are hereby authorized to remove and tow away or have removed and towed away, any car or other vehicle illegally parked which prevents or obstructs snow removal from public streets.

C. Cars or vehicles so towed away for illegal parking shall be stored in a pound designated by the Police Department and shall be restored to the owner or operator of such vehicle upon the payment of all towing and storage fees.

15.08 PARKING PLACES RESERVED FOR PERSONS WITH DISABILITIES *Amended, 04-11-1*

The parking of any motor vehicle not bearing registration plates or decals issued to a person with disabilities, as defined in the Motor Vehicle Code, is prohibited in the following locations:

1. South Ann Street: on the east side, the fourth parking space south of West Prairie Street.

2. South Ann Street on the west side south of its intersection with Washington Street, contiguous with the "No Parking Area," two parking spaces as posted.

3. East Street: On the west side, contiguous to the no-parking area, two parking spaces as posted.

4. Jackson Street: On the north side, contiguous to the no-parking area, two parking spaces as posted.

5. Washington Street on its south side, west of its intersection with Taylor Street, contiguous with the "No Parking Area," two parking spaces as posted.

6. Municipal Parking Lot #1: two parking spaces as posted.

7. Municipal Parking Lot #2: one parking space as posted.

8. Any other parking space properly posted by the City.

15.09 RESTRICTED ACCESS *Ord. 06-3-1*

Vehicular traffic within the City is restricted as follows:

1. Southbound vehicular traffic on Ford Street shall only access the westbound land of Grant Highway (U.S. Route 20).

1. Northbound vehicular traffic on Page Street shall only access the eastbound land of Grant Highway (U.S. Route 20).

15.10 RECLAIMED VEHICLES, EXPENSES *Amended, 09-5-2*

Pursuant to 625 ILCS 5/4-207 (Illinois Vehicle Code), any vehicle impounded by the City shall

not be released to the owner, lien holder or other person until all towing and storage charges incurred by the City have been paid in full. If the City stores the vehicle on City property, a storage charge shall be paid to the City. The charge for said storage shall be $50 per day.

15.11 CARELESS DRIVING

It shall be unlawful for any person to drive carelessly within the City. For purposes of this Section 15.11, careless driving is failure to maintain a vehicle under control, exceeding the posted speed limit by more than 10 miles per hour and operating a vehicle in any manner other than as permitted by law. Any person who violates any provision of this Section 15.11 may be punished by a fine of not less than $25 nor more than $1,000.

15.12 ONE-WAY STREETS, ALLEYS

That the following described streets are hereby designated as a one way street or one-way alley in the City for all vehicles other than postal service vehicles and refuse/recycling/yardwaste collection vehicles in the performance of their regular duties:

Direction	**Street**
Southbound	Alley from West Prairie Street to West Washington Street
Southbound	Alleyway east of City Hall
Northbound	Alley at the end of Dietz Street, running from Grant Street through West Washington Street
Eastbound	Prairie Street, between Ann Street and Taylor Street
Westbound	Washington Street, between Taylor Street and Ann Street

15.13 SNOWMOBILE ROUTES, LOCAL REGULATIONS *Amended, 01-3-5*

A. LOCAL REGULATIONS: It shall be unlawful for any person to operate a snowmobile in the City under the following circumstances:

1. Upon any sidewalk in the City, except where the tree bank, shoulder or unpaved right-of-way has a natural or hazardous obstruction to the extent of blocking the passage of any snowmobile.

2. At speeds in excess of 10 miles per hour.

3. Upon any street, except to cross the right-of-way thereof, except where the tree bank, shoulder or unpaved right-of-way has a natural or hazardous obstruction to the extent of blocking the passage of any snowmobile.

4. On public school grounds, park property, playgrounds, recreational areas and golf courses, whether public or private, without express written permission to do so by the property owner or property authority.

5. In a manner that creates loud, unnecessary or unusual noise so as to disturb or interfere with the peace and quiet of other persons.

B. PARKING: It shall be unlawful to park any snowmobile on any sidewalk or street within the City, or on the private property of any person, without the express permission of the owner or occupant of any such private property.

C. UNATTENDED VEHICLES: It shall be unlawful for the owner or operator to leave or allow a snowmobile to be or remain unattended on public property while the motor is running or with the keys for starting the vehicle left in the ignition.

D. SNOWMOBILE ROUTES: The following streets and roads are designated as routes of travel by snowmobiles and provide access into and out of the City; these streets and roads are not to be used for practice or amusement purposes, except to travel between a residence and the nearest designated route for the purpose of driving into or out of the City:

1. Upon any portion of the City right-of-way within the 35 foot tree bank on the south side of Railroad Street between its intersection with West Street on the east and the City limits on the west.

2. Upon any portion of the City right-of-way within the eight-foot tree bank on the west side of West Street between its intersection with Railroad Street on the north through and including a line drawn parallel with the Railroad Street right-of-way and located 350 feet south of the southerly line of the Chicago and Northwestern Railroad.

15.14 TRUCK ROUTES

The following streets in the City are designated as Class II truck routes and shall comply with the regulations set forth in the Illinois Vehicle Code. In addition, all truck traffic shall be restricted for local delivery and pickup only.

STREET	**FROM**	**TO**
Business District:		
Prairie Street, east	State Street, south	North Taylor Street
Prairie Street, west	State Street, south	Ann Street
Washington Street, east	State Street, south	North Taylor Street
Washington Street, west	State Street, south	Ann Street

STREET	FROM	TO
Residential District:		
Ann Street	West Grant Street, north	West Prairie Street
East Street	East Grant Street, north	136 N. East Street
Greenlee Street		Grace Street
Maple Street		Randall Court
Prairie Street, west	West Street, east	Sponable Street
Prospect Street	East Grant St., north	Telegraph Street
Railroad Street	Page Street, west	1,000 feet west of West Street
Sponable Street	West Prairie Street, north	Chicago & Northwestern Railroad crossing
Taylor Street	East Grant Highway, north	Railroad Street
West Street	Railroad Street	West Grant Street

15.15 SPEED LIMITS *Amended, 04-5-4*

A. SPEED LIMITS: The following speed limits shall be observed on the designated roadways within the City:

5 miles per hour

All alleys within the City.

10 miles per hour

Indian Oaks Park

20 miles per hour (School Zone Only)

State Street from Grant Highway to Railroad Street
All posted school zones

25 miles per hour

All residential areas unless otherwise posted.
Maple Street from Grant Highway south to James Court
Prospect Street from Grant Highway north to the Chicago and Northwestern Railway railroad crossing

30 miles per hour

Grant Highway from the 900 block on East Grant Highway to the 2100 block on West Grant Highway
Prospect Street from Telegraph Street south to the Chicago and Northwestern Railway railroad crossing
Railroad Street from State Street to West Street
State Street from Grant Highway south to Forest Street
State Street from Railroad Street north to Telegraph Street

35 miles per hour

Grant Highway from the 900 block of East Grant Highway to the 19900 block of East Grant Highway
James Court to Bauman Street
Maple Street from James Court south to Bauman Street
State Street from Forrest Street south to South Street
State Street from Telegraph Street north to the City sanitary sewer treatment plant
Telegraph Street from State Street east to Grace Street

40 miles per hour

Grant Highway from the 2100 block west to the western City limits

45 miles per hour

Grant Highway from the 19900 block east to the 19600 block
Maple Street from Bauman Street south to the southern City limits
State Street from South Street to the southern City limits
Telegraph Street from Grace Street east to the eastern City limits

55 miles per hour

Deerpass Road
Grant Highway from the 19600 block east to the eastern City limits

B. PENALTY: The penalty for any violation of this Section 15.15 shall be in accordance with Section 15.01, Traffic Regulations, of the Code.

15.16 TRAFFIC CONTROL SIGNALS

Pursuant to 625 ILCS 5/11-304, traffic control signals are hereby designated at the following intersections in the City. Stop signs may be employed at such times when said traffic control signals are not in working order.

State Street and the Grant Highway intersection;

State Street and the Telegraph Street intersection

15.17 COMPRESSION/RELEASE ENGINE BRAKE USE PROHIBITED

No person shall operate or cause to be used or operated within the City any compression/release engine brake on any vehicle for any reason. For purposes of this Section 15.17, compression/release engine brake is defined as any mechanical exhaust device designed to aid in the braking or deceleration of any vehicle by converting engine power to compressed air which results in excessive, loud, unusual or explosive noise from such vehicle, or otherwise known as jake-braking.

15.18 YIELD INTERSECTIONS

Pursuant to 625 ILCS 5/11-304, yield signs are hereby designated at the following intersections in the City:

TRAFFIC ON	YIELDS AT
Barbara Court, eastbound	Dietz Street

15.19 STOP INTERSECTIONS *Amended, 08-9-2, 04-8-2, 01-6-4*

Pursuant to 625 ILCS 5/11-302, stop signs are hereby designated at the following intersections in the City:

Traffic On	**Stops At:**
One-Way Stop:	
Adams Street	State Street
Adams Street	Taylor Street
(S) Ann Street (W)	Forest Street
(S) Ann Street (W)	Prairie Street
Ann Street	Van Buren Street
Autumn Court	Maple Street
Bauman Street	Maple Street
Briden Drive	Meyer Road
Briden Drive	Park Drive
Briden Drive	Seneca Trail
Circle Court	State Street
Caroline Street	Locust Street
Caroline Street	Maple Street
Center Drive	Deerpass Road
Center Drive	Telegraph Street
Chapel Street	Ann Street
Cherokee Trail	Seneca Trail
Cherokee Trail	Tioga Trail
Doral Drive	Lura Lane

Traffic On	**Stops At:**
Doral Drive	Maple Street
Doral Drive	Spring Drive
Dietz Street	Grant Highway
Doral Drive	Lura Lane
Doral Drive	Maple Street
Doral Drive	Spring Drive
Dunham Court	Georgeann Court
Dunham Court	Randall Court
East Street	Telegraph Street
Eighth Avenue	(N) State Street
Eisenhower Drive	Briden Drive
Eisenhower Drive	Keppler Drive
Elm Street	(E) Forest Street
Elm Street	(E) Grant Highway
Fifth Avenue	(N) State Street
First Avenue	(N) State Street
First Avenue	Taylor Street
(S) Ford Street	Grant Highway
Ford Street	Railroad Street
Ford Street	Van Buren Street
(E) Forest Street	Maple Street

(E) Forest Street	(S) State Street
(W) Forest Street	Park Drive
(W) Forest Street	Stanford Street
(W) Forest Street	(S) State Street
Forth Avenue	(N) State Street
Foxglove	Buttonwood Court
Francis Street	Locust Street
Francis Street	Maple Street
Grace Court	Spring Drive
Hale Street	Eighth Street
Hale Street	Railroad Street
Hayden Drive	Mayer Road
Hayden Drive	Seneca Trail
Jackson Street	Grace Street
Jackson Street	State Street
Jacquelyn Court	South Street
James Court	Dunham Court
James Court	Maple Street
Johnson Street	Briden Drive
Joy Court	Courtney Drive
Kennedy Drive	Briden Drive
Kent Drive	Dietz Street
Keppler Drive	Park Drive
Kermin Court	Spring Drive
Kishwaukee Street	Fifth Avenue
Kishwaukee Street	Telegraph Street
Linda Court	Courtney Lane
Lura Lane	Spring Drive
LynnAnn Court	Spring Drive
Majic Way	Spring Drive
Maple Street	(E) Grant Highway
Mary Court	Riley Drive
Mohawk Trail	Seneca Trail
Mohawk Trail	Tioga Trail
Navajo Trail	Seneca Trail
Navajo Trail	Tioga Trail
Oak Manor Drive	(W) Forest Street
Oak Manor Drive	State Street
Page Street	Eighth Avenue
Page Street	Jackson Street
Pawnee Trail	Navajo Trail
Pawnee Trail	Seneca Trail
Park Drive	(W) Grant Highway
(W) Prairie Street	State Street
(W) Prairie Street	West Street
Rainbow Drive	Telegraph Street
Randall Court	Maple Street
Ridge Drive	Lura Lane
Ridge Drive	Spring Drive
Riley Drive	Randall Court
Rowland Court	Grant Highway
Royal Oak Drive	Oak Manor Drive, north intersection
Royal Oak Drive	Oak Manor Drive, south intersection
Ruth Court	Ridge Drive
Sara Lane	Spring Drive
Second Avenue	(N) State Street
Seventh Avenue	East Street
Seventh Avenue	East Street
Seventh Circle	Eighth Avenue
Seventh Circle	East Street
Sponable Street	(W) Washington Street
Spring Drive northbound	Doral Drive
Sixth Avenue	(N) State Street
South Street	State Street
Taylor Street	(E) Grant Highway
Taylor Street	Eighth Street
Third Avenue	(N) State Street
(W) Washington St.	(N) Ann Street
(W) Washington St.	(S) Ann Street
(W) Washington St.	State Street
(W) Washington St.	West Street
West Street	Grant Highway
West Street	(W) Railroad Street
Willow Drive	Van Buren Street

<u>Two-Way Stops</u>:

(S) Ann Street	Grant Highway
(S) Ann Street (W)	Washington Street
Chapel Street	Dietz Street
Chestnut Lane	Cottonwood Lane
Clark Street	(E) Washington Street
Cottonwood Lane	Buttonwood Court
East Street	Jackson Street
Fifth Avenue	Hale Street
Fifth Avenue	Page Street
Fifth Avenue	(N) Taylor Street
First Avenue	East Street
First Avenue	Kishwaukee Street

First Avenue	Page Street
Ford Street	(W) Prairie Street
(W) Forest Street	Dietz Street
Forth Avenue	East Street
Forth Avenue	Page Street
Forth Avenue	Taylor Street
Greenlee Street	Prospect Street
Hale Street	Adams Street
Hale Street	Jackson Street
Hale Street	Telegraph Street
Hale Street	Van Buren Street
Jackson Street	East Street
Jackson Street	State Street
Locust Street	(E) Grant Highway
Locust Street	(E) Washington Street
Navajo Trail	Pawnee Trail
Page Street	Telegraph Street
(S) Page Street	Grant Highway
(S) Page Street	(E) Washington Street
(E) Prairie Street	East Street
(E) Prairie Street	Taylor Street
(W) Prairie Street	Sponable Street
Prospect Street	Telegraph Street
Railroad Street	State Street
Railroad Street	Taylor Street
Riley Drive	Georgeann Court
Seventh Avenue	Hale Street
Seventh Avenue	Page Street
Seventh Avenue	Taylor Street
Sixth Avenue	East Street
Sixth Avenue	Hale Street
Sixth Avenue	Page Street
Sixth Avenue	Taylor Street
South Street	Dietz Street
Taylor Street	(E) Prairie Street
Taylor Street	Telegraph Street
Third Avenue	East Street
Third Avenue	Hale Street
Third Avenue	Page Street
Third Avenue	Taylor Street
(E) Van Buren Street	East Street
(E) Van Buren Street	Page Street
(E) Van Buren Street	Taylor Street
(E) Washington St.	East Street
(W) Washington St.	Ford Street

Four-Way Stops:

Cottonwood Lane	Walnut Lane
Cottonwood Lane	Woodland Lane
Courtney Lane	Spring Drive
East Street	Fifth Avenue
East Street	Second Avenue
Fifth Avenue	East Street
Fifth Avenue	Hale Street
Fifth Avenue	Page Street
Fifth Avenue	Taylor Street
Fourth Avenue	Kishwaukee Street
Hale Street	Fifth Avenue
Hale Street	Second Avenue
Jackson Street	Taylor Street
Kishwaukee Street	Forth Avenue
Kishwaukee Street	Second Avenue
Page Street	Fifth Avenue
Page Street	Second Avenue
Second Avenue	Taylor Street
Second Avenue	East Street
Second Avenue	Hale Street
Second Avenue	Kishwaukee Street
Second Avenue	Page Street
Taylor Street	Fifth Avenue
Taylor Street	Jackson Street
Taylor Street	Second Avenue
Walnut Lane	Cottonwood Lane
Woodland Lane	Cottonwood Lane

15.20 VEHICLES FOR SALE

It shall be unlawful to park any vehicle upon any public right of way for the purpose of displaying it for sale.

15.21 LOADING ZONE

It shall be unlawful for the driver of a vehicle to stand a passenger vehicle for a period of time longer than is necessary for the loading or unloading of passengers, not to exceed three minutes, and for the driver to stand any freight carrying vehicles for a period of time longer than is necessary to load, unload and deliver materials, not to exceed 30 minutes, in any place designated by the City Council as a loading zone and marked as such, or in any of the following designated places:

1. At any place not to exceed 75 feet along the curb before the entrance to any hospital or hotel at any time.

2. At any place not to exceed 75 feet along the curb before the entrance to a public building between 8 a.m. and 6 p.m., except on Sunday.

3. Directly in front of the entrance to any theater at any time that the theater is open for business.

15.22 ALLEYS

No person shall park a vehicle within an alley in such a manner or under such conditions as to leave available less than 10 feet of the width of the roadway for the free movement of vehicular traffic, and no person shall stop, stand or park a vehicle within an alley in such a position as to block the driveway entrance to any abutting property.

15.23 TAXICAB STANDS; BUS STANDS

No vehicle other than a licensed taxicab shall be parked in any area designated by ordinance as a taxicab stand; and no vehicle other than a bus shall be parked in a place so designated as a bus loading zone.

15.24 TIME LIMIT PARKING *Amended, 02-2-2*

Except on Sundays or holidays, it shall be unlawful to park any vehicle for a longer consecutive period of time than that designated between in any area designated as a limited parking area and so marked, or as restricted by ordinance or statute.

15.25 NO LICENSE

No vehicle without a current state license shall be allowed to be parked on City streets, and the City police are authorized to tow away and place in storage any vehicle found to violate this Chapter 15.

15.26 ABANDONED VEHICLE *Amended, 01-10-04*

Any vehicle parked on any City street or municipal parking lot for seven consecutive days without being moved shall be deemed abandoned and shall be towed away and placed in storage, at the owner's cost, by the City police.

15.27 STREET CLEANING

It shall be unlawful to park any vehicle on any public street or portion thereof in the City at any time when the street is being cleaned or snow removed. Signs indicating cleaning or snow removal shall be posted before the work is done.

15.28 OFF-STREET STORAGE OF VEHICLES *Amended, 03-1-2, 02-2-2, 01-10-05*

The following standards and regulations shall apply to the storage of vehicles in parking lots and parking areas on a lot in a residential zoning district:

1. STORAGE DEFINED: For purposes of this paragraph, the terms "storage" or "stored" shall mean the parking of a vehicle for a continuous period of longer than 72 hours.

2. SURFACE: No motorized vehicle or unmotorized trailers shall be stored on any lot except on a surface constructed with concrete, asphalt or patio blocks. The width and length of the improved surface shall be at least the same dimensions of the body of the vehicle or trailer. The only exception to this rule shall apply to lots within a designated flood plain wherein the owner has received written correspondence from the federal government to the effect that a hard surface such as required herein is not permitted.

3. PERMANENT LOCATION PROHIBITED: No stored vehicle shall have its wheels removed or be affixed to the ground so as to prevent its ready removal.

4. RESIDENTIAL USE PROHIBITED: No vehicle shall be used for living, sleeping or housekeeping purposes on any lot for more than 10 days in any given calendar year. Any time a vehicle is connected to any public utility, there will be a presumption that such vehicle is being used for residential purposes.

5. UNLICENCED AND INOPERABLE VEHICLES: No vehicle without current license nor any vehicle incapable of being driven or used for the purpose or use for which it was designed shall be stored in any parking lot or parking area on any lot in a residential zoning district.

6. OUTDOOR STORAGE OF RECREATIONAL VEHICLES: Outdoor storage of recreational vehicles is permitted only to the extent that such vehicles are stored in a safe and orderly manner in a compact and contiguous area not to exceed 180 square feet located behind the sidewalk. No single recreational vehicle shall exceed 180 square feet for storage. For purposes of this Section 15.29, a boat upon a trailer shall be considered a single vehicle.

15.29 OUTDOOR STORAGE OF RECREATIONAL VEHICLES

Outdoor storage of recreational vehicles is permitted only to the extent that such vehicles are stored in a safe and orderly manner in a compact and contiguous area not to exceed 180 square

feet located behind the front building setback line. For purposes of this Section 15.30, a boat upon a trailer shall be considered a single vehicle.

15.30 ENFORCEMENT PROCEDURE *Amended, 01-10-6*

A. Upon determining that a vehicle has been stored in violation of this Chapter 15, the Police Department, by and through its personnel, shall give the person, firm or corporation owning, leasing or occupying the property notice by placing written notice on the windshield of the improperly stored vehicle that the person, firm or corporation shall have 24 hours from the date of notice to remove the vehicle from the property. Thereafter the police department may cause the vehicle to be towed at the owner's expense. In the event the owner fails to comply with said notice, the owner shall be liable for penalties hereinafter provided.

B. PENALTIES: Any person storing a vehicle in violation of this Chapter 15 shall be fined not less than $50 nor more than $100 for each day that a violation exists plus the City's cost of prosecution, including attorney's fees, and, if applicable, towing and storage charges.

CHAPTER 16
SIGN CODE

16.01 Purpose and Intent
16.02 Definitions
16.03 General Provisions
16.04 Removal of Certain Signs
16.05 Non-Conforming Signs
16.06 Prohibited Signs
16.07 Permitted Signs Allowed Without a Permit
16.08 Calculation of Sign Area Allowance
16.09 Temporary Signs
16.10 Permitted Signs
16.11 Overlay District
16.12 Structural Maintenance and Requirements
16.13 Administration and Enforcement

16.01 PURPOSE AND INTENT

The purpose of this Chapter is to provide a framework for regulating a system of street graphics, thereby promoting pleasant communication between people and our environment. It is the intent of this Chapter to assist in achieving the following objectives:

1. To foster high quality commercial and industrial development and to enhance the economic vitality of existing businesses/industries by promoting the reasonable, orderly and effective display of street graphics;

2. To encourage sound street graphics display practice and to mitigate the objectionable effects of competition in respect to the size and placement of street graphics;

3. To protect pedestrian and motorists from any damage or injury that might result from the improper construction, placement and use of street graphics;

4. To protect the public investment in streets and highways by reducing the obstructions and distractions, which may cause traffic accidents;

5. To preserve the value of private property by assuring the compatibility of street graphics with nearby land uses;

6. Ensuring signs are appropriate to the type of activity to which they pertain; and

7. Guide development to reinforce distinct districts.

16.02 DEFINITIONS

In addition to those definitions found in Appendix A of this Code, for the purpose of this Chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Abandoned sign*:* A sign structure that has ceased to be used and the owner no longer intends to use for the display of sign copy, or as otherwise defined by state law.

Animated sign*:* A sign employing actual motion or the illusion of motion.

Architectural projection*:* Any projection that is not intended for occupancy and that extends beyond the face of an exterior wall of a building, but that does not include signs as defined herein. (e.g. awning, canopy, cornice).

Awning*:* An architectural projection made of cloth, metal or other material attached to a building when the same is so erected as to permit its being raised or retracted to a position against the building when not in use.

Awning sign*:* A sign displayed on or attached flat against the surface or surfaces of an awning.

Backlit awning*:* An awning with a translucent covering material and source of illumination contained within its framework.

Backlit sign*:* A sign with opaque painted, raised letters lit by an electric lamp or lamps from behind the sign to create a silhouette effect.

Banner*:* A temporary sign of lightweight fabric or non-rigid material with or without enclosing framework, a flexible substrate on which copy or graphics may be displayed that is mounted to a pole or a building at one or more edges.

Billboard sign*:* Any general outdoor advertising sign, which is designed to advertise or direct attention to a business or activity conducted or a product, commodity, service, real property, entertainment, or facilities offered or sold elsewhere to where it is affixed, or which directs persons to a location different from where the sign is installed.

Blight*:* A severely spoiled or ruined state, especially of an urban area

Building*:* A structure having a roof supported by columns or walls for the shelter, support or enclosure of persons, animals or chattels; and when separated by division walls from the ground up and without opening, each portion of such building shall be deemed as a separate building.

Building front: That portion of a building where the primary entrance is located. Where more than one primary entrance is provided, the building front shall be that portion of the building facing toward the street to which the legal address has been assigned. Corner lots shall have only one building front. For the purpose of this definition, the terms “building front” and “building façade” shall be deemed synonymous.

Building elevation*:* The entire side of a building, from the ground level to the roofline, as viewed perpendicular to the walls on that side of the building.

Building marker*:* A sign indicating the name of the building and date of erection, or historic data or information, when cut or etched into any masonry surface or when constructed of bronze or other materials approved by Chapter 24, Building Code, of the Marengo Municipal Code, and mounted on the building.

Canopy (attached): A multisided overhead structure or architectural projection supported by attachments to a building on one or more sides and either cantilevered from such building or also supported by columns at additional points. The surface(s) and/or soffit of an attached canopy may be illuminated by means of an internal or external source of light. See also “marquee.”

Canopy (freestanding): A multisided overhead structure supported by columns, but not enclosed by walls. The surface(s) and/or soffits of an attached canopy may be illuminated by means of an internal or external source of light.

Canopy sign*:* A sign affixed to the visible surface(s) of an attached or free-standing canopy.

Changeable sign*:* A sign with the capability of content change by means of manual or remote input, including signs which are:

1. Electrically activated: Changeable sign whose message copy or content can be changed by means of remote electrically energized on-off switching combinations of alphabetic or pictographic components arranged on a display surface. Illumination may be integral to the components, such as characterized by lamps or other light-emitting devices; or it may be from an external light source designed to reflect off the changeable component display. See also “electronic message sign or center.”

2. Manually activated: Changeable sign whose message copy or content can be changed manually.

Chapter: Chapter 16, Sign Code, of the Marengo Municipal Code.

Code Official: Enforcement officer named as Building Commissioner, Building Inspector and/or Zoning Administrator.

Column*:* An upright support shaped like a long cylinder.

Construction sign*:* A temporary sign identifying an architect, engineer, contractor, subcontractor, and/or supplier participating in construction on the property on which the sign is located.

Copy: Those letters, numerals, figures, symbols, logos and graphic elements comprising the content or message of a sign, excluding numerals identifying the street address only

Directional sign*:* Any sign that is designed and erected for the purpose of providing direction, instructions, and/or facility orientation for pedestrian and vehicular traffic.

Double-faced sign*:* A sign with two faces, back to back.

Electrical sign*:* A sign or sign structure in which directional electrical wiring, connections, or fixtures are used.

Electronic message sign or center: An electrically activated changeable sign whose message changes automatically on a lamp bank or through mechanical means or whose variable message capability can be electronically programmed. This shall not include areas of signs which indicate time and temperature.

Exterior sign*:* Any sign placed outside a building.

Externally illuminated sign*:* A sign illuminated by a source of light which is cast upon the surface of the sign to illuminate by reflection of that light.

Face of sign: The surface of the sign, upon, against, or through which the message is displayed or illustrated on the sign.

Facade: The front or main face of a building; the side of a building, the exterior wall of a building exposed to public view.

Flag: A piece of fabric, or bunting containing distinctive colors, patterns or symbols, used as a symbol of a government, religious or political subdivision.

Flashing sign: A sign in which the illumination intermittently flashes off and on in whole or in part used primarily to attract attention.

Foot candle: A unit of measure for luminance. A unit of luminance on a surface that is everywhere one foot from a uniform point source of light of one candle and equal to one lumen per square foot.

Freestanding sign: A sign principally supported by a structure affixed to the ground, and not supported by a building, including signs supported by one or more columns, poles or braces placed in or upon the ground.

Frontage (building): The length of an exterior building wall or structure of a single premise oriented to the public way or other properties that it faces. (The length of the property line of any one lot along a public right-of-way which it borders.)

Frontage (property): The length of the property line(s) of any single premise along either a public way or other properties on which it borders. (The length of an outside wall that is adjacent to a street.)

Frontage (tenant): In a multiple unit building, that portion of the building frontage that is the length of a unit for occupancy by an individual tenant or owner. The tenant frontage is measured from the center line of the tenant separation wall to the center line of the tenant separation wall; in the event the wall is an outside wall, it is measured from the outside of the outside wall to the center of the tenant separation partition.

Government sign: A temporary or permanent sign erected and maintained by the City, county, state, federal government or political subdivision for traffic direction or other municipal signs; legal notices; railroad crossing signs; danger or other temporary emergency or non-advertising signs; or for designation to any school, hospital, historic site, public service, property or facility.

Ground sign: A sign supported by two or more uprights or braces in or upon the ground surface.

Height (of a sign): The vertical distance measured from the highest point of the sign, including decorative embellishments to the natural surface grade beneath the sign, excluding berms, planter boxes, etc.

Historic sign: Any sign that is historic in nature or historically established for use in relationship to a structure that is exactly or reasonably preserved or restored to the condition of its original historic period.

Illegal sign: A sign that does not meet the requirements of this Chapter.

Illuminated sign: A sign characterized by the use of artificial light, either projecting through its surface(s) or reflecting off its surface(s).

1. Exposed bulbs and neon: A sign that is lighted by a direct external artificial light source that is integral to the sign, such as neon tubes or light bulbs mounted on the face of the sign.

2. External: A sign which is lighted by an artificial light source which is not incorporated within the sign, such as flood lights or spot lights.

3. Internal: A sign with an artificial light source incorporated within the sign for the purpose of lighting the sign.

Incombustible material: Any material which will not ignite at or below a temperature of 1200 degrees Fahrenheit and will not continue to burn or glow at that temperature.

Institutional sign: A sign which identifies a public or private organizational, educational or public health or safety institution.

Interior sign*:* Any sign placed within a building, and is readily visible from the exterior.

Lot: The word lot when used alone shall mean a zoning lot.

Maintain or repair: The replacement of existing work with equivalent materials for the purpose of its maintenance, including but not limited to cleaning, painting, repair or replacement of defective parts of a

sign; but not including any addition, change or modification in construction from the original permit approval.

Mansard sign: A wall sign erected on a sloped roof or roof-like façade architecturally comparable to a building wall.

Marquee: Any hood of permanent construction projecting from the wall of a building but not supported by the ground or sidewalk serving the purpose of providing shelter and protection from the weather.

Marquee sign: A sign attached to, hung from or supported by a marquee.

MHPC: Marengo Historic Preservation Committee.

Monument sign: A ground mounted sign, completely or principally self supported by a monument base that is wide, low to the ground and incorporates architectural detailing/merit to the overall.

Moving sign: Any sign which rotates or moves or gives the visual impression of rotation or movement.

Multiple faced sign: A sign containing three or more faces.

Multiple-tenant building: A building developed under one ownership, containing two or more individual businesses.

Nameplates: A non-electric on-premises identification sign giving only the name, address, and/or occupation of an occupant or group of occupants.

Neon sign: A sign made of glass tubing, which is electrified to cause fluorescent agents to glow in various colors.

Non-illuminated sign: A sign having no illumination.

Occupancy: The portion of a building or premises owned, leased, rented or otherwise occupied for a given use.

Off-premises sign: A sign which directs attention to a use, business, commodity, service or activity not conducted, sold or offered upon the premises where the sign is located.

On premise sign: A sign erected, maintained or used in the outdoor environment for the purpose of the display of messages appurtenant to the use of, products sold on, or the sale or lease of, the property on which it is displayed.

Owner: A person recorded as such on official records.

Painted wall sign: A sign which is directly applied with paint or similar substance on any portion of an exterior building wall, fascia, parapet, chimney, on a fence or fence type wall, retaining wall, bench, fence post, refuse enclosure, utility box, storage shed, bus shelter, satellite dish, antenna or other accessory structure, except wall signs regulated herein.

Parapet: The extension of a false front or wall above a roof line.

Pennant: A temporary sign of lightweight plastic, fabric or other material, whether or not containing a message of any kind, suspended from a rope, wire or string.

Permanent sign: A sign or sign structure which is directly affixed to the ground surface or any part of a building or structure.

Pole sign: A sign supported by one upright or brace in or upon the ground surface.

Political sign: A temporary sign intended to advance a political statement, cause or candidate for office and also known as a campaign or election sign. A legally permitted outdoor advertising sign shall not be considered to be a political sign.

Portable sign: Any sign not permanently attached to the ground or to a building or building surface. Usually of a temporary nature, designed to be moved easily and not permanently affixed, including but not limited to: signs to be transported by means of wheels; menu and sandwich boards signs, umbrellas used for advertising; and signs attached to or painted on vehicles or trailers located for the primary purpose of displaying said signs, unless the vehicles are used in the normal day-to-day operations of the business.

Post sign: A sign supported by one upright or brace in or upon the ground surface.

Projecting sign: A sign supported by a building or other structure which projects over any street, sidewalk, alley or public way or public easement, structure or supporting wall. A sign that is affixed perpendicular to a building in such a manner that its leading edge extends more than twelve inches beyond the line of such building or beyond the lot line.

Public right-of-way: Land either owned by or prescribed to the municipality that is used for public purposes, such as streets, sidewalks, utilities or green space. A right-of-way includes all land and improvements located within the property lines of said right-of-way.

Public sign: Any informational sign which is owned or maintained by a local, regional, state or federal government.

Pylon sign: A tall vertical structure on or forming part of a sign. Pylons are not poles, posts or cylindrical in shape.

Real estate sign: A temporary sign erected for purpose of advertising the sale, rental or lease of the premise or property upon which it is located.

Revolving sign: A sign that revolves 360 degrees about an axis.

Roof line: The top edge of a roof or building parapet, whichever is higher, excluding any cupolas, pylons, chimneys or minor projections.

Roof sign: A sign erected, constructed or maintained in whole or in part upon or over the roof of a building or structure.

Setback: The distance from the property line to the nearest part of the applicable building, structure or sign, measured perpendicularly to the property line.

Sign: Any device visible from a public place that displays either commercial or non-commercial messages by means of graphic presentations of alphabetic or pictorial symbols or representations.

Sign area: The area of the smallest geometric figure, or the sum of the combination of regular geometric figures, which comprise the sign face.

Sign copy: Those letters, numerals, figures, symbols, logos and graphic elements comprising the content or message of a sign, exclusive of numerals identifying a street address only.

Sign face: The surface upon, against or through which the sign copy is displayed or illustrated, not including structural supports, architectural features of a building or sign structure, nonstructural or decorative trim, or any areas that are separated from the background surface upon which the sign copy is displayed by a distinct delineation, such as a reveal or border.

Sign structure: Any structure supporting a sign.

Subdivision sign: A sign identifying a recognized subdivision, complex or residential development.

Temporary sign: A sign intended to display either commercial or non-commercial messages of a transitory or temporary nature. Portable signs or any sign not permanently embedded in the ground, or not permanently affixed to a building or sign structure that is embedded into the ground, are considered temporary signs.

Vehicle sign: Any advertising or business sign attached to a motor vehicle which is parked or placed in position for the purpose of displaying the same to the public.

Wall sign: A sign mounted, attached to or painted on the exterior wall of a building or structure in a plane parallel to that of the supporting wall.

Window sign: A sign visible from the exterior of a building or structure which is painted on a window; depicted upon a card, paper or other material; or placed on, taped on or hung immediately behind the window; or displayed from a window for the specific purpose of attracting attention of the passerby to a sale or to promotional items or other products or services.

16.03 **GENERAL PROVISIONS**

A. PERMIT REQUIRED: It shall be unlawful for any person to erect, alter, construct, enlarge or relocate within the City any sign or other advertising structure, as defined in this Chapter, without first obtaining a permit from the Building Department and paying the permit fee pursuant to Exhibit A of Chapter 24 of the Marengo Municipal Code.

B. PERMIT APPLICATION: Applications for the erection, alteration or relocation of a sign shall be made to the Building Department upon a form provided by the Building Department and shall include the following information:

1. Name, address and telephone number of the applicant;

2. Type of sign or sign structure as defined in this Chapter;

3. A site elevation plan showing the proposed location of the sign along with the locations and square footage area of all existing signs on the lot or building(s);

4. Location of building, structure or lot to which or upon which the sign or other advertising structure is to be attached or erected;

5. Position of the sign or advertising structure in relation to nearby buildings, structures or other signs;

6. Two-color elevation drawings, shown to scale, of the plans and/or specifications, materials, design, dimensions, structural support, methods of construction and attachment to the building, other structures or in the ground;

7. If required by the Building Department, a copy of stress sheets and calculations showing the structure is designed for the dead load and wind pressure in any direction in the amount required by this and all other applicable provisions of this Chapter, City codes and ordinances;

8. Name of person erecting the sign or other advertising structure, as defined herein;

9. Name and address and written consent of the owners of the building, structure or land to which or on which the sign or other advertising structure is to be erected;

10. Electrical specifications pertaining to the sign and wiring diagrams from the building, structure of which will illuminate or power the sign; and

11. Any other provisions the Building Department shall require showing full compliance with this Chapter and all other applicable codes and ordinances in effect.

C. LANDSCAPING: All signs affixed to the ground shall be landscaped in accordance with this Chapter and Section 21.13 of the Marengo Municipal Code.

D. MAINTENANCE: All signs and advertising devices shall be reasonably maintained in a clean, presentable and safe condition. All signs shall be inspected annually to enforce the provisions of this Chapter.

E. WINDOWS: Signs displayed in windows, whether temporary or permanent, shall cover no more than 30 percent of the square footage of the window pane surface.

F. WINDOWS: In no case shall windows be covered with plastic sheeting, paper or any other material that would obstruct the view through the window and cause blight to the building. In the case of construction and remodeling, the applicant may request written approval by the Code Official prior to installing such window coverings. Pull down window shading and tinting are not subject to this Section 16.03-F.

G. CLEARANCE: Signs and their supporting structures shall maintain clearance and non-interference with all surface and underground facilities and conduits for water, sewer, gas, electricity or communication equipment of lines. Furthermore, sign placement shall not interfere with natural or artificial drainage of surface or underground water.

H. EASEMENTS: New signs shall not be placed on or over any easement unless the easement is designated for the placement of signs.

I. SIGN CONTENT: The advertisement contained on any sign, except for temporary signs of a civic, political or religious nature, shall pertain only to the business, industry or pursuit conducted on or within the premises on which said sign is located.

J. GLASS: Any glass forming a part of any sign shall be safety glass. In the case the glass area exceeds three square feet, wire glass shall be used.

L. ILLUMINATION: Illumination of any sign shall not exceed 75 foot candles and shall comply with the City's electrical code.

M. NEON SIGNS: Interior neon signs shall be restricted to one per window pane. Not more than 30 percent of window shall be covered. The outer dimensions of the sign will be used to calculate the area of the neon sign.

N. SUPPORTS: New sign supports, such as posts, poles, pylons, uprights, braces, standard, etc., designed to raise the surface of the sign face above the ground, shall not be visible. They shall be enclosed in a material(s) which incorporates an architectural feature of the building and is similar in color to the building.

O. OBSTRUCTIONS: No sign or other street graphics 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

sign, signal or device. Accordingly, no street graphic shall contain the words “stop,” “go,” “caution,” “danger,” “warning” or other similar words.

P. LUMBER: Pressure treated lumber shall not be utilized as a finish product for any type of permitted sign.

16.04 REMOVAL OF CERTAIN SIGNS

A. Any sign which is located on any property or a building or portion thereof within the City which becomes vacant and unoccupied shall be removed within 30 days by the owner, agent or persons having the beneficial use of the property, building or structure upon which such sign may be found.

B. Any sign and its associated structure not used for a period of three months, or if the business so advertised is closed or otherwise abandoned for a period of three months, shall be removed and may not be erected or re-established unless in compliance with the requirements of this Chapter.

C. Permanent signs applicable to a business temporarily suspended because of a change in ownership or management may be granted a 30-day extension by the Code Official after a written application has been submitted and reviewed.

D. If the Code Official finds that any sign or other advertising structure is abandoned, unsafe or insecure, or is a menace to the public, or has been erected, or is being maintained in violation of this Chapter, he/she shall send written notice via certified mail to the permittee or owner thereof seeking compliance with the applicable provisions of this Chapter. If the permittee or owner fails to repair, maintain, alter or remove the sign structure, so as to comply with the requirements herein set forth, within a specified one-day or no more than 20 days after receipt of such notice, such sign or advertising structure may be removed by the Code Official at the expense of the permittee or owner of the property upon which it is located. The Code Official may cause any sign or other advertising structure which is an immediate peril to persons or property, to be removed summarily and without notice. The cost of such removal shall be the responsibility of the owner of such sign. Payment shall be due within 30 days or a lien shall be made against the property.

16.05 NON-CONFORMING SIGNS

A. Signs existing on the effective date of this Chapter (August 25, 2006) and not conforming to its provisions but which were constructed in compliance with previous City ordinances shall be regarded as non-conforming signs. A non-conforming sign shall not be:

1. Changed to another non-conforming sign;

2. Structurally altered as to prolong the life of the sign;

3. Expanded;

4. Re-established after its discontinuance for a period of 30 days;

5. Removed and replaced, or moved in whole or in part to another location, unless the sign and the use thereof, are in conformance with this Chapter;

6. Re-faced or had the copy changed;

7. Re-established after damage or destruction by means, including an act of God, exceeding 50 percent of the estimated value of the sign. For the purpose of establishing a value, all signs will be deemed to have a cost value of $1,000.00 unless a bill of sale, tax return or a written appraisal by a sign manufacture can prove the value; nor

8. A continued use with a change of business ownership or business lessee for more than 30 days.

B. No such repair, replacement or alteration shall be made to a non-conforming sign unless such repair, replacement or alteration will create a sign that conforms to the provisions of this Chapter. Minor maintenance such as bulb replacement and painting is allowed.

16.06 PROHIBITED SIGNS

The following signs are strictly prohibited everywhere within the City unless the sign was previously permitted by the issuance of a City permit. If the sign was permitted under a previous permit and not currently in compliance with this Chapter, it must comply with the provisions set forth in Section 16.05 Non-Conforming Signs, and, if applicable, the provisions of Section 16.11, Overlay District.

1. Mobile, movable and portable signs not affixed to the ground (e.g. flashing arrow signs);

2. Pennants, flags (other than those described in Section 16.07), streamers, ribbons, strings of lights (except as defined herein), spinners and other similar signs used as attention getters;

3. Signs attached to trees, fences or public utility poles, other than warning signs used by public utilities and entities;

4. Signs placed in any public right-of-way, other than warning signs used by public utilities and entities;

5. Defunct signs, including the support structure(s) that advertise or identify an activity, business, product or service no longer conducted on the premise where such sign is located;

6. Roof-mounted signs;

7. Billboards;

8. Pole signs;

9. Off-premise business signs with the exception of recreational sporting areas;

10. Off-premise real estate signs;

11. Projecting signs (except as permitted herein);

12. Abandoned signs;

13. Animated signs;

14. Signs placed or affixed to vehicles and/or trailers which are parked and visible from the public right-of-way where the apparent purpose is to advertise a product or direct people to a business activity located on the same nearby property. However, this is not in any way intended to prohibit signs placed on, or affixed to, vehicles and trailers, such as permanent lettering on motor vehicles where the sign is incidental to the primary use of the vehicle or trailer;

15. Signs which contain characters, cartoons, statements, works or pictures of an obscene, indecent, prurient or immoral character;

16. Illuminated signs in residential zoning districts (excluding the R-3 Single Family Zoning District);

17. Moving or rotating signs;

18. Folding and collapsible sign (sandwich boards); and

19. Portable signs.

16.07 PERMITTED SIGNS ALLOWED WITHOUT A PERMIT

The following signs may be erected within the City without obtaining a building permit, provided they comply with the provisions set forth herein. The area of said signs shall not be debited against the displaying establishments sign area allowance.

1. Construction signs identifying the architect, engineers, developers, realtor, 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 or continued leasing. Such signs shall not exceed 32 square feet in area, shall be confined to the site of the construction and shall be removed once the first occupancy certificate is issued.

2. Directional and informational signs erected for the convenience of the public and signs identifying entrances, exits, parking areas, no-parking areas, restrooms, public telephones, walkways and similar features or facilities. Such signs are limited to two and shall not exceed three square feet in area.

3. Special event signs when approved by the City Council. Special event signs shall be subject to the provisions for temporary signs.

4. Garage sale signs advertising a garage or yard sale on private residential property. Such signs shall not exceed four square feet in area, shall be confined to the premises on which the sale is conducted and shall not be posted more than three days.

5. Governmental public signs, such as traffic control signs, railroad crossing signs, legal notices, public safety signs and signs indicating the location of underground cables, etc.

6. Holiday decorations such as Christmas lights and ornaments, or special events such as birthdays, provided such decorations are removed within a reasonable time after the special event or holiday.

7. House numbers and/or name or occupant signs located on the lot to which the sign pertains. Such signs shall not exceed three square feet in area for a single family dwelling nor six square feet for multiple family dwellings.

8. Institutional signs for public, charitable or religious institutions. Such signs shall be located on the premises of the institution, shall not obstruct the vision of motorists and shall not exceed 24 square feet in area.

9. Integral signs carved into stone or inlaid so as to become part of the building and memorial tributes.

10. Signs communicating the history of the property such as historic markers or plaques affixed to buildings. Such signs shall not exceed five square feet.

11. Interior 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 not visible from the exterior of the building.

12. Property regulation signs such as no trespassing, no hunting and no fishing. Such signs shall not exceed three square feet.

13. Public interest signs publicizing a charitable or non-profit event of general public interest. Such signs shall only be erected upon private property. In any residential zoning district, such signs shall not exceed 16 square feet in area; elsewhere, such signs shall not exceed 32 square feet in area. Public interest signs shall be permitted only for 14 days before and seven days after such event.

14. 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 four square feet in area. On other property, such signs shall not exceed 16 square feet in area. Not more than one real estate sign per street front shall be erected on any one zoning lot. Such signs shall be removed within 24 hours after the sale, rental or lease.

15. Flags, consisting of not more than one each of the United States flag, state flag, municipal flag and/or corporate flag, provided that the flagpole for any such flag shall not exceed 30 feet in height, including the height of any such structure which it is mounted. The length of any such flag shall not exceed one-third of the height of the flag pole (including the height of any structure which it is mounted) to which it is attached.

16. Door labeling with applicable logos.

16.08 **CALCULATION OF SIGN AREA**

A. CALCULATION OF SIGN AREA: The calculation of sign area for every sign shall be calculated as follows:

1. If a sign is enclosed by a box or outline, the total area, including the background and including that outline, shall be deemed the sign area;

2. If a sign consists of individual letters, parts or symbols, the area of the one imaginary square or rectangle that would completely enclose all letters, parts or symbols shall be deemed the sign area; and

3. In calculating the sign area, only one side of any double-faced sign shall be counted.

B. SIGN AREA ALLOWANCE: Within the limitations and restrictions of this Chapter and all other applicable City codes, the total area of all signs which a particular establishment is permitted to display shall be computed according to the following provisions:

1. One and one-half (1.5) square feet of sign per one foot of lineal street frontage for the first 100 feet of such frontage, plus one square foot of sign area per one foot of frontage in excess of 100 feet of frontage.

2. No establishment shall display more than 300 square feet of signs.

3. If an establishment has frontage on two or more streets, each side having frontage shall be considered separately for the purpose of determining compliance with the provisions of this Chapter. However, the sign area allowances shall not be aggregated so as to allow any such establishment to display on any one frontage a greater area of signs than this Chapter would otherwise permit. No establishment shall have more than 300 square feet of signs.

4. The side of an establishment adjacent to an off-street parking area shall not be deemed frontage unless the establishment has no other frontage.

5. For strip centers that have no “street frontage,” the calculation of sign area shall be 1.5 square feet of sign area per one foot of width the occupancy (unit) has. Corner occupancies (units) are allowed one sign per side not to exceed the 1.5 square feet of signage per one square foot of width the occupancy contains.

6. Shopping center identification signs shall be calculated as follows; One and one-half (1.5) square feet of sign per one foot of lineal street frontage for the first 100 feet of such frontage, plus one square foot of sign area per one foot of frontage in excess of 100 feet of frontage and shall not be allowed signage in excess of 300 square feet.

16.09 TEMPORARY SIGNS (NOT INCLUDING MOBILE SIGNS)

The following temporary signs are permitted subject to the provisions set forth herein:

1. BANNERS: Banners or inflatable signs and advertising devices are permitted in the business, ORI Office, Research & Light Industrial and M Manufacturing districts for not more than 20 days in length consecutively and not more than five times a year. Banners or inflatable signs and advertising devices are subject to the following provisions:

   a. Banners shall not be greater than 50 square feet in area for a single or double sided banner.

   b. The maximum quantity of banners allowed per establishment shall be two with a maximum 100 square foot of sign area combined.

   c. The owner of such establishment shall obtain written approval from the Building Department prior to installing any banner(s) or inflatable sign(s) and advertising device(s). All banners installed shall have the date of installation marked in one bottom corner for the enforcement officer to view. The marking shall be minimum one-inch numerals.

   d. Banners or inflatable signs and advertising devices shall be located on the structure of such establishment doing such advertisement and or located within the property of such establishment. No such signs advertising shall be allowed to be installed on or in any state, federal or public right-of-way or on or in any easement public or private unless such easement is for the installation of signs.

   e. Charities, new business, grand opening and special events may be allowed to portray attention getting signage, pennants and streamers for a period not no exceed 30 days before and after the business grand opening, charity event or special event. All installations are subject to approval by the Code Official. To exceed 30 days, such organizations shall present their case to the Zoning Administer for approval.

2. POLITICAL SIGNS: Political signs are permitted provided they are displayed no more than 90 days prior to the election relating to the sign, or the first day of filing for the office, whichever is later, and must be removed within five days after the election. Such signs shall be limited to four square feet in any residential zoning district and not more than 32 square feet in all other zoning districts. No fee shall be required for the posting of temporary political signs. All political signs shall remain on private property.

3. SUBDIVISION/RESIDENTIAL/COMMERCIAL OR INDUSTRIAL DEVELOPMENT SITE(S): One temporary non-illuminated subdivision sign, not exceeding 32 square feet, located not less than 15 feet from any side lot line, is permitted for a period of one year. The applicable permit fee plus an approved permit from the Building Department is required. The permit may be allowed to be renewed at no cost providing construction is diligently pursued.

4. SPECIAL EVENT SIGNS: All special event signs are subject to City Council approval.

16.10 PERMITTED SIGNS

The provisions of this Section 16.10 allow signs on private property after obtaining sign permits, provided however said signs shall be subject to the provisions of this Section 16.10. The signs in this Section 16.10 are prohibited in any residential zoning district or on any property used extensively for residential purposes.

1. EXTERIOR ILLUMINATED SIGNS: All exterior illuminated signs shall be subject to the following provisions:

    a. Only white light shall be permitted.

    b. Beacon lights, strobe lights colored lights and illumination by flame are prohibited.

    c. The light which casts upon any illuminated sign shall be shaded, shielded or directed so as to avoid the creation or continuation of any nuisance or traffic hazard and avoid excessive glare or illumination to adjacent property.

    d. No matter its height or width, in no case shall the lighting intensity of any sign exceed the limit of 75 foot candles measured with a standard light meter perpendicular to the face of the sign at a distance equal to the narrowest dimension of the sign.

    e. No sign shall be either directly or indirectly illuminated in such a manner to adversely affect the use and enjoyment of nearby buildings.

2. WALL SIGNS: In addition to the sign area allowance, wall signs shall be subject to the following provisions:

    a. No wall sign shall cover wholly or partially any wall opening or architectural feature, nor shall any wall sign project beyond the ends of the wall or beyond the top of the building to which it is affixed.

    b. Wall signs must be affixed flat against the building wall. Any projection will be limited to the necessary mounting frame and shall not extend more than four inches.

    c. No wall sign shall be affixed to a wall at a height of less than four feet above the sidewalk or ground. If there is an adjacent sidewalk, wall signs mounted less than eight feet above the ground shall not be permitted unless flush against the wall.

    d. A wall sign shall be safely and securely affixed to the building wall to the satisfaction of the Building Department.

    e. Wall signs may be located either on the front of the building abutting a street or on either side wall perpendicular to the street frontage. Buildings that have more than one entrance from public ways are allowed to have a wall sign affixed to the wall sharing the entrance.

    f. In no case shall a wall sign be allowed to be affixed to a portion of a wall without street frontage that extends higher than its neighboring building.

    g. No more than one wall sign shall be allowed per business or use per building side.

    h. Multiple unit buildings are allowed a wall sign indicating tenants and individual units. The maximum square footage of the outline of signage containing the individual tenants shall not exceed 25 square feet.

3. Freestanding Signs: In addition to the sign area allowance, freestanding signs are subject to the following provisions:

   a. Not more than one freestanding sign shall be displayed on any street front of any lot.

   b. Freestanding signs shall not exceed seven feet in height the any business, ORI Office, Research & Light Industrial or M Manufacturing zoning districts. Height is measured from the adjacent “normal” grade to the top of the sign.

   c. No freestanding sign shall be erected closer than 25 feet to any side, corner side or rear lot line.

   d. Freestanding signs shall not portray signs in excess of 85 square feet. In determining sign area, the base of such free standing sign does not count as square footage, providing there are no signs attached to it.

   e. No part of a freestanding sign shall intrude or project over any public right-of-way. All structural supports shall be situated at least 10 feet from any public right-of-way.

   f. All freestanding signs shall be securely constructed and erected. At the discretion of the Building Department, construction plans may be required to be certified by a registered architect or engineer. Such plans will ensure compliance with applicable wind, seismic and snow loads.

   g. Unless the sign is mounted on a concrete base at least three feet in height, any freestanding sign within three feet of a driveway, parking area or maneuvering area shall be completely surrounded by curbing that is not less than three feet from the outermost perimeter of the sign.

   h. All freestanding signs shall be located a minimum of 80 feet apart.

4. MONUMENT (GROUND) SIGNS: In addition to the sign area allowance, monument signs are subject to the following provisions:

   a. No part of any monument sign shall intrude into any public-right-of way.

   b. No monument sign shall be closer than 25 feet to any side, corner side or rear lot line.

   c. No monument sign shall exceed 85 square feet and, if applicable, is subject to the dimensions listed in Section 16.11. If a base is constructed to raise the monument sign, the maximum surface area of the sign and base shall not exceed 100 square feet in area, based on constraints listed in Section 16.08.

   d. No monument sign shall exceed seven feet. Height is measured from the adjacent “normal” grade to the top of the sign.

   e. All monument signs shall be located a minimum of 60 feet apart.

5. AWNINGS AND AWNING SIGNS: Awning signs are subject to the following provisions:

   a. The total area of an awning sign shall not exceed 50 percent of the total area of the awning.

   b. Awnings and awning signs shall be constructed so that the lowest portion thereof is not less than eight feet above the sidewalk of parkway.

c. Every awning shall be securely attached to and supported by the building. Posts or columns beyond the building line shall not be permitted.

d. No awning shall be permitted to extend beyond a point two feet inside the curb line.

e. Lettering incorporated as signage on an awning shall not exceed 24 inches in height.

f. Awning signs shall only portray the copy of the business name of the establishment doing business on such property.

g. Awnings shall be limited to the street level story of every multiple story building.

h. Every awning and awning sign shall be maintained in a neat and attractive condition by its owner. The awning materials and hardware shall be kept painted and/or treated to prevent rust and/or deterioration.

6. CANOPIES AND CANOPY SIGNS: In addition to the sign area allowance, canopies and signs attached to canopies are subject to the following provisions:

a. There shall be a limit of one canopy sign per canopy face and one canopy per street frontage erected for the purpose of identifying the establishment and provided that no wall signs are directed to the same street frontage.

b. Canopy signs may only be mounted to the face (vertical edges only) of the canopy proper.

c. The sign area for a canopy sign shall not extend beyond the canopy face on which the sign is located. No sign or portion of a sign shall exceed the borderline of any outer edge of said canopy. No sign shall be placed on the roof of said canopy.

d. The outline shape and silhouette of a copy sign shall be simple and compatible with the building it is mounted on.

e. Canopy signs shall be harmonious in scale and proportion with the building they are mounted to and with the architectural elements of the building.

f. A canopy shall not extend beyond a point two feet inside the curb line.

g. All canopy supports shall be designed so as not to obstruct the continuous flow of pedestrian traffic along any sidewalk and in conformance with any other reasonable requirements established by the Code Official.

h. No advertising shall be placed on any canopy except for the name of the owner and business, industry or pursuit conducted within the premises.

i. Canopy signs shall not be illuminated.

7. MARQUEES: Marquee signs are subject to the following provisions:

a. The roof of all marquees shall be guttered and connected by downspouts to a drain so water will not drip or flow directly onto public property.

b. The roofs of all marquees shall be used for no other purpose than to form and constitute a roof.

c. No portion of a marquee shall be less than eight feet above the level of the sidewalk or other public thoroughfare. However, if the marquee extends beyond two-thirds of the distance between the building and the curb, it must be 12 feet above the sidewalk.

d. No marquee shall be permitted to extend beyond a point two feet inside the curb line.

e. Marquees shall be supported solely by the building to which they are attached and no columns or posts shall be permitted as supports.

f. The roof of any marquee shall be designed and constructed to support a live load of not less than 60 pounds per square foot.

g. Marquees shall be designed to withstand wind pressure of not less than 80 miles per hour.

h. There shall be a limit of one marquee sign (per marquee face) per building, erected for the purpose of identifying the establishment and provided that no wall signs are directed to the same street frontage.

i. Marquee signs shall be mounted on the face (vertical edges only) of the marquee proper. Signs shall not be erected above the roof line of the marquee.

j. The sign area for marquee signs shall not extend beyond the marquee face on which the sign is located. No sign or portion of a sign shall exceed the borderline of any outer edge of said sign. No sign shall be placed on or over the roof of said marquee.

k. The surface area of a marquee shall not exceed 40 percent of the sign area of a marquee attached to the building front.

l. The outlined shape and silhouette of a marquee sign shall be simple and compatible with the building it is mounted on. Shapes that disrupt the architectural order and composition of a building façade are not acceptable.

m. Marquee signs shall be harmonious in scale and proportion with the building they are mounted to and with the architectural elements of the building. A marquee sign shall not visually overpower those elements nor detract from the composition of a buildings façade.

n. Marquee signs shall be constructed of non-combustible materials.

o. Marquees outside the designated area of Overlay District may only be internally illuminated or back-lit.

8. MURALS: Murals are subject to the following provisions:

a. All murals to be painted on any building within the City are required to appear before the Planning and Zoning Commission for a recommendation to the City Council and final approval from the City Council.

b. Information should be submitted to the Zoning Administrator, to be placed on Planning and Zoning Commission and City Council agendas. The following information shall be submitted for review:

I. An 8-inch by 10-inch color photo of building face the mural is to be painted upon; and

II. An 8-inch by 10-inch color sketch or painting of the actual mural to be painted on the building face.

16.11 OVERLAY DISTRICT SIGNAGE

In addition to the applicable provisions set forth in this Chapter, all exterior fixed signs proposed within the following locations shall be subject to the following provisions. Prior to granting a permit for the erection of a sign to be located anywhere within the Overlay District and/or a Historic District, as defined pursuant to the Historic Preservation Ordinance (Ordinance 00-11-3 and amended by Ordinance 05-11-2), the applicant shall make application to the Code Official, who will require the MHPC to review the application and submit its recommendations.

1. OVERLAY DISTRICT AREA: For the purposes of this Section 16.11, the Overlay District incorporates all buildings located within the following locations:

   a. All buildings within the City that have frontage on the streets that are within two blocks north and south of the centerline of US Route 20 and;

   b. All buildings within the City that have frontage on the streets that are within two blocks east and west of the centerline of US Route 23.

2. All proposed signs within the designated area of the Overlay District and a Historic District shall be subject to the following guidelines and stipulations:

   a. All signs shall are subject to the provisions of this Chapter.

   b. Sign materials shall be similar to those used historically. Substitute materials with the same appearance may be approved.

   c. All signs shall be subordinate to the overall character of the area and they should be subordinate to the individual building or buildings they are related.

   d. Neon signs may have achieved historic significance on building styles related to the modern era and may be allowed to continue.

   e. Ground or freestanding signs shall be set back from the property line a minimum of 10 feet.

   f. Florescent, neon or other bright garish colors shall not be approved. Historic colors and earth tones are recommended.

   g. Monument and freestanding signs shall be low in scale and visually relate to the building. The maximum size shall be 32 square feet. They must also conform to the provisions set for in Section 16.10.

   h. Lettering style shall be compatible with the time the building was erected or to a period the building currently reflects or compatible with the surrounding area, as determined by the MHPC.

   i. All three dimensional signs shall be of a style used at the time the building was erected or compatible with the surrounding area, as determined by the MHPC, and should pertain to the type of business conducted within.

   j. Signs affixed to buildings may only be externally illuminated by fixtures compatible with the period in which the building was erected, or to a period the building currently reflects or compatible with the surrounding area, as determined by the MHPC.

k. All signs shall be constructed or painted in a workmanlike manner and all lettering shall be of uniform size and style.

l. Signs of a period other than when the building was erected may be approved if they are of a special design merit, reflective of an era, consistent with the building façade having undergone significant remodeling or compatible with the surrounding area, as defined by the MHPC.

m. Any original sign that was used at the time the building was constructed or prior to the year 1900, or an authentic facsimile thereof, may be replaced on that building subject to the structural and maintenance guidelines of the City.

n. Within the Overlay District area or a Historic District, signs shall identify only the name of the business and the general type of goods, products or service(s) offered. In addition to lettering, graphics may include a trademark, symbol or other representation directly related to the use but not advertising specific brands within the building. A brand name or symbol may be included, however, if the business is a franchise and/or it is the major brand sold or service offered on the premises.

o. The Code Official may forward any application to the MHPC for review to confirm compliance with the provisions of this Section 16.11. All external permanent signage may require MHPC approval.

p. Canopies attached to building are not permitted.

3. ILLUMINATION: Signs shall not be illuminated in any manner between the hours of 9:00 p.m. and 8:00 a.m. unless tied to the business' hours of operation within the B-1 Central Business District and business districts with transitional yards, as provided in the zoning regulations of this Chapter and Chapter 22, the Marengo Zoning Code.

16.12 STRUCTURAL AND MAINTENANCE REQUIREMENTS

The structural condition and general maintenance obligations of the owners of all signs within the City are subject to the following provisions:

1. BRACING: In addition to the main attachment of a sign, any extra bracing, angle iron, guide wires, temporary supports or any other item that assist the sign to be affixed to any structure are prohibited. All signs shall be structurally affixed to buildings using best building construction practices and shall comply with the City's current building code.

2. MAINTENANCE:

a. Every sign or other street graphic shall be maintained in a neat and attractive condition by its owner. Sign skins shall not be allowed to fade to a point the messages are unreadable. Sign supports shall be kept painted and/or treated to prevent rust or deterioration.

b. All electrical components of existing signs shall be kept in compliance with the City's current electrical code.

c. The Code Official shall determine the time frame for compliance.

16.13 ADMINISTRATION AND ENFORCEMENT

A. The Code Official is authorized and directed to administer and enforce the provisions of this Chapter. The responsibility encompasses, but is not limited to the following specific duties:

1. Review and pass upon compliance applications for street graphics and signs;

2. Inspect existing and newly constructed signs and street graphics to determine compliance with the provisions of this Chapter. Where violations are evident, to initiate the appropriate corrective action;

3. Review and forward to the MHPC and/or the Planning and Zoning Commission all applications for special signs or street graphic permits, variances, appeals or request recommendations from each respective Commission to approve such application;

4. Maintain up-to-date records of applications and any official actions taken to pursuant thereto;

5. Periodically review the provisions of this Chapter to determine whether revisions are needed, and to make recommendations on these matters to the Planning and Zoning Commission, MHPC and City Council;

6. To provide information to the general public on matters relating to this Chapter; and

7. To perform such other duties as the City Council may from time to time prescribe.

B. PENALTIES: Any person violating any provision of this Chapter shall be fined pursuant to Section 1.07 of the Marengo Municipal Code and shall be responsible for reasonable attorney's fees incurred by the City in the prosecution of such violations. Each day a violation is committed, or permitted to continue, shall constitute a separate offence and shall be punishable as such hereunder.

C. APPEALS:

1. Any person shall have the right to appeal a decision of the Code Official or MHPC to the Planning and Zoning Commission. An application for appeal shall be based on the claim that the true intent of the regulations of this Chapter have been incorrectly interpreted, that the provisions of this Chapter do not fully apply, or that an equivalent form of construction is to be used.

2. The appeals procedures shall be those utilized by the City with respect to appeals of the Building Code Official or pursuant to the Historic Preservation Ordinance, whichever is applicable.

CHAPTER 17
PURCHASING STANDARDS AND PROCEDURES

17.01 Purpose
17.02 Policies
17.03 Purchase Authority
17.04 Purchase Orders
17.05 Open Purchase Orders
17.06 Vendor Payment
17.07 Joint Purchasing
Check Request Form
Quotations Form

17.01 PURPOSE

The purpose of this Chapter 17 is to establish uniform standards and procedures to be followed by all City departments, the City Council and commissions in the purchase of all commodities.

17.02 POLICIES

The purchasing standards and procedures set forth herein are designed to:

1. Attain maximum economy in municipal operations to the ultimate advantage of local taxpayers and residents; and

2. Provide equal opportunity for qualified vendors to serve City needs.

17.03 PURCHASE AUTHORITY

In general, all supplies, materials, equipment and contractual/professional services required for operational efficiency shall be included in the annual budget. Purchase of same as required during the fiscal year shall proceed in accordance with these procedures upon approval of the annual budget by the City Council. When approval of the Administrator is specified, this does not pertain to the Police Department. Approval for Police Department expenditures is authorized in the manner prescribed by the Police Chief.

Although included in the annual budget, certain equipment, projects or services may be placed in a contingency status by the City Council as part of its approval process. When action on such contingency items is desired by the administrative staff, detailed justification of each item must be presented to the Administrator for review and approval consistent with the City Council's budget/fiscal policies.

Department heads may authorize purchases, as identified in the operating budget, up to $2,000. The Administrator, or designee, must also approve all purchases between $2,000 and $9,999.99. Purchases in excess of $10,000 require City Council approval.

Each department head of the City shall be responsible for its own department's purchasing needs in strict compliance with the procedures set forth herein. No department may make charges against budget accounts of other departments.

The Finance Department is responsible for determining if an item is budgeted, adequate funds are available and proper purchasing procedures are followed.

17.04 PURCHASE ORDERS

A purchase order must be prepared for the following purchases:

1. Any purchase of goods or services in excess of $500.

2. Any purchase from a source determined by a formal bid, bid waiver or formal quotation.

3. Any capital outlay item.

4. Any case where the vendor requires a purchase order.

Exclusive of the above requirements, a department head may request that a purchase order be prepared at any time they feel it is best or prudent to do so. Department heads must approve all purchase orders. Purchase orders over $2,000 also require approval by the Administrator before a purchase is initiated.

The purchase order is prepared in three parts with distribution as follows:

White Copy: Mailed or delivered to vendor.

Yellow Copy: Retained by requesting department.

Pink Copy: Ultimately routed to the Finance Department for payment after receipt of goods/services and vendor invoice.

Purchase orders shall be issued in numerical sequence by the Finance Department. The Finance Department shall keep a log of purchase order numbers that have been distributed on a department by department basis.

All purchase requisitions and purchase orders must have the price of the goods stated. If it is absolutely impossible to list the exact price, an estimated price may be used with the letters "EST" placed above the price. Freight charges should be included on a requisition if possible. If not known, the requisition must state "Plus Freight."

It must be remembered that a purchase order is actually a contract between a vendor and the City. The purchase order must be prepared with this in mind. All purchase orders must bear, as near as possible, delivered price to avoid any problems in billing. A purchase order with no price shown is actually not a purchase order.

17.05 OPEN PURCHASE ORDERS

In certain circumstances where vendors are used frequently, an open purchase order may be set up at the beginning of the year as approved by the Treasurer. A purchase order must be approved by the department head (and Administrator if over $2,000) before initiating the purchase. The white copy of the purchase requisition is mailed or delivered to the vendor. The yellow copy is retained by the requesting department and the pink copy, or photocopy if purchase order amount is not satisfied, is ultimately forwarded to the Finance Department after receipt of the goods/services and vendor invoice.

17.06 VENDOR PAYMENTS

The department ordering the goods or services is responsible for the accuracy of expense accounts used and that purchases fall within budget parameters.

Upon receipt of ordered items, the department must indicate the quantity received complete with the initials of the employee receiving the delivery and the date received. In the event of a back order or incomplete delivery, notation of the applicable situation will be entered on the purchase order. When such items are later received, a photocopy of the original purchase order showing the partial shipment detail will be completed.

Unless otherwise noted on receiving documents, it will be assumed by the Finance Department that the ordering department is completely satisfied with the quality and condition of items received.

All applicable quotation forms, vendor invoices, purchase requisitions and purchase orders, approved for payment by the department head or designee, and the initialed receiving report must be forwarded to the Finance Department for payment processing. These documents must be accompanied by a check authorization request form. All other data, including material data sheets shall be kept by the ordering department.

A check authorization request form, found at the end of this Chapter 17, authorizes payment for completed purchases and should include the following information: name and address of vendor, purchase order number if applicable, invoice date, invoice number, total invoice amount, account number(s), amount charged to each account, indicated full or partial payment and signature of department head. The Finance Department will assign the voucher number (if no purchase order is required) and vendor number and ensure an IRS Form W-9 is on file.

Check authorization request forms delineate the payment of bills as either interim (prior to City Council approval) or City Council bills (semi-monthly, after City Council approval).

Generally, the only interim check request which will be approved are payments which take advantage of "early payment" discounts or for other extenuating circumstances as may be described by the department head. The check authorization request form should distinguish between partial and full payment. Extra care should be given to insure that each expense has been properly coded to the appropriate line item.

Check authorization requests will not be approved without an invoice and, if applicable, signed purchase order except under extraordinary circumstances communicated to and approved by the Administrator.

17.07 PURCHASING PROCEDURES

A. PURCHASE IN EXCESS OF $10,000: City ordinance requires that all purchases made from one vendor for a particular item or like types of items exceeding a cost of $10,000 must be accomplished through formal bidding procedures or by a bid waiver approved by the City Council. If doubt exists as to whether formal bidding is required, the Treasurer shall be contacted before any purchase is initiated. The splitting of a purchase into two or more purchase orders for the purpose of avoiding the bidding process is prohibited.

In certain circumstances it may be felt by the department head or the Administrator the best interests of the City would be served by a purchase from one particular vendor despite the purchase amount being in excess of $10,000. In such cases, a request to waive competitive bidding must be submitted to the City Council for its consideration and approval.

B. PURCHASES IN EXCESS OF $2,000 BUT LESS THAN $10,000: At least three quotations and approval of the Administrator are required before such a purchase can be effectuated.

The department head shall secure at least three verbal or written quotations or proposals from perspective vendors for the item or service. As in the case of formal bidding, the purchase shall be made from the lowest responsible quotation. A Quotation Form (found at the end of this Chapter 17) on the results of a quotation and vendor award recommendation shall be forwarded to the Administrator for approval.

In the event a department head feels that a purchase under this category should be made from one certain vendor rather than through quotations, a recommendation to do so is to be directed to the Administrator. In effect, this is a quotation waiver.

If it is found that a dire emergency condition exists and a purchase in excess of $2,000 must be made to remedy the emergency, the department head may make such purchase if verbally authorized by the Administrator. The department head must report the purchase to the Administrator by memorandum as expeditiously as possible relating the full facts concerning the emergency and the costs incurred. An emergency condition is described as a condition where the health, safety and/or welfare of the City or its residents are affected.

C. PURCHASES IN EXCESS OF $500 BUT LESS THAN $2,000: Every effort should be taken to secure at least three quotations before deciding on a suggested vendor. The requesting department should secure the quotations themselves. A Quotation Form should also be prepared for these purchases.

In the event that a department head feels that a purchase under this category should be made from one certain vendor rather than through quotations, s/he should submit a memorandum with the purchase order stating the reasons for the certain vendor preference.

D. PURCHASES LESS THAN $500: Purchases in this category can best be described as those day-to-day purchases needed to perform a job or service.

Department heads are responsible for the purchases made by personnel within their department. They may delegate this purchasing authority to subordinates, but still bear responsibility that these procedures are followed.

Although day-to-day, purchases under $500 may be done without a purchase order and without prior approval, the responsibility still exists for making the most economical purchases. Spot price checks and surveys must be made from time to time to ensure that the price being paid is the best price available and that the quality is the best that is required.

Day-to-day purchasing should be made through that vendor who offers the best usable product at the lowest price. Also, accepting deliveries should rate preference over picking up where no delivery/premium charges are involved and there is no immediate need for the item.

When receiving an item purchased under informal buying, a receipt or packing slip should be obtained. This receipt is to be turned in to the department head who is to prepare a check authorization request (see Section 17.06, Vendor Payments).

E. PETTY CASH: Petty cash funds are established to pay for infrequent purchases that are under $30 and require immediate payment. Tolls, parking, filing fees, etc., are traditional expenses that fall into this category. Department heads must approve the petty cash reimbursement vouchers. The Finance Department will conduct periodic audits of the petty cash fund.

F. PURCHASES OF A REPETITIVE NATURE: It is not always practical to obtain competitive quotations for certain purchases that are repetitive in nature. The market must be periodically tested by the department head to determine if the current supplier is the most economical.

17.08 JOINT PURCHASING

A. STATE PURCHASING: Certain items are annually let for bids by the Procurement Division of the State of Illinois. Any unit of government in the state may avail themselves of these bid prices. Purchasing through State Purchasing may satisfy the requirement for bidding even though the purchase may be in excess of $10,000.

When items are purchased through the State Purchasing vendor, the department head prepares a purchase order as normally prescribed, but also submits a copy to the State of Illinois Procurement Division. Typed on this purchase order must be the Vendor Number and Contract Order Number. These numbers appear on the State Purchasing contract for that item.

B. COOPERATIVE PURCHASING: It may also be beneficial for the City to join with other units of local government in securing price quotations and in bid letting. Periodic checks of what other governmental units are paying can confirm whether the City is receiving a good price. If a neighboring municipality is contemplating the bidding of a particular item which is also to be bid by the City, the joining of the two municipalities may result in a lower price.

CITY OF MARENGO - - CHECK REQUEST FORM

TO: FINANCE DEPARTMENT DATE: _____

FROM: _____
(Department)

REQUEST FOR: PAYMENT

_____ CHECK IN THE AMOUNT OF $ _____ FULL _____ PARTIAL _____

MAKE CHECK PAYABLE TO:
NAME:_____
ADDRESS: _____
CITY: _____ STATE: _____ ZIP: _____INVOICE #: _____
INVOICE DATE: _____ P.O.#: _____ BUDGET ACCOUNT#: _____

ADDITIONAL COMMENTS:

REQUESTED BY: _____
(Signature)

APPROVED BY: _____
(Department Head)

CITY ADMINISTRATOR AUTHORIZATION: _____
(If Required)

Attach supporting documents: invoice, receipt, order form, etc.

FINANCE DEPARTMENT USE ONLY ACCOUNT DISTRIBUTION

	ACCOUNT NUMBER	AMOUNT
Vendor No. _____	*	_____
Check No. _____	*	_____
Date: _____	*	_____
Amount: _____	*	_____
Paid From: _____	*	_____

QUOTATIONS

COMPANY NAME	CONTACT	PHONE	PRICE			
			ITEM 1	ITEM 2	ITEM 3	ITEM 4
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____

DEPARTMENT HEAD _____

CHAPTER 18
BIDDING AND CONTRACT PROCEDURES

18.01 Competitive Bidding Required
18.02 Formal Contract Procedure
18.03 Advertisements
18.04 Scope of Notice
18.05 Bid Deposit
18.06 Bid Opening Procedure
18.07 Rejection of Bids
18.08 Bidders in Default to City
18.09 Award of Contract
18.10 Open Market Procedure
18.11 Officer and Employee Contracts
18.12 Emergency Purchases
18.13 Cooperative Purchasing
18.14 State and Federal Laws
18.15 Penalty
Invitation to Bid
Instructions to Bidders
Proposal Form

18.01 COMPETITIVE BIDDING REQUIRED

Any work or other public improvement that 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.

18.02 FORMAL CONTRACT PROCEDURE

All work or other public improvement that 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 $10,000, shall be purchased for the lowest responsible bidder, after due notice inviting bids, unless competitive bidding is waived by a vote of two-thirds of the Aldermen then holding office.

18.03 ADVERTISEMENTS FOR BIDS

Unless waived by the City Council, a 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. A sample notice, titled *Invitation to Bid*, can be found at the end of this Chapter 18.

18.04 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 shall specify the time and place for opening bids. A sample *Instructions to Bidders* can be found at the end of this Chapter 18.

18.05 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 his failure to enter into a contract within 10 days after the bid is awarded.

Such bid deposit may be in the form of a bank cashier's check, bank draft, bid bond or certified check bond in an amount as specified in the advertisement for bids to ensure finalization of the contract and to indemnify the City against all loss, damages and claims that may accrue against the City as a consequence of the awarding of the contract.

18.06 BID OPENING PROCEDURE

A. SEALED BID: Bids shall be submitted sealed to the City and shall be identified as bids on the envelope. A sample proposal form can be found at the end of this Chapter 18.

B. OPENING: Bids shall be opened in public at the time and place stated in the public notice. When any bidders are present all the bids shall be read aloud.

C. 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.

18.07 REJECTION OF BIDS

The City, through the Mayor and City Council, shall have the authority to reject all bids or parts of all bids or waive technicalities when the public interest will be served thereby.

18.08 BIDDERS IN DEFAULT TO THE CITY

The City shall not accept the bid of a contractor who is in default on the payment of taxes, licenses or other money due the City.

18.09 AWARD OF CONTRACT

A. AUTHORITY OF CITY: The City Council shall have the authority to award contracts within the purview of this Chapter 18.

B. LOWEST RESPONSIBLE BIDDER: Contracts shall be awarded to the lowest responsible bidder on the basis of the bid that is in the best interests of the City to accept. In awarding the contract, in addition to price, the City Council shall consider:

1. The ability, capacity and skill of the bidder to perform the contract and to provide the service required;

2. Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference;

3. The character, integrity, reputation, judgment, experience and efficiency of the bidder;

4. The quality of the performance of previous contracts or services;

5. The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service;

6. The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service;

7. The quality, availability and adaptability of the supplies or contractual services to the particular use requires;

8. The ability of the bidder to provide future maintenance and service for the use of the subject of the contract; and

9. The number and scope of conditions attached to the bid.

C. 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 and to conform to the statutory requirements for such bonds.

18.10 OPEN MARKET PROCEDURE

All work and purchases of supplies, materials and services of less than the estimated value of $10,000 shall be made in an open market, without newspaper advertisement and without observing the procedure prescribed by this Chapter 18 for the award of formal contracts in such a manner so as to ensure the best interests of the public after solicitation of bids on proposals by mail, telephone, facsimile transmission or otherwise.

18.11 OFFICER AND EMPLOYEE CONTRACTS

Contracts with appointed officers and/or employees shall be exempt from the provisions of this Chapter 18.

18.12 EMERGENCY PROCEDURES

In case of an apparent emergency that requires immediate work or purchase or supplies, materials or services, the City Council shall be empowered to secure by open market procedures as herein set forth, at the lowest obtainable price, any work, supplies, materials or services regardless of the amount of the expenditure. A finding of such an emergency shall be made in an affirmative vote of at least two-thirds of the City Council at the time of such emergency contract or no later than the first regular City Council meeting thereafter.

18.13 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.

18.14 STATE AND FEDERAL LAWS

Where applicable, all federal and state laws shall be observed including, but not limited to the Prevailing Wage Act (820 ILCS 130/0.01 et seq.), the Illinois Human Rights Act (775 ILCS 5/1-101 et seq.), Public Works Employment Discrimination Act (775 ILCS 10/0.01 et seq.), the Illinois Blacklist Trade Law (775 ILCS 15/1 et seq.) and the Public Works Preference Act (30 ILCS 560/0.01 et seq.).

18.15 PENALTY

A. Any bid and/or contract in contravention which results from procedures in contravention or inconsistent with those set forth in this Chapter 18 shall be void.

B. Any person violating any portion of this Chapter 18 shall be fined not less than $100 nor more than $500, for each offense and be responsible for the City's cost of prosecution. Each day that a violation continues shall be considered a separate offense.

INVITATION TO BID
City of Marengo

Invitation to Bid: The City of Marengo will receive bid quotations for _____
_____
_____.

Sealed bids will be received in the office of the City Clerk until _____, Prevailing Time, _____ and opened in the Council Room at that time.

The contractor shall observe ordinances adopted by the City regarding prevailing wage rates and such other laws and regulations regulating wage rates.

Each bidder shall certify evidence of an adopted written sexual harassment policy pursuant to 775 ILCS 5/1-105 along with the bid.

The City reserves the right to modify or waive technicalities in specifications, reject any or all bids, to waive irregularities or accept the bid that in its opinion will serve its best interest. It is the successful bidder's responsibility to pay the prevailing wage for this type of work in accordance with Illinois law as well as comply with all other state and federal regulations imposed on the City pertaining contractual work. Detailed specifications and bid forms may be secured from the Marengo City Hall, 132 East Prairie Street, Marengo, IL 60152, during regular business hours.

INSTRUCTIONS TO BIDDERS

FOR THE CITY OF MARENGO,
McHENRY COUNTY, ILLINOIS

1. Receipt of Bids:

2. Basis of Bids: Sealed bids will be received until the above-noted time and date.

3. Project Description:

4. Preparation and Submission of Bids:

   A. Each bid shall be submitted in duplicate on the exact form furnished. All blank spaces for bid prices, unit costs and alternatives must be filed in, in ink, in both words and figures. In case of any discrepancy in the amount of the bid, the prices expressed in written words shall govern.

   B. The proposal must be delivered to the office of the City Clerk, Marengo City Hall, 132 East Prairie Street, Marengo, IL 60152, on or before _____, prevailing time, _____, at which time they will be publicly opened. Proposals received after this time will not be considered.

   C. The proposal shall be submitted in an opaque sealed envelope on or before the time stated and shall bear the name of the individual, firm or corporation submitting the bid and the title of the project.

   D. Bidders may attach separate sheets to the proposal form for the purpose of explanation, exception or alternate proposal and to cover unit prices required.

   E. By submitting a bid, the bidder understands and agrees that, if that proposal is accepted and the bidder fails to enter into a contract forthwith, the bidder shall be liable to the City for any damages the City may thereby suffer.

   F. Bids may not be modified after submittal. Bidders may withdraw proposals either personally or by written request at any time before the hour set for the bid opening, but may not resubmit them. No proposal may be withdrawn or modified after the bid openings except if the award of contract has been delayed for a period more than 45 days.

5. Basis of Award:

A. The City of Marengo reserves the right to waive any informality in or to reject any or all bids and to accept any bids deemed most favorable to the interest of the City after all bids have been examined and tabulated.

B. The City may award a contract on individual items within a particular group or upon the total group of items.

6. Breakdown of Costs: Delivered and Installed: Include unit and total costs per item for the delivery of the item[s] (uncrated and blanket wrapped in padded vans and installation of the item[s] --- optional) to their designated locations ready for use.

7. Substitutions:

A. Certain materials and equipment are specified by a manufacturer or trade name to establish standards or quality and performance and not for the purpose of limiting competition. Bidders are invited to submit bids not only on named items but also on items that they propose for substitution of named items. Products of other manufacturers may be substituted if, in the opinion of the City, they are equal to those specified in quality, performance, design and suitability for intended use. When two or more items are specified, the selection among those specified is the contractor's option, or contractor may submit a bid on all such items.

B. Bids shall be based on materials and equipment included in the specifications. Substitutions for the purpose of evaluating bids will be considered only if proposed substitutions are set forth in a sealed bid and will only be accepted prior to the award of contract. The offer of substitutions shall be an integral part of the proposal, appearing immediately after all requested bids and before the signature of the bidder for the entire proposal.

C. Substitutions of materials other than those specified will not be considered in the base bid price. However, other substitutions may be listed in the specified place in the proposal form, with the indication of the change in the base bid price for the entire work.

D. In addition to the requirements heretofore mentioned, in order for substitutions to qualify for consideration, the following shall accompany each proposal:

I. Each proposed substitution shall be itemized showing manufacturer's name, catalog number, quantity, unit cost and total cost. The bidder shall prepare the necessary forms to list his substitutions in the manner outlined.

II. Each proposal offering substitutions shall be accompanied by descriptive literature, catalog date, complete technical specifications and reports of all pertinent tests concerning the bidder's proposed substitutions.

III. Within five days after request by the City, each bidder offering substitutions shall deliver an assembled sample of each proposed substitution. Delivery charges shall be prepaid by the bidder.

CITY OF MARENGO
PROPOSAL FORM
(To Be Submitted in Duplicate)

PROJECT IDENTIFICATION NAME:

CONTRACTOR'S NAME:

ADDRESS:

TELEPHONE NUMBER:

1. Cost of Work:

The undersigned, having familiarized himself with the conditions affecting the cost of the work and its performance and having carefully examined and fully understood **Instructions to Bidders**, hereby affirms and agrees to enter into a contract with the **City of Marengo, Marengo, Illinois.**

TO PROVIDE, all supervision, labor, material, equipment and all other expense items to perform completely the **Entire Work** covered by all specifications for the **Entire Work.**

For the lump sum of:_____
Dollars ($ _____)

Unit Price _____ Total Price _____

2. Costs:

The undersigned hereby affirms and states that the prices quoted herein constitute the total cost to the City for all work involved in the respective items and that this cost also includes all insurance, royalties, transportation charges, use of all tools and equipment, superintendence, overhead expense, all profits and all other work services and conditions necessarily involved in the work to be done and materials to be furnished in accordance with the requirements of the **Contract Documents** considered severally and collectively. All bids shall be held valid for a period of 45 days after the bid due date.

3. Delivery Requirements:

The undersigned hereby affirms and states that the prices listed as "Delivered and Installed" are the unit and total costs for the delivery of item[s] (uncrated and blanket wrapped in padded vans and the installation of the item[s] ---optional) to their designated locations ready for use.

4. Time of Completion:

The undersigned affirms and declares that if awarded the Contract he will completely perform said contract in strict accordance with its terms and conditions within _____consecutive calendar days after notification of award of contract.

5. Specifications:

Furnish all labor, material, equipment and services necessary for said Contract, in accordance with the following specifications and drawings (if required) as attached.

6. Conditions:

A. I understand the City is exempt from Federal Excise Tax and the Illinois Retailer's Occupation Tax. I hereby certify that this **Proposal** does not include any amounts of money for these taxes.

B. To be valid, bids shall be itemized so that selection for purchase may be made, there being included in the price of each item the cost of delivery, insurance, bonds, overhead and profit.

C. The City reserves the right to add to or deduct from base bid and/or alternate bid any item at the prices indicated in itemization of bid.

7. Alternate Materials and Equipment:

A. Whenever, in any section of the contract document, any article, material or equipment is defined by describing a proprietary product, by using the name of a manufacturer of vendor, the specific article, material or equipment mentioned shall be understood as indicating the type, function and equality desired and shall not be construed in such a manner as to exclude manufacturer's products or comparable quality, design and efficiency as approved by the City Engineer.

B. All materials, construction procedures and methods within the contract documents set for a minimum condition.

C. All materials furnished on this project shall bear the manufacturer's guarantee that materials furnished follows specifications as herein enumerated. No such material shall be used on the project until such manufacturer's or supplier's guarantee shall be furnished in writing to the City Engineer.

D. When requesting use of alternate materials or equipment, provide the following in writing to the City and City Engineer:

1. Written request for approval.

2. Cost benefits and savings for the City.

3. Product description.

E. Requests shall be made in a timely fashion to allow for adequate review.

F. No alternate materials or equipment shall be ordered or installed without written approval of the City.

Name_____
By (signed)_____
Office_____
Address_____
_____
Telephone No._____
Date_____

(If a corporation)

ATTEST:

_____

_____
Secretary

CHAPTER 19
DEVELOPMENT REGULATIONS

19.01 Intent, Purpose and Scope
19.02 Definitions
19.03 Fees
19.04 Land Development Considerations
19.05 Design Standards
19.06 Compliance with Subdivision Control Ordinance
19.07 Penalties

19.01 INTENT, PURPOSE AND SCOPE *Amended, 05-4-1*

The purpose of Chapter 19 is to regulate the development of land and to control the potable water, sanitary sewer, grading, surface water detention, proximity to public sanitary sewer and proximity to public water for all development projects other than individual single family residential units. In addition to the foregoing, the McHenry County Stormwater Management Ordinance, adopted by passage of Ordinance 04-10-3 and incorporated into this Code as Chapter 29, shall also govern regulations for development.

19.02 DEFINITIONS *Amended, 05-4-1*

In addition to the definitions found in Appendix A of this Code and Article 2 of the McHenry County Stormwater Management Ordinance, which was adopted by passage of Ordinance 03-10-3 and incorporated into this Code as Chapter 29, the following definitions shall be applicable to this Chapter 19:

Alley: A public way, not more than 30 feet wide, which affords only a secondary means of access to abutting property.

Block: A tract of land bounded by streets or, in lieu of a street or streets, by public parks, cemeteries, railroad right-of-way, bulkhead lines, or shore lines of waterways or the corporate boundary lines of the City.

Datus USGS Sea Level Datum 1929 Adjusted: A reference point from which elevations are measured.

Detention Basin: An area designed to hold an accumulation of storm water thereby reducing the peak flow of a storm drainage system.

Street: A public way other than an alley.

1. Major thoroughfares which shall include all highways with the county, state and/or federal route marking and for which a right-of-way width of 100 feet shall be established. Illinois Routes 23 and 176 and U.S. Highway 20 are designated as major thoroughfares.

2. Secondary thoroughfare is any thoroughfare so designated by the City on the official plan or by ordinance which shall involve intercommunion vehicular traffic.

3. Major connecting street is any public right-of-way utilized primarily for intra-municipal travel, including the access to public and institutional facilities and business and recreational aspects of the City.

4. Minor connecting street is any public right-of-way utilized primarily for access to abutting properties.

19.03 FEES *Amended, 05-4-1*

The following fees and charges shall prevail for compliance with this Chapter 19:

1. The actual cost to the City for administration and services of the City Attorney, City Engineer, City Planner and any other professional persons as deemed necessary by the City with a deposit to be determined by the City Engineer at the time the application is made to proceed under this Chapter 19.

2. The City Engineer shall determine if a irrevocable letter of credit or a performance bond is needed due to the type or extent of improvement; such irrevocable letter of credit or performance bond shall be approved by the City Attorney.

3. See Section IV-E1 of Chapter 29 (McHenry County Stormwater Management Ordinance) for watershed development permit fees.

19.04 LAND DEVELOPMENT CONSIDERATIONS *Amended, 05-4-2, 05-4-1*

A. Drainage ways, wetlands, floodplains and Soil and Water Conservation District requirements shall be pursuant to Chapter 29, McHenry County Stormwater Management Ordinance; Chapter 23, Subdivision Control Regulations; Chapter 26, Cross-Connection Control Rules and Regulations; and Chapter 30, Groundwater Protection, of this Code.

B. APPEALS:

1. Any person aggrieved by a decision of a certified community's enforcement officer may request review thereof by the City Council.

2. Any person aggrieved by a decision, requirement, ruling or interpretation of this Chapter by the MCSC chief engineer, may appeal it to the MCSC by written notice filed with the MCSC chief engineer within 10 days of the determination.

3. The applicant or any person or agency which receives notice of the filing of the application may appeal the decision of City staff as provided in Article IV-A in Exhibit A of Chapter 29 to the City Council within 45 days after denial of the permit or 45 days after the commencement of work. Upon receipt of an appeal the City Council shall schedule and hold a public hearing, after giving 15 days notice thereof. The City Council shall render a decision within 30 days after the hearing. Factors to consider in the review shall include, but need not be limited to, the effects of the proposed development activities on the surface water flow to tributary and downstream lands; any comprehensive watershed management plans or the use of any retention facilities; possible saturation of fill and unsupported cuts by water, both natural and domestic; runoff surface waters that produce erosion and silting of drainage ways; natural and type of soil or rock which when disturbed by the proposed development activities, may create earth movement and produce slopes that cannot be landscaped; and excessive and unnecessary scarring of the natural landscape through grading or removal of vegetation.

19.05 DESIGN STANDARDS

A. Detailed engineering documents shall be as described in the Subdivision Control Ordinance.

B. Stormwater drainage system shall be as described in the Subdivision Control Ordinance.

C. Protecting buildings from flood damage shall be as described in the Subdivision Control Ordinance.

D. Public potable water shall be provided for the land tract to be developed, including to the extremities of the property, provided that an existing public potable water distribution system is within 500 feet of the subject tract.

E. Public sanitary sewer shall be provided for the land tract to be developed, including to the extremities of the property, provided that an existing public sanitary sewer system is within 500 feet of the subject tract.

F. A grading plan shall be furnished, including the topography and physical characteristics of surrounding land tracts, and to provide aesthetic elevation relating to the surrounding land tracts. A typical grading plan is on file in the office of the Clerk.

19.06 COMPLIANCE WITH SUBDIVISION CONTROL ORDINANCE

Developers of land within the City and within its planning jurisdiction shall comply with all the provisions of the Subdivision Control Ordinance, which are hereby incorporated herein by reference.

19.07 PENALTIES

A. Any person who violates this Chapter 19 shall be fined not less than $100 nor more than $500 for each violation. Each day a violation is determined to exist shall be considered a separate offense.

B. Violation of this Chapter 19 is declared to be a public nuisance, which a court may abate in the manner provided by law including imposition of an injunction terminating any development on any property for which this Chapter 19 has not been complied with as determined by the City Engineer.

C. The City shall have a lien for all fees owed under this Chapter 19 on all property subject to development for which the fees are owed.

CHAPTER 20
PLANNING, ZONING AND DEVELOPMENT REVIEW FEES

20.01	Planning, Zoning and Development Review Fees
20.02	Reimbursement of Fees
Exhibit A	Planning, Zoning and Development Review Fees
Exhibit B	Deposits Required for Reimbursement of Fees

20.01 PLANNING, ZONING AND DEVELOPMENT REVIEW FEES

There are hereby established fees for the review of development proceedings by the City of Marengo. The term "development proceedings" shall mean:

1. Any petition or application filed to annex property to the City, or to process an annexation agreement or amendments to an annexation agreement;

2. Any petition or application filed for relief from or review of parameters of the Zoning Code;

3. Any petition or application to subdivide, resubdivide or otherwise plat property filed pursuant to the Marengo Subdivision Code;

4. Any petition or application filed to address issues relating to rights-of-way or easements, including but not limited to plats of dedication, plats of vacation or easement documents; and

5. Any other improvement or development of real property.

The term "review" shall include, but not be limited to: conducting hearings and meetings; processing, review, and preparation of documents; evaluation of drawings for Code compliance; legal technical, and professional review and consultation; and similar consideration and review of proposed actions which involve the earthmoving of land, construction or alteration of buildings, and uses and appearances of property.

Said fees are listed in Exhibit A of this Chapter 20 and shall be due and payable to the City at the time of filing an application or petition for the desired development proceeding. Said fees shall not be refundable. In the event the filing fee is paid by check and the check is returned to the City due to insufficient funds by the financial institution, the City shall suspend the review process. A cashier's check that includes the required fees, a $50 returned-check service charge and any other costs the City may incur thereby, shall be deposited with the City before the City resumes the review process.

Development proceedings initiated by the City (e.g. text amendments to the Zoning Code) are exempt from fees.

20.02 REIMBURSEMENT OF FEES

A. DEPOSIT: In the event it is necessary for the City to obtain professional services, including, but not limited to, attorneys, engineers, planners, architects, surveyors, traffic or drainage experts, or other consultants, in connection with any petitioner's request for the City to consider or otherwise take action upon any annexation, zoning change, subdivision development, planned development (PUD), dedication, vacation or easements or other improvement or development upon real property, then the petitioner and owner of the property shall be jointly and severally liable for the payment of such professional fees plus a service fee for each billing by the City to cover the City's administrative expenses as determined by the City Council from time to time. At the time the petitioner requests action from the City, an initial deposit, pursuant to Exhibit B of this Chapter 20, shall be made with the City and will be credited against fees and costs incurred for the above described services. The petitioner is required to maintain the minimum deposit amount as stipulated herein at all times.

B. PAYMENTS: The City shall remove funds from the required deposit upon receipt of invoices for professional services or upon calculation of City Staff time as stipulated by this Chapter. Once funds have been removed from the petitioner's required deposit, the City shall, within five working days, send a Notice of Replenishment and a copy of such invoice to the petitioner requiring an additional deposit to replenish the required deposit within 30 days of date of notice.

C. LATE FEES: Replenishment payments shall be received in the office of the City Clerk within 30 days of the date the Notice to Replenishment is sent. If the replenishment payment is not received by the City within 30 days, a $100 per day late fee shall be assessed to all notices. In addition, all work pertaining to the development shall cease and the Building Commissioner shall place a stop work order upon the subject property. No action on any request made by the owner or petitioner shall be undertaken by the City Council or any other official, quasi-official or deliberative individual or body thereunder. The stop work order will be released and requests will be considered only after the total late fee amount is paid in full, including the required minimum deposit.

D. STOP WORK ORDERS: As applied to this Section 20.02, a stop work order shall cause all work being performed to immediately cease, including but not limited to, construction, plan reviews, inspections, issuance of certificates of occupancy, earth work and utility installation.

E. WITHDRAWALS AND DENIALS OF PETITIONS: A petitioner who withdraws a petition may apply in writing to the City for a refund of the initial deposit. The City Council, may, in its discretion, approve the refund less any actual fees and costs which the City has already incurred relative to the petition. In the event the City Council denies approval of any or all portions of a petition, a petitioner shall remain liable for all fees and costs which the City has incurred relative to the petition, and no refund of a deposit or deposit balance shall occur until such fees and costs have been paid.

E. PROFESSIONAL FEES: Any professional fees incurred as a direct or indirect result of the petitioner, owner or their agent requesting a professional opinion or otherwise requesting relief or assistance from the City, whether or not related to real property, shall be reimbursed in accordance with this Chapter 20 if, in the sole discretion of the City, a professional opinion is desired or necessary.

G. DEFAULT: Upon the failure of the owner or petitioner to reimburse the City in accordance with this Chapter 20, the Building Commissioner shall place a stop work upon the subject property and no action on any request made by the owner or petitioner will be undertaken by the City Council or by any other official, quasi-official or deliberative individual or body thereunder; and such request shall remain in abeyance until all outstanding fees are paid in full. Upon any failure to reimburse the City in accordance with Chapter 20 of the Marengo Municipal Code, the City may, in its discretion, elect to place a lien against any real property associated with the petitioner's request. Interest in the amount of 1½ percent per month shall accrue on all sums outstanding for 30 days or more. Such lien shall be in an amount equal to the outstanding amount owed to the City.

H. ASSIGNING AUTHORITY: The Mayor and City Council and the designated City staff members are hereby authorized to assign requests for professional services to the City staff or to consultants as the City Council deems appropriate.

I. IN-HOUSE STAFF: When services contemplated by this Chapter 20 are rendered by the City staff, then in such case the party making the request shall reimburse the City for its cost incurred for services provided that go above and beyond normal installation of improvements and/or duties pertaining to the development. Example of billable time shall include but not be limited to field changes, site characteristics that prohibit design installation, recurring failed inspections as defined per Section 24.18-B1-5, recurring repairs of failed inspection items and any other similar matters due to site characteristics and/or unforeseen circumstances. Said reimbursement shall be at the rate of $50 per hour.

J. REMEDIES: The remedies available to the City as set forth herein above are non-exclusive and nothing herein shall be construed to limit or waive the City's right to proceed against any or all parties. Any action arising out of this Section 20.02 shall be filed in the 22nd Judicial Circuit, McHenry County, Illinois.

K. AGREEMENT: At the time an owner or petitioner requests action from the City such person(s) shall be required to enter into a Reimbursement of Fees Agreement with the City that contains the parameters of this Section 20.02.

L. REFUND: After all costs have been paid and upon written request by the owner or petitioner, any surplus funds in the account shall be returned after approval by the Administrator or City Attorney.

M. PROFESSIONAL FEES INCURRED FOR INDIVIDUAL RESIDENTIAL PROPERTY: In the event it is necessary for the City to obtain professional services (such as those listed in Section 20.02-A herein) in connection with any work proposed for or done on an

individual resident's property, including but not limited to drainage, landscaping or structural issues, the owner of the property shall be liable for the payment of such professional fees plus a service fee for each billing by the City to cover the City's administrative expenses, as determined by the City Council from time to time. Said professional fees shall include but, are not limited to, the costs of any consultation, review of drawings, field inspections and travel expenses.

N. HIGHER DEPOSIT: Notwithstanding any of the provisions in this Section 20.02, the City, through its Mayor, City Council or Administrator, may require a higher deposit and a Reimbursement of Fees Agreement containing additional requirements of the petitioner for development proceedings or reviews after taking into account the following factors: i) scope of the development; ii) the acreage of the development; and iii) the anticipated expense of professional consultants including, but not limited to, engineers, land planners and attorneys, reasonably necessary to review the proposed development request. In addition, the City, through its Mayor, City Council, Administrator or attorneys, may negotiate other items relative to the review or development proceeding including, but not limited to, the use of specific consultants and/or attorneys, rates and budgets.

EXHIBIT A

Planning, Zoning and Development Review Fees	
Proceeding	**Fee**
Annexation, payable at the time the property is annexed to the City	$500 per acre or portion thereof
Annexation petition	$200
Annexation or development agreement, annexation or development agreement amendment (includes hearing or meeting)	$300
Appeal	$500
Re-zoning, residential	$500
Re-zoning, non-residential	$750
Special use permit, residential	$750
Special use permit, non-residential	$1000
Zoning text amendment	$500
Zoning variation, residential (1 lot)	$250
Zoning variation, residential (more than 1 lot)	$300 per lot
Zoning variation, non-residential	$500
Zoning upon annexation	$350
Subdivisions:	
Development concept plan	$250 + $10/acre
Detailed plan	$250 + $10/acre
Planned developments:	
Preliminary plan	$400 + $10/acre
Final plan	$400 + $10/acre
Amendment	$400 + $10/acre
Site plan review:	
Final plan	$400 + $10/acre
Amendment	$400 + $10/acre
Concept review	Time as billed (See Sect. 20.02)

Meeting, special	$200
Street Opening Permit	$100 plus $10,000 bond
NOTE: Fees for mixed-use developments are calculated on the pro-rated acreage of each use in the parcel. Fees for multiple-item proceedings are cumulative. If a proceeding is consolidated (e.g., preliminary and final plat submitted simultaneously), the fee is the total of the preliminary and the final action. The acreage fee is per acre or part thereof.	

EXHIBIT B

Deposits Required for Reimbursement of Fees	
Proceeding	**Fee**
Annexation	$10,000
Appeal	$500
Re-zoning, residential, per lot	$500
Re-zoning, commercial	$5,000
Special use permit, residential	$ 500
Special use permit, non-residential	$1000 per acre, up to $5,000
Zoning text amendment	$5,000
Zoning variation, residential (1 lot)	$1500
Zoning variation, residential (more than 1 lot)	$2500
Zoning variation, non-residential	$3000
Zoning upon annexation	$750 per acre, up to $5,000
Subdivision or planned development, up to 2.0 acres	$5,000
Subdivision or planned development, greater than 2.0 acres but less than 20.0 acres	$10,000
Subdivision or planned development, 20.0 acres or more	$15,000
Site plan review, up to 2.0 acres	$2,000
Site plan review, greater than 2.0 acres	$7,000
Other improvement or development activity, individual residential	$1,000
Other improvement or development activity, multi-lot residential or non-residential	$2,000
NOTE: These fees are not cumulative. Only the highest applicable deposit for a multi-part proceeding is required.	

CITY OF MARENGO
REIMBURSEMENT OF FEES AGREEMENT

City of Marengo Account No. _____

OWNER:

Name of Property Owner: _____

Owner's Address: _____

_____

Telephone Number: _____ Days _____ Evenings

PETITIONER:

Name of Petitioner: _____

Petitioner's Address: _____

_____

Telephone Number: _____ Days _____ Evenings

LOCATION OF PROPERTY:

General Location: _____

_____

Total Acreage: _____ PIN: _____

Legal Description (attach as Exhibit A)

A. DEPOSIT: In the event it is necessary for the City to obtain professional services, including, but not limited to, attorneys, engineers, planners, architects, survey ors, traffic or drainage experts, or other consultants, in connection with any petitioner's request for the City to consider or otherwise take action upon any annexation, zoning change, subdivision development, planned development (PUD) or other improvement or development upon real property, then the petitioner and owner of the property shall be jointly and severally liable for the payment of such professional fees plus five percent of the professional fees to cover the City's administrative expenses. At the time the petitioner requests action from the City an initial deposit, pursuant to Exhibit B of this Chapter 20, shall be made with the City and will be credited against fees and costs incurred for the above described services.

B. NOTICES and INVOICES: The City shall send a petitioner regular notices and/or invoices for the fees and costs removed from the required deposit thus far, and the petitioner shall replenish the required deposit within 30 days of said notice/invoice. At all times the petitioner shall maintain a balance equal to its deposit with the City.

C. WITHDRAWAL OF PETITION: A petitioner who withdraws a petition may apply in writing to the City for a refund of the initial deposit. The City Council may, in its discretion, approve the refund application less any actual fees and costs which the City has already incurred relative to the petition.

D. PROFESSIONAL FEES: Any professional fees incurred as a direct or indirect result of the petitioner, owner or their agent requesting a professional opinion or otherwise requesting relief or assistance from the City, whether or not related to real property, shall be reimbursed in accordance with Chapter 20 of the Marengo Municipal Code if, in the sole discretion of the City, a professional opinion is desired or necessary.

E. STOP WORK ORDERS: A stop work order shall cause all work being performed to immediately cease, including but not limited to, construction, plan reviews, inspections, issuance of certificates of occupancy, earth work and utility installation.

F. DEFAULT: Upon the failure of the owner or petitioner to reimburse the City in accordance with this Chapter 20, the Building Commissioner shall place a stop work upon the subject property and no action on any request made by the owner or petitioner will be undertaken by the City Council or by any other official, quasi-official or deliberative individual or body thereunder; and such request shall remain in abeyance until all outstanding fees are paid in full. Upon any failure to reimburse the City in accordance with Chapter 20 of the Marengo Municipal Code, the City may, in its discretion, elect to place a lien against any real property associated with the petitioner's request. Interest in the amount of 1½ percent per month shall accrue on all sums outstanding for 30 days or more. Such lien shall be in an amount equal to the outstanding amount owed to the City.

G. ASSIGNING AUTHORITY: The Mayor and City Council and the designated City staff members are hereby authorized to assign requests for professional services to the City staff or to consultants as the City Council deems appropriate.

H. IN-HOUSE STAFF: When any professional services contemplated by this Chapter 20 are rendered by the City staff, then in such case the party making the request shall reimburse the City for its cost incurred in providing said professional services. Said reimbursement shall be at the rate of $50 per hour.

I. REMEDIES: The remedies available to the City as set forth hereinabove are non-exclusive and nothing herein shall be construed to limit or waive the City's right to proceed against any or all parties in a court of law of competent jurisdiction. Any action arising out of Section 20.02 of the Marengo Municipal Code shall be filed in the 22nd Judicial Circuit County, McHenry County, Illinois.

J. AGREEMENT: At the time and owner or petitioner requests action from the City such person(s) shall be required to enter into a Reimbursement of Fees Agreement with the City that contains the parameters of Section 20.02 of the Marengo Municipal Code.

K. REFUND: After all costs have been paid and upon written request by the owner or petitioner, any surplus funds in the account shall be returned after approval by the Administrator or City Attorney.

L. HIGHER DEPOSIT: Notwithstanding any of the provisions in Section 20.02 of the Marengo City Code, the City, through its Mayor, City Council or Administrator, may require a higher deposit and a Reimbursement of Fees Agreement containing additional requirements of the petitioner for development proceedings or reviews after taking into account the following factors: i) scope of the development; ii) the acreage of the development; and iii) the anticipated expense of professional consultants including, but not limited to, engineers, land planners and attorneys, reasonably necessary to review the proposed development request. In addition, the City, through its Mayor, City Council, Administrator or attorneys, may negotiate other items relative to the review or development proceeding including, but not limited to, the use of specific consultants and/or attorneys, rates and budgets.

By signing this Agreement the petitioner and/or owner acknowledge that each of them has read the foregoing paragraphs and each of them fully understands and agrees to comply with the terms set forth herein. Further, by signing below, each signatory warrants that he/she/it possesses full authority to so sign.

The owner and/or petitioner agree that owner and petitioner shall be jointly and severally liable for payment of fees referred to in applicable sections of the ordinances of the City of Marengo, and as referred to hereinabove.

City of Marengo: Petitioner:

By: _____ _____
City Administrator

_____ Date: _____
Owner

CHAPTER 21
LANDSCAPING CODE[1]

21.01 Purpose
21.02 Definitions
21.03 Scope of Regulations
21.04 Approval Process
21.05 Plan Preparation
21.06 Submittal Requirements
21.07 Landscape Standards
21.08 Plant Materials Standards
21.09 Maintenance and Replacement
21.10 Parking Lot Requirements
21.11 Landscaping Required
21.12 Transitional Yards
21.13 Freestanding, Ground and Monument Signs
21.14 Tree Preservation
21.15 Prohibited Vegetation

21.01 PURPOSE

It is the intent of this Chapter 21 to establish regulations limiting the removal and ensuring the replacement of trees from property within the City and, in doing so, safeguard the ecological and aesthetic environment of the community. These regulations are further intended to serve to dissuade the unnecessary clearing and disturbing of land so as to preserve, insofar as practical, the existing natural vegetation with plant material indigenous to the region, and preserve existing landscape buffers to minimize the impact of adjoining differing land uses, enhance and protect the integrity of roadway corridors, and reduce the surface heat and negative visual impact of vehicular use areas.

21.02 DEFINITIONS

In addition to those terms defined in Appendix A of this Code, the following terms are applicable to this Chapter 21:

Annual: A plant which completes its life cycle in one year or less.

Berm: An earthen mound designed to provide screening of undesirable views, noise reduction, etc.

Buffer: A combination of physical space and vertical elements, such as plants, berms, fences or walls, the purpose of which is to separate and screen conflicting land uses.

Deciduous: A plant with foliage that is shed annually.

Evergreen: A plant with foliage that persists and remains green throughout the year.

Fence: A structure used as a boundary, screen, separation, means of privacy, protection or confinement.

Fence, open: A open fence is one where visibility at right angles to any surface thereof is not reduced

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[1] Established by Ordinance 02-8-6, 8/26/02

by more than 50 percent.

Fence, solid: A fence including gates which conceals from view of adjoining properties open storage of materials and/or operations conducted behind fenced areas.

Ground cover: A plant that grows near the ground densely and spreads. Generally an herbaceous perennial, sometimes a woody shrub or vine.

Hedgerow: A row of shrubs and/or trees which occur in a row, like a hedge. Sometimes purposely planted for wind control in agricultural areas. More commonly an area along a road or field boundary which, left uncut, has grown up with various plants, seeded by wind, water, birds or other natural methods.

Landscape: An area of land including preserved natural vegetation on which has been located lawns, trees, shrubs, other plants, water areas and other features such as, but not limited to, walks, signs, lighting, parking lots, patios, decorative walls and fences.

Landscape architect: A professional who has graduated from an accredited university program in landscape architecture.

Landscape designer: An individual with experience in landscape design.

Landscape screen/buffer, full:. Maximum landscape buffer between two conflicting land uses.

Landscape screen/buffer, partial. Selective landscape screening between similar land uses.

Landscape yard: A area of ground required to be landscaped for the purpose of screening and buffering a development site.

Native plant: A plant which is known to have originated in and is characteristic of Illinois.

Ornamental tree: A deciduous tree planted primarily for its ornamental value or for screening. May be any size at maturity but will tend to be smaller than a shade tree.

Parkway: The space between a sidewalk and the street generally planted with grass and street trees.

Plant preservation credit: Credit given for the preservation of existing vegetation meeting the functional requirements of this ordinance, in lieu of required new landscaping.

Prairie: A grassland or meadow, usually with native plant species; or a planting of grasses and wildflowers characteristic of the native Illinois prairie.

Screen: A method of reducing the impact of visual intrusions through the use of plant materials, berms, fences and/or walls or any combination thereof. Screening blocks that which is unsightly or offensive with a more harmonious element.

Shade tree: A deciduous (rarely, an evergreen) tree planted primarily for its high crown of foliage or overhead canopy.

Shrub: A woody plant, smaller than a tree, which consists of a number of small stems from the ground or small branches near the ground. May be deciduous or evergreen.

Shrub, low: Any shrub which attains a mature height of 4 feet or less when left un-pruned.

Shrub, tall: Any shrub which attains a mature height of 5 feet or more when left un-pruned.

Street tree: A tree planted in close proximity to a street in order to provide a canopy over the street, to give the street a sense of spacial definition and human scale, to provide shade and soften the street environment.

Tree: A large, woody plant having 1 or several self-supporting stems or trunks and numerous branches. May be deciduous or evergreen.

Turf grass: Grasses planted, by seeding or sodding, to establish a lawn, which is usually maintained by moving.

Wetlands: Those areas periodically inundated or saturated by surface or groundwater at a frequency and duration under normal circumstances sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, wet meadows, ponds and similar areas as defined by the Corps of Engineers.

21.03 SCOPE OF REGULATIONS

The provisions of this Chapter 21 shall apply to the following:

1. New construction (multiple-family, business and manufacturing districts only).
2. Parking Lots
3. Transitional
4. Free standing and monument signs

21.04 APPROVAL PROCESS

When a landscape plan is required, the plan shall be submitted to the City with the application for a building permit.

21.05 PLAN PREPARATION

All landscape plans required by this Chapter 21 shall be prepared and signed by a professional landscape architect or landscape designer.

21.06 SUBMITTAL REQUIREMENTS

The submittal package for a landscape plan shall include planting and site information. The landscape plan may be submitted on a separate sheet or superimposed on a single sheet with the site plan. The submittal package must include the following information:

1. Site elements: Title block including the name of the project, designer's name, scale of the plan (no smaller than 1" = 50' for plans with trees only; and no smaller than 1" = 20' for plans with shrubs and smaller plants), north arrow and date of the plan;

   Property lines;

   Name, location, right-of-way and paving widths of all abutting streets;

   Note zoning and use of all abutting properties;

   Natural features such as ponds, lakes and streams; delineation of 100-year floodplain and

wetland boundaries;

Existing and proposed storm water management ponds and areas;

Required landscape yard width;

Location, height, dimensions and use of all existing and proposed buildings and other structures, including parking lots, sidewalks and other paved areas; fences and walls; and recreational equipment;

Approved grading plan at one-foot contour interval, with slopes of 4:1 labeled.

2. Planting elements. Location, general type and quality of existing vegetation, specimen trees and natural areas.

For plant preservation credits: vegetation areas to be saved, including accurate locations noted and a list of typical species. Note methods and details for protection of existing vegetation during construction. Location and keyed labels of all proposed plants.

Location of all proposed areas to be seeded and/or sodded.
Plant list or schedule to include key symbols, quantity, correct botanical and common names, size and condition of all proposed plants.

Plant names used shall be identified in accordance with *Hortus Third*, by L. H. Bailey, 1976.

All plant sizes and conditions listed shall conform to the *American Standards For Nursery Stock* as published by the American Association of Nurserymen, latest edition.

Location and description of other landscape improvements, such as earth berms, walls, fences, screens, sculptures, foundations, street furniture, signs, lighting and paved areas.

Planting installation details as necessary to ensure conformance with *American Association of Nurserymen's Standards*, latest edition; and standards as specified in this Chapter 21.

General and specific notes to indicate or explain the design and construction procedures to be used.

3. Cost estimate and notification to permitting body. Upon approval of the landscape plan, a cost estimate prepared by a recognized landscape contractor shall be submitted.

A conditional occupancy permit will be issued when the project's buildings may be occupied but landscaping has not been installed due to weather conditions. A final occupancy permit will be issued upon completion of all landscaping

21.07 LANDSCAPE STANDARDS

Appropriateness: The landscape plan should consider the type of use the development will receive and use plants which will integrate the development site into the surrounding area. Adjacent existing uses will determine the type and extent of screening and buffering required.

Screening: Materials may consist of evergreen trees and shrubs; ornamental trees and deciduous shrubs with dense branching; shade trees; and fences, walls and berms. Planted screens shall be arranged in clusters of plants to create optimum screening according to site conditions and as the designer sees

fit. Excepting limited space for full screening, plants should not be spaced out equally in a line within the required landscape yard length.

Fences and Walls: Screening fences and walls should be built of materials compatible with that of the main building. The use of corrugated metal, corrugated fiberglass, sheet metal, chain link or wire mesh shall not be counted as a screen in landscape yard calculations.

Berms: Screening may be accomplished with the use of earth berms in combination with plants. The minimum height required shall be 2.5 feet, with a minimum width of 12 feet. Taller berms require more width so slopes do not become too steep. Slopes shall not exceed 4:1. Berms should be designed with gently curving slopes so they are not susceptible to erosion. Staggering berms allow for drainage and provide visual variety. Ground cover plants may be used to reduce mowing on berms.

21.08 PLANT MATERIALS STANDARDS *Amended, Ord. 04-3-1*

Plant material standards shall be as follows:

1. All plants shall conform to the *American Standards for Nursery Stock*, latest edition, and shall be installed according to the current standards of the American Association of Nurserymen.

2. Plant availability and hardiness: All plants used in landscape plans shall be readily available and shall be proven to be reliably hardy in USDA Zone 5. Plants shall have a vigorous root system and shall be free from defects, insects and diseases. Substandard plant material will be rejected.

3. Deciduous trees shall be fully branched, have a minimum caliper of 3 inches for nonresidential and 2½ inches for residential development measured 6 inches above ground level. Specimens shall be properly pruned to maintain a natural form.

4. Evergreen trees shall be a minimum of 6 feet in height and fully branched to the ground.

5. Shrubs shall be supplied in 1 gallon or larger containers or balled and burlapped and at least 18 inches in height or spread, whichever applies.

6. Ground cover plants shall be planted so that an effective covering is obtained within two growing seasons.

7. At the intersection of all streets and/or the intersection of any service entrance drive from a street to a zoning lot, line of sight easements shall be established within the triangular area formed: at the intersection of any two street right-of-way lines; and/or the intersection of any street right-of-way line with any service entrance drive (both sides of such drive), by a line drawn between such right-of-way lines, and/or such right-of-way line and service entrance drive line, at a distance along such line of 25 feet from the point of intersection thereof.

8. Plant materials, including deciduous and evergreen trees, shall not cause a hazard. Landscape plant material overhanging walks, pedestrian or bicycle paths and seating areas shall be pruned to a minimum height of 12 feet above parking lot aisles and spaces.

9. Landscape plant materials shall be selected which do not generally interfere with utilities above or below ground level at maturity.

10. Parking Lot Clearance: No shrub or tree shall be planted closer than 2 feet from any curb face.

11. Planting Space Required: Trees planted in cutouts, in walks or in pedestrian areas shall have a

minimum of 4-foot by 4-foot or a 5-foot diameter circle of open soil, and shall be protected by the use of tree grates of edging which does not pose a hazard to pedestrians.

12. Landscape plant materials shall be properly guyed and staked in accordance with current industry standards, where necessary. Stakes and guy wires shall not interfere with vehicular or pedestrian traffic.

13. Landscape plant materials shall be protected from damage due to foot or vehicular traffic by protective tree grates, pavers, curbs or other suitable methods which prevent soil compaction.

14. Appropriate methods of care and maintenance of the landscape shall be provided by the owner of the property.

15. Additional landscape screening/buffering may be required when an incompatible use occurs which may have a high impact on adjacent development, as determined by the City. A high impact use is one which is expected to have a strong effect on adjacent properties, due to one or more of the following:

    Noise;

    Outdoor loading spaces;

    Exterior storage, attractive nuisances and objectionable views;

    Dust, fumes, odors and vibration;

    Litter;

    Bright lighting during the evening or at night or headlights from vehicles using the development at night;

    Height of structures above the normally allowed height for the specific zone; or adjacent to development of a different zone or zones with a lower building height limit; or

    Barrier screening/buffering required for safety and liability reasons.

21.09 MAINTENANCE AND REPLACEMENT

The owner, occupant, tenant and agent of each property shall be individually and collectively responsible for the maintenance, repair and replacement of all landscaping, screening and curbing whether or not required by these regulations so as to preserve at least the same quantity, quality and screening effectiveness as initially installed.

21.10 PARKING LOT REQUIREMENTS

The following requirements apply to all parking lot landscaping:

1. Parking lot interior landscaping shall be provided for lots with 10,000 square feet or more of total parkway.

2. Planting islands shall be placed in the following areas of all parking lots:

    A. End islands shall be provided at each end of all parking bays, except where corner

islands are provided.

B. Intermediate islands shall be provided after every 12th space, or after every 8th parking space for single-aisle parking lots.

C. Center islands shall be provided between head-in parking for the full length of every other parking bay unless there are 3 or fewer parallel aisles of parking.

D. Corner islands shall be provided at the end of 2 perpendicular parking bays when these bays are at the edge of the parking lot.

In the event that the site geometry of the proposed parking lot does not allow strict adherence to the above requirements, alternate schemes will be required to provide at least 10 percent of the parking lot area in landscaped islands.

3. Minimum dimensions of planting islands, including a six-inch curb:

A. End islands shall be a minimum width of 9 feet and a minimum length of 36 feet, 45 feet with a center island, for a double bay of parking.

B. Intermediate and half end islands shall be a minimum width of 9 feet and a minimum length of 18 feet, except in single aisle parking lots, where the minimum width shall be 13 feet. In the case of angle parking, the perpendicular length from the center line of the parking bay to the aisle shall be the minimum length.

C. Corner islands shall be a minimum of 18 feet square, except in the case of angle parking, where the perpendicular length of the stall from the center line of the parking bay shall be the minimum dimension.

D. Center islands between head-in parking shall be a minimum width of 9 feet, and the same length as the parking bay.

4. A curb shall be provided for all parking spaces adjacent to planting or pedestrian areas to prevent vehicle overhang, except in the case of handicapped access ramps.

21.11 LANDSCAPING REQUIRED

A predetermined number of plants are required to provide overhead and low screening of motor vehicles in parking lots. Shade trees and low shrubs or ground cover plants are specified for each type of landscape island. Turf grass may be used but will not be counted as part of the required plants. Ground cover plants may be substituted for any or all of the low shrubs at a ratio of 14:1 when perimeter landscape yards also provide off-site screening for the parking area. Required plantings are:

- 9 feet wide intermediate and half-end islands: 1 shade tree and 9 low shrubs or 126 ground cover plants (excluding turf grass) or some combination.

- 13 feet wide intermediate and half-end islands: 1 shade tree and 12 low shrubs or 168 ground cover plants (excluding turf grass) or some combination.

- 9 feet wide end islands: 2 shade trees and 15 low shrubs or 210 ground cover plants (excluding turf grass) or some combination.

- 18 feet corner islands: 1 shade tree and 21 low shrubs or 294 ground cover plants (excluding

turf grass) or some combination.

- 9 feet wide center islands: 3 shade trees and 36 low shrubs or 504 ground cover plants (excluding turf grass) or some combination; all per 100 linear feet of island.

21.12 TRANSITIONAL YARDS

A. APPLICABILITY: All non-residential and multiple-family residential developments shall provide lot perimeter landscaping in accordance with the provision of this Chapter 21.

B. NON-RESIDENTIAL PROPERTY ABUTTING NON-RESIDENTIAL PROPERTY: Where non-residential property abuts property zoned for non-residential use, landscaping shall be provided as follows:

1. Width: A landscaped area a minimum of 10 feet in width shall be provided.

2. Planting Materials. A minimum of 50 percent of the required landscape setback shall be landscaped. Such landscaping shall consist of 25 percent evergreen trees a minimum of 6 feet tall, 25 percent shade trees a minimum of 3 inches in caliper, and ornamental trees a minimum of 6 feet tall and 50 percent evergreen and deciduous shrubs a minimum of 3 feet tall. Whenever possible, berms should be used in conjunction with the landscaping.

C. GROUND COVER: Except where occupied by planting beds, all perimeter landscaping areas shall be sodded or seeded.

D. NON-RESIDENTIAL PROPERTY ABUTTING RESIDENTIAL PROPERTY: Where non-residential property abuts property zoned for residential use, landscaping shall be provided as follows:

1. Width: A landscaped area a minimum of 15 feet in width shall be provided.

2. Screening: Solid landscape screening to a minimum of 6 feet in height above the grade of the subject property and in a design satisfactory to the Administrator shall be provided along the length of the abutting property line. If determined necessary by the City, due to topographical changes between the abutting commercial and residential property, the minimum height of the required screening may be increased to 8 feet. Any landscape materials used shall be made up of 25 percent evergreen trees a minimum of 6 feet tall, 25 ornamental trees a minimum of 3 inches in caliper or clumps 6 feet tall and 50 percent evergreen and deciduous shrubs achieving a minimum height of screening 6 feet at the time of planting. Whenever possible, berms should be used in conjunction with the landscaping.

3. Shade Trees: Shade trees shall be provided at the equivalent of not more than 30 feet apart along the abutting property line. Such trees may be clustered or spaced linearly.

4. Ground Cover: Except where occupied by planting beds, all perimeter landscaping areas shall be sodded or seeded.

E. MULTIPLE-FAMILY RESIDENTIAL PROPERTY: Multiple-family residential property shall be landscaped as follows:

1. Width: A landscaped area a minimum of 10 feet in width shall be provided.

2. Landscaping: A minimum of 50 percent of the required landscape setback shall be landscaped. Such landscaping shall be made up of 50 percent evergreen trees and ornamental trees a minimum of 6 feet tall and 50 percent evergreen and deciduous shrubs a minimum of 3 feet tall. Whenever possible, berms should be used in conjunction with the landscaping.

3. Shade Trees. Shade trees shall be provided at the equivalent of not more than 30 feet apart along the abutting property line. Such trees may be clustered or spaced linearly.

4. Ground Cover: Except where occupied by planting beds, all landscaping areas shall be sodded or seeded.

5. Building Perimeter Landscaping: Building perimeter landscaping in a minimum planting bed with a width of 8 feet shall be provided along 100 percent of all building facades except where sidewalks and driveways are located. Fifty percent of the landscape requirements shall be made up of evergreen trees and shrubs and 50 percent deciduous trees, ornamental trees and shrubs.

21.13 FREESTANDING, GROUND AND MONUMENT SIGNS

Every permit application for a freestanding, ground or monument sign shall be accompanied by a landscape plan meeting the standards hereinafter specified:

1. For every square foot of sign surface area, there shall be provided 1½ square feet of landscape area.

2. Any freestanding, ground or monument sign constructed or erected to a height in excess of 8 feet above the average surrounding grade shall be required to be improved with an additional 1½ square feet of landscaped area for each foot of height or portion thereof that said sign is constructed or erected above said 8 feet in height. As all such freestanding, ground or monument signs may not exceed a height of 12 feet above the average surrounding grade, the additional landscaping requirements set forth herein shall not exceed 6 square feet.

3. Sodded or seeded areas shall not qualify as such a landscaped area.

4. The required landscaped areas shall be improved with such plantings as hedges, conifers, flowering plants, evergreens, etc., of a size and in quantity proportionate to the size and height of the sign as judged by the Administrator.

5. In addition to the plantings herein described, the landscaped area shall also include ground protection such as, but not limited to, ground cover plants, landscaping bar, decorative stone or landscape timbers.

6. It shall be the duty of each party owning any lot or parcel improved or to be improved with the landscaping required herein to maintain said landscaping including, but not by way of limitation, the replacement of any dead or diseased vegetation, the trimming of any overgrown vegetation and the maintenance of any groundcover or protection provided in accordance with the terms hereof.

21.14 TREE PRESERVATION

Tree preservation is addressed in Section 6.24 of this Code.

21.15 PROHIBITED VEGETATION

The following vegetation is prohibited in the City:

TREES:

BOTANICAL NAME	COMMON NAME	REMARKS
Acer negundo	Box Elder	Weak wood; invasive
Ailanthus altissima	Tree-of-Heaven	Weak wood; invasive
Betula pendula	European Birch	Borers; disease
Catalpa species	Catalpa	Weak wood; litter; invasive
Ginkgo biloba (Female) seeds	Female Ginkgo	Offensive fruit; seeds
Gleditsia triacanthos	Torny Honeylocust	Thorns; seed pods; thornless varieties acceptable
Maclura pomifera	Osage-orange	Large fruit; thorns
Morus species	Mulberry	Weak wood; fruit; invasive
Rhamnus frangula	Buckthorn	Weak wood; fruit; invasive
Robinia species	Locust	Weak wood; litter; invasive
Sorbus aucuparia	European Mountainash	Borers; disease
Ulmus American	American Elm	Disease; insects
Ulmus pumila	"Chinese" (Siberian) Elm	Weak wood; disease; insects invasive

Disease resistant varieties are acceptable upon prior approval.

SHRUBS AND HERBACEOUS PLANTS:

Coronilla varia	Crownvetch	Invasive; intolerant of other plants

Highway/large embankments only

Lonicera japonica	Japanese Honeysuckle	Very invasive; crowds out; native understory vegetation
Lythrum salicaria	Purple Loosestrife	Very invasive; replaces native vegetation in wetlands
Rosa multiflora oints	Multiflora Rose	Very invasive; thorns

CHAPTER 22
MARENGO ZONING CODE
(Ordinance 02-8-2, Passed 8/26/02)

Section 1	Title and Authority
Section 2	Intent and Purpose
Section 3	Definitions
Section 4	Use Districts
Section 5	General Provisions
Section 6	Non-Conforming Buildings and Uses
Section 7	Accessory Buildings, Structures and Uses
Section 8	Off-Street Parking and Loading
Section 9	Wireless Telecommunications Towers and Antennas
Section 10	Residential Districts
Section 11	Business Districts
Section 12	ORI Office, Research & Light Industrial District
Section 13	M Manufacturing District
Section 14	Performance Standards
Section 15	Special Uses
Section 16	Planned Developments
Section 17	Administration
Section 18	Interpretation: Purpose and Conflict
Section 19	Fees
Section 20	Violations: Penalty
Section 21	Validity
Section 22	When Effective

Revisions:

Date:	*Section:*
10/28/02	*Section 7, Accessory Buildings, Structures and Uses*
1/27/03	*Sections 3, Definitions; Section 4.10, Intrusion Into Yards; Section 6.06, Nonconforming Structures; Section 13.02, Use Restrictions; and Section 17.06, Variations and Standards for Variations*
7/1/03	*Sections 8.04.A.1 and 8.08.A4 regarding driveways*
8/25/03	*Sections 7.02.C and 7.04 regarding accessory buildings*
3/8/04	*Sections 4.11, 4.14, 5.09, 5.12, 7.04, 7.06, 10.02, 11.02, 11.02, 11.04*
5/24/04	*Section 10*
12/11/06	*Sections 4 and 11 regarding BP, Business Park District*
1/15/08	*Sections 3, 4, 5, 7, 8 and 11*

Section 1 **TITLE AND AUTHORITY**

1.1 Title
1.2 Authority

Section 2 **INTENT AND PURPOSE**

Section 3 **DEFINITIONS**

Section 4 **USE DISTRICTS**

4.01 Zoning Districts
4.02 Zoning Maps
4.03 New and Annexed Land
4.04 Zoning of Streets, Alleys, Public Ways, Waterways and Railroad Rights-of-Way
4.05 Boundary Lines
4.06 General Provisions
4.07 Meeting Minimum Zoning Requirements
4.08 Access Required
4.09 Front Setbacks - Corner/Through Lots
4.10 Intrusions Into Yards
4.11 Private Garages
4.12 Lot Coverage

Section 5 **GENERAL PROVISIONS**

5.01 Scope of Regulations
5.02 Permits
5.03 Building Height, Bulk and Lot Coverage
5.04 Lot Area and Dimension
5.05 Location of Buildings
5.06 Buildings Under Construction
5.07 Buildings on a Zoning Lot
5.08 Rezoning of Public and Semi Public Areas
5.09 Vision Clearance, Corner Lots
5.10 Regulation of Space and Density of Residential Dwelling Units
5.11 Home Occupations - Regulations
5.12 Fences, Shrubs, Hedges and Decorative Structures
5.13 Yard and Building Setback Exceptions
5.14 Travel Trailers and Recreational Vehicles
5.15 Outside Display, Sales and Storage Special Permit
5.16 Use of Commercial Truck Trailers and Railroad Cars for Storage
5.17 Refuse Containers
5.18 Determination of Similar and Compatible Uses

Section 6 **NONCONFORMING BUILDINGS AND USES**

6.01 Purpose
6.02 Nonconforming Lots
6.03 Residential Districts
6.04 Business, ORI and Manufacturing Districts
6.05 Two or More Lots in Common Ownership
6.06 Nonconforming Structures
6.07 Nonconforming Uses Occupying a Structure
6.08 Nonconforming Use of Land

Section 7 **ACCESSORY BUILDINGS, STRUCTURES AND USES**

7.01 Uses Permitted as Accessory Buildings, Structures and Uses
7.02 Location of Accessory Buildings, Structures and Uses
7.03 Construction of Accessory Buildings and Structures
7.04 Number, Height and Size of Accessory Buildings and Structures
7.05 Distance Between Buildings or Structures
7.06 Regulations for Specific Accessory Buildings, Structures and Uses
7.07 Wireless Telecommunications Towers and Antenna Regulations
7.08 Antennas in Residential Zoning Districts

7.09 Antennas in Business and Manufacturing Districts
7.10 Amateur Radio Facilities With Surface Area Exceeding 10 Square Feet
7.11 Additional Regulations for Antennas and Antenna Support Structures in All Zoning Districts
7.12 Non-conforming Accessory Buildings, Structures and Uses

Section 8 **OFF-STREET PARKING AND LOADING**

8.01 Purpose
8.02 General Provisions, Parking and Loading
8.03 Additional Regulations, Parking
8.04 Location of Parking Areas
8.05 Off-Street Loading and Unloading
8.06 Formulas for Off-Street Loading and Unloading Requirements
8.07 Number of Parking and Loading Spaces Required
8.08 Additional Parking Regulations

Section 9 **WIRELESS TELECOMMUNICATIONS TOWERS AND ANTENNAS**

9.01 Purpose
9.02 Definitions
9.03 Applicability
9.04 General Requirements
9.05 Permitted Uses
9.06 Administratively Approved Uses
9.07 Special Use Permits
9.08 Buildings or Other Equipment Storage
9.09 Removal of Abandoned Antennas and Towers
9.10 Nonconforming Uses

Section 10
RESIDENTIAL DISTRICTS

10.01 Purpose
10.02 ER Estate Residential District
10.03 R-1 One-Family District
10.04 R-2 One-Family District
10.05 R-3 One-Family District
10.06 R-5 Multiple Family District

Section 11 **BUSINESS DISTRICTS**

11.01 Purpose
11.02 B-1 Central Business District
11.03 B-2 General Business District
11.04 B-3 Regional Shopping District
11.05 BP, Business Park District

Section 12 **ORI OFFICE, RESEARCH & LIGHT INDUSTRIAL DISTRICT**

12.01 Purpose
12.02 Use Restrictions
12.03 Lot and Building Requirements
12.04 Permitted Uses
12.05 Special Uses

Section 13 **M MANUFACTURING DISTRICT**

13.01 Purpose
13.02 Use Restrictions
13.03 Lot and Building Requirements
13.04 Permitted Uses
13.05 Special Uses

Section 14 **PERFORMANCE STANDARDS**

14.01 Purpose
14.02 Noise
14.03 Air Pollution
14.04 Water Pollution

14.05 Open Burning
14.06 Toxic or Noxious Matter
14.07 Odors
14.08 Fire and Explosive Hazards
14.09 Vibration
14.10 Glare or Heat

Section 15 **SPECIAL USES**

15.01 Purpose
15.02 General Requirements
15.03 Standards for Special Uses
15.04 Motor Vehicle Special Uses
15.05 Motor Vehicle Service Stations
15.06 Kennels
15.07 Rest Homes, Nursing Homes
15.08 Group Homes
15.09 Earth Materials Extraction, Processing, Site Reclamation and Related Operations
15.10 Adult Businesses
15.11 Conditions of Approval

Section 16 **PLANNED DEVELOPMENT**

16.01 Purpose
16.02 Where Permitted
16.03 Minimum Area
16.04 Required Sewer and Water
16.05 Procedure, Application and Referral
16.06 Preliminary Application for Development Plan
16.07 Planned Development Final Approval
16.08 General Standards
16.09 Bulk Regulations
16.10 Approval
16.11 Time Limit
16.12 Minor Modification of Plans
16.13 Performance

Section 17 **ADMINISTRATION**

17.01 Zoning Administrator
17.02 Certificate of Zoning Compliance
17.03 Certificate of Appropriateness
17.04 Continuance of Existing Uses
17.05 Planning and Zoning Commission
17.06 Variations and Standards for Variations
17.07 Special Uses and Standards for Special Uses
17.08 Text Amendments and Standards for Text Amendments
17.09 Re-zonings (Map Amendments) and Standards for Re-zonings
17.10 Conditions
17.11 City Council Action
17.12 Change of Zoning
17.13 Implementation of Variations/Special Uses
17.14 Revocation of Variations/Special Uses
17.15 Public Hearing Requirements
17.16 Written Protests
17.17 Hearing Officer Alternative Process

Section 18 **INTERPRETATION: PURPOSE AND CONFLICT**

Section 19 **FEES**

Section 20 **VIOLATIONS: PENALTY**

Section 21 **VALIDITY**

Section 22 **WHEN EFFECTIVE**

CHAPTER 22
ZONING

22.01 Zoning Regulations

22.01 ZONING REGULATIONS

The zoning regulations of the City of Marengo, established by Ordinance 02-8-2, passed and approved August 26, 2002, and subsequent amendments and supplements thereto are continued in full force and effect.

Section 3

DEFINITIONS

In the construction of this Zoning Code, the rules and definitions contained in this Section 3 shall be observed and applied, except when repugnant to the context of any provision.

Words, whether capitalized or not, used in the present tense shall include the past and future tenses, and words used in the future tense shall include the present tense; words used in the singular number shall include the plural number; words used in the masculine gender shall include the feminine and neuter genders; the word "building" shall include the word "structure" and the word "lot" shall include the word "plot"; the word "shall" is mandatory and not directory, while the word "may" is permissive; and the words "zone," "district" or "zoning district" may be used interchangeably. Definitions in Appendix A of the Marengo Municipal Code are applicable to this Zoning Code. Unless indicated otherwise, definitions are not case sensitive.

Abandoned: To give up one's right or interest in property.

Abutting: Having a common lot line or district line.

Accessory Building, Structure or Use: A subordinate building, structure, or use which is located on the same lot on which the principal building or use is situated or occurs, and which is customary and incidental to the conduct of the primary use of such building or the primary use on the lot, when permitted by district regulations.

Access: The ability to ingress and/or egress from a public roadway.

Access Way: A curb cut, ramp, driveway or other means for providing vehicular access to an off-street parking or loading area.

Acreage: Any tract or parcel of land having an area of one acre or more which has not been subdivided by metes and bounds or platted.

Addition: Any act or process that changes one or more of the exterior architectural features of a structure including but not limited to the erection, construction, reconstruction, or removal of any structure.

Adult Business: As defined in Chapter 44, Adult Business Licenses, of the Marengo Municipal Code.

Airport or Aircraft Landing Field: Any landing area, runway or other facility (including heliports), designed, used or intended to be used either publicly or privately by any person or persons for the landing and taking off of aircraft, including all necessary taxiways, aircraft storage and tiedown areas, hangars and other necessary buildings and open spaces.

Aisle: A vehicular traffic way within an off-street parking area, used as a means of access/egress from parking spaces.

Alley: A public way which affords only a secondary means of access to abutting property.

Alter: To change the size, shape or use of a structure.

Alteration: Any act or process that changes one or more of the exterior features of a structure including but not limited to the erection, construction, reconstruction, or removal of any structure.

Amendment: A change in the provisions of this Zoning Code (including those portions incorporated by reference), properly effected in accordance with state law and the procedures set forth herein.

Antenna: An arrangement of wires, metal rods or similar materials used for the transmission and/or reception of electromagnetic waves to include satellite dishes and communication towers.

Antenna Support Structure: Any structure utilized for the principal purpose of supporting a satellite dish antenna.

Apartment: A room or suite of rooms in a multiple-family structure, which is arranged, designed, used or intended to be used as a single housekeeping unit. Complete kitchen, bath and toilet facilities, permanently installed, must always be included for each apartment.

Arcade: Any establishment displaying for public patronage or keeping for operation four or more amusement devices including, but not limited to, pool tables, foosball tables, air hockey tables, mechanical rides for children, electronic games and shooting gallery type games.

Asphalt: A mixture of petroleum by-products and gravel used for paving to form a smooth, permanent surface, “Asphaltic concrete” does not mean “oil and chip.”

Attached: As applied to buildings, “attached” means having a common wall and/or a common roof.

Automobile Car Wash/Laundry: A building or portion thereof where automobiles are washed by mechanical device.

Automobile Repair, Major: Engine rebuilding or major reconditioning of worn or damaged motor vehicles or trailers; collision service, including body, frame or fender straightening or repair; and overall painting of vehicles.

Automobile Repair, Minor: Incidental repairs, replacement of parts and motor service automobiles, but not including any operation specified under “Automobile Repair, Major.”

Automobile Sales Lot: A lot arranged, designed or used for the storage and display for sale of any motor vehicle including trucks or any type of trailer, provided that the trailer is unoccupied and where repair work as an accessory use is done to automobiles or trailers.

Automobile Service Station: A place where gasoline, stored only in underground tanks, kerosene, lubricating oil or grease, for operation of automobiles, are offered for sale directly to the public on

the premises and including minor accessories and services for automobiles; but not including major automobile repairs; and including washing of automobiles where a mechanical device is employed. When the dispensing, sale or offering for sale of motor fuels or oil is incidental to the conduct of a public garage, the premises shall be classified as a public garage. Automobile service stations shall not include sale or storage of junkers or junk yards as defined herein.

Automobile Wrecking Yard: Any place where one or more motor vehicles not in running condition, or parts thereof, are stored in the open and are not being restored to operation, or any land, building or structure used for wrecking or storing of such motor vehicle or parts thereof, and including any used farm vehicles or farm machinery, or parts thereof, stored in the open and not being restored to operating condition; and including the commercial salvaging of any other goods, articles or merchandise.

Awning: A roof like cover, temporary in nature, which projects from the wall of a building or overhangs the public way.

Basement: A story partly underground. Where more than one-half of its height is above the established curb level or above the average level of the adjoining ground where curb level has not been established, a basement shall be counted as a story for purposes of height measurement.

Bed and Breakfast: As defined in 50 ILCS 820/2. An owner-occupied dwelling unit having not more than five guest rooms where lodging, with or without meals, is provided to the public for compensation.

Bedroom: Any room which may be used for bedroom purposes, such as a den, study, loft or extra room located on any floor in a dwelling unit which is not clearly identified for some specific purpose such as a kitchen (one per unit), dining room (one per unit), living room (one per unit), bathroom(s) and family room (one per unit). *Amended, 03-1-8*

Billboard: Any structure or portion thereof upon which are signs or advertisements used as an outdoor display. This definition does not include any bulletin boards used to announce church services, or to display court or other public office notices or signs offering the sale or lease of the premises on which the sign is located.

Block: A tract of land bounded by streets or, in lieu of a street or streets, by public parks, cemeteries, railroad rights-of-way, bulkhead lines or shore lines of waterways or a corporate boundary line of the City.

Boarding House: A building other than a hotel or restaurant where meals are provided for compensation to four or more persons, but not more than 12, who are not members of the keeper's family.

Board of Appeals: The Planning and Zoning Commission, and may also be referred to as the Zoning Board of Appeals.

Buffer Strip: An area of land, undeveloped except for landscaping, fences, etc., used to protect a use

situated on one lot from the deleterious effects of the use on the adjacent lot.

Buildable Area: The space remaining on a zoning lot after the minimum open space requirements of this Zoning Code have been complied with.

Building: Any structure with substantial walls and roof securely affixed to the land and entirely separated on all sides from any other structure by space or by walls in which there are no communicating doors, windows, or openings; and which is designed or intended for the shelter, enclosure or protection of persons, animals or chattels. Any structure with interior areas not normally accessible for human use, such as gas holders, oil tanks, water tanks, grain elevators, coal bunkers, oil cracking towers and other similar structures, are not considered as buildings.

Building, Completely Enclosed: A "completely enclosed building" is a building separated on all sides from the adjacent open space, or from other buildings or other structures, by a permanent roof and by exterior walls or party walls, pierced only by windows and normal exit or entrance doors.

Building Front: That portion of a building where the primary building entrance is located. Where more than one primary building entrance is provided, the building front shall be that portion of the building facing toward the street to which the legal address has been assigned. Corner lots shall have only one building front. The legal address of a building on a corner lot shall be determined by factors including, but not limited to: orientation of building, location of driveway, and placement of mailbox.

Building Height: The vertical distance measured at the established grade on the front side of the building to the highest point of the roof in the case of a flat roof; to the deck line of a mansard roof; and to the mean height level between eaves and ridge of a gable, hip or gambrel roof; provided that where buildings are set back from the street line, the height of the building may be measured from the average elevation of the finished lot grade at the front of the building. *Amended, 03-1-8*

Building, Non-Conforming: Any building which does not conform to the regulations of this Zoning Code prescribing the maximum floor area ratio, required yards, coverage, height and setbacks, minimum required spacing between buildings on a single lot, and minimum required usable open space for the district in which such building is located.

Building, Principal: A building within which the principal use of the zoning lot is conducted. *Amended, 03-1-8*

Building Line or Building Setback Line: A line or lines on the horizontal surface of a lot, parallel or nearly parallel to the front, side, and rear lot lines, and located at a distance prescribed by the yard regulations and beyond which no portion of a building or structure may extend as provided for in this Zoning Code.

Bulk: The term used to describe the size and mutual relationships of buildings and other structures, as to size, height, coverage, shape, location of exterior walls in relation to lot lines, to the center line of streets, to other walls of the same building and to other buildings or structures, and to all open spaces relating to the building or structure.

Business Park: A collection of lots and/or buildings wherein the principal land use is commercial in nature.

Bus Lot: Any lot or land area used for the storage or layover of passenger buses or motor coaches.

Canopy: A roof-like structure similar to an awning, except that it cannot be raised or retracted to a position against the building.

Cartage, Local: Pick-up and delivery of parcels, packages and freight by motor truck within and not exceeding 15 miles of the City.

Cellar: A cellar is a story having more than one-half of its height below the curb level or below the highest level of the adjoining ground. A cellar shall not be counted as a story for the purpose of height measurement.

Cemetery: Land used or intended to be used for the burial of the animal or human dead and dedicated for cemetery purposes.

Centerline:

1. The centerline of any right-of-way having a uniform width;

2. The original centerline where a right-of-way has been widened irregularly;

3. The new centerline whenever a road has been relocated.

Certificate of Appropriateness: A certificate issued by the Historic Preservation Commission authorizing plans for alterations, construction, removal or demolition of a landmark or site within a designated historic preservation district.

Changeable Copy Sign: A sign which has provision for changing the message thereon either manually or electronically.

Church: A building primarily used for religious worship. The word "church" shall include, but not be limited to, chapel, temple, synagogue and mosque.

Clinic or Medical Health Center: An establishment where patients are admitted for special study and treatment by one or more licensed physicians and their professional associates, practicing medicine together.

Club or Lodge, Private: A "private club or lodge" is a nonprofit association of persons, who are bona fide members paying annual dues, which owns, hires or leases a building or portion thereof.

Commercial Use Establishment: Any use or establishment wherein goods are purchased or sold whether to the consuming public (retail) or to other businesses (wholesale).

Commercial Vehicle: Any vehicle operated for the transportation of persons or property in the furtherance of any commercial or industrial enterprise, for-hire or not-for-hire, but not including a vehicle used in a ride sharing arrangement when being used for that purpose or a recreational vehicle not being used commercially. In any event, any vehicle that is licensed for a gross weight, including vehicle and cargo, of 8,001 pounds or more, or any vehicle used in a commercial enterprise and containing lettering or logo on the vehicle body advertising that commercial enterprise, shall be considered a commercial vehicle.

Commission: The Building and Zoning Commission of the City.

Comprehensive Plan: The adopted Comprehensive Plan of the City, and as amended from time to time.

Conforming: In compliance with the applicable provisions of this Zoning Code.

Corner Side Yard: The side yard adjacent to a street or private road extending from the front yard building setback line to the rear lot line. *08-1-4*

Corrective Action Order: A legally binding order issued by the Zoning Administrator in accordance with the procedures set forth herein to effect compliance with this Zoning Code.

Curb Level: The level of the established curb in front of the building measured at the center of such front. Where a building faces on more than one street, the "curb level" shall be the average of the levels of the curbs at the center of the front of each street. Where no curb elevation has been established, the mean level of the land immediately adjacent to the building shall be considered the "curb level."

Day Care Center: Any child care facility operated for profit or not-for-profit, which regularly provides day care for minor children and which must be licensed to render such day care by the Illinois Department of Children and Family Services.

Deck: An exterior floor system supported on at least two opposing sides by an adjoining structure and/or posts, piers or other independent supports.

Decorative Structure: Any embellishment or ornamental object that is built or placed in a yard, such as a planter, lighting fixture or fountain, which is less than eight feet in height, is accessory to the principal structure on the lot, and is associated with the landscaping on the lot.

Design Guideline: A standard of appropriate alteration or construction activity that will preserve the historic and architectural character of a structure or area.

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.

Dimensions: Refers to lot depth, lot width and total lot area.

Doghouse: An exterior shelter that does not exceed four feet in height and 25 square feet in floor area or lot coverage for the exclusive use of domesticated canine animals containing walls, roof, floor and one opening for ingress and egress of the canine animals.

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

Drive-in (through) Restaurant: Any food service establishment or restaurant or similar place in which food or drink is for sale on the premises or elsewhere in which service is received in an automobile or at central service windows. The term "drive-in" shall apply to any food service establishment other than cafeterias, in which service is made to a customer at a location other than tables on the premises intended for use by the customer for eating.

Drive-in Theater: A tract of land developed with facilities for projecting motion pictures on an outdoor screen for viewing by patrons in automobiles parked on the premises.

Driveway: A paved area on private property that intersects with the roadway of a public street and is intended to provide vehicle access from the public roadway to a private property. *08-1-4*

Dwelling: A building or portion thereof, but not including a house trailer or mobile home, designed or used exclusively for residential occupancy, including one-family dwelling units, two-family dwelling units and multiple-family dwelling units, but not including hotels, boarding or lodging houses.

Dwelling Unit: A unit within a dwelling, entirely separated from any other unit within said dwelling, designed for occupancy by one family.

Dwelling, One-Family: A building designed exclusively for use and occupancy by one family, and entirely separated from any other dwelling by space.

Dwelling, Two-Family: A building designed or altered to provide dwelling units for occupancy by two families.

Dwelling, Multiple-Family: A building or portion thereof, designed or altered for occupancy by three or more families living independently of each other.

Dwelling, Row-Party Wall: A row of two to eight attached, one-family, party-wall dwellings, not more than 2½ stories in height, nor more than two rooms in depth measured from the building line.

Easement: Land that has been designated by lawful agreement between the owner of such land and another person or entity for a specified use only by such person or entity.

Eave: The projecting lower edges of a roof overhanging the wall of a building.

Enclosed: See "building, completely enclosed" herein.

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: To build, construct.

Establishment: Either of the following:

1. An institutional, business, commercial or industrial activity that is the sole occupant of one (1) or more buildings; or

2. An institutional, business, commercial or industrial activity that occupies a portion of a building such that:

    a. The activity is a logical and separate entity from the other activities within the building and not a department of the whole; and

    b. 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: Actually constructed or in operation on the effective date of this Zoning Code.

Exterior Architectural Appearance: The architectural and general composition of the exterior of a structure including but not limited to the composition, color and texture of the building material and the type, design and character of all windows, doors, light fixtures, signs and appurtenant elements.

Family: One of the following, except as otherwise provided herein:

1. Two or more individuals related by blood, marriage or legal adoption (including foster children), together with domestic servants and not more than two gratuitous guests, living as a single, not-for-profit housekeeping unit occupying a dwelling unit.

2. Three or fewer individuals not related by blood, marriage or legal adoption (including foster children), living as a single, not-for-profit housekeeping unit occupying a dwelling unit. Servants or guests residing with said family shall be included in the unrelated person attained by this definition, and shall not be in addition thereto.

3. No more than two individuals who are not necessarily related to each other by blood, and their dependents, together with domestic servants and not more than two gratuitous guests, living as a single, not-for-profit housekeeping unit occupying a dwelling unit.

FCC: The Federal Communications Commission.

Fence: A free-standing structure of metal, masonry, wood or other solid durable material composed of natural, manufactured or processed materials, or any combination thereof, not part of any building, which rests on a raised platform or is supported by posts on or partially buried in the ground, and is used to confine, screen, partition, enclose, visually define or otherwise create a form of barrier for an area. A fence is a structure forming a barrier above a raised platform or at grade level between lots, between a lot and a street or other public right-of-way, or between portions of a lot or lots. A fence may be solid or partially permeable to light and air, and therefore a wall shall be deemed to constitute a fence. A hedge or series of shrubs densely planted in such a fashion so as to create a barrier sharing similar characteristics of a fence shall also be deemed to constitute a fence.

Fence, Decorative: Any fence installed only as an ornamental embellishment at a lot corner or adjacent to a street which may include associated plantings and/or other landscape features.

Fence, Marketing: Any fence installed only as an ornamental embellishment at a lot corner or adjacent to a street which may include associated plantings and/or other landscape features, which has been installed by a developer of a subdivision with the consent of the City as a temporary structure for purposes of assisting in marketing the development.

Floor Area, Gross: The sum of the gross horizontal area 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 living areas; halls, closets, stairwells; space devoted to mechanical equipment and enclosed porches.

Floor Area Ratio (FAR): The gross floor area of the building or buildings on the zoning lot divided by the area of such zoning lot; or in the case of a planned development, by the net site area.

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

Foundation, Permanent: A closed perimeter formation consisting of materials such as concrete or concrete block which extends into the ground below the frost line.

Game Area: Any building or portion thereof, where three or more amusement devices are located in an area or areas under the leasehold or ownership control of one person. For purposes of this definition, an area includes all common walkways, malls and pedestrian thoroughfares in any building or series of buildings connected by party walls. The presence of less than three such devices shall not be included in this definition if such devices are located wholly within an establishment and are accessory to the principal use.

Garage, Bus or Truck: Any building used or intended to be used for the storage of three or more passenger motor buses, or motor coaches used in public transportation, including school buses, or a building which is used or intended to be used for the storage of motor trucks, truck trailers, tractors and commercial vehicles exceeding 1½ ton capacity.

Garage, Private: A detached accessory building or portion of the principal building designed, arranged, used or intended to be used for the storage of automobiles of the occupants of the

premises.

Garage, Public: A building, other than a private garage, used for the care, incidental servicing, and sale of automobile supplies, or where motor vehicles are parked or stored for remuneration, hire or sale within the structure, but not including trucks, tractors, truck trailers and commercial vehicles exceeding 1½ ton capacity.

Group Home: A single dwelling unit occupied on a relatively permanent basis in a family-like environment by unrelated persons with disabilities. Paid professional support staff, provided by a sponsoring agency, either living with the residents on a 24-hour basis, or present whenever residents are present at the dwelling, shall be required, unless a special use permit is issued.

Guest House: Living quarters within a detached accessory building located on the same premises with the principal building for use by temporary guests of the occupants of the premises. Such quarters shall have no kitchen facilities nor be rented or otherwise used as a separate dwelling unit.

Historic Preservation District: An area designated by an ordinance of the City Council and which may contain within definable geographic boundaries one or more designated landmarks and which may have within its boundaries other properties or structures that, while not of such historic and/or architectural significance to be designated landmarks, nevertheless contribute to the overall visual characteristics of the landmark or landmarks located within the designated Historic Preservation District.

Home Occupation: Any business, professional or commercial activity that is conducted in whole or in part in a dwelling unit, is clearly incidental, secondary, and subordinate to the principal residential use of the dwelling unit, and does not change the essential residential character of such dwelling unit.

Hospital or Sanitarium: An institution open to the public in which patients or injured persons are given medical or surgical care, or for the care of contagious diseases or incurable patients.

Hotel or Motel: A building in which more than five rooms or suites are reserved to provide living and sleeping accommodations for temporary guests, with no provisions in said rooms for cooking in any individual room or suite.

Householder: The occupant of a dwelling unit who is either the owner or lessee thereof.

Impervious Surfaces: All buildings, structures, parking lots and facilities, sidewalks, driveways and service drives, graveled areas, paved recreational areas and other elements that do not readily absorb or retain rainwater.

Intensity: To increase the level or degree of use.

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

Junk Yard: The use of more than 200 square feet of any lot where waste, scrap metal, paper, rags or

similar materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including auto and building wrecking yards, but excluding similar uses taking place entirely within a completely enclosed building.

Kennel, Commercial: Any lot or premises or portion thereof on which more than five dogs, cats or other household domestic animals over four months of age are kept or on which more than two such animals are boarded for compensation or kept for sale.

Laboratory, Commercial: A place devoted to experimental study such as testing and analyzing. Manufacturing, assembly or packaging of products is not included within this definition.

Landmark: Any building, structure or site which has been designated as a "Landmark" by an ordinance of the City Council, pursuant to procedures prescribed herein, that is worthy of rehabilitation, restoration and preservation because of its historic and/or architectural significance.

Line of Building (for measuring yards): A line parallel to the nearest lot line drawn through the point of a building or group of buildings nearest to such lot line, exclusive of such features specified as being permitted to extend into a yard.

Loading and Unloading Space, Off-Street: An open, hard surfaced area of land other than a street or public way, the principle use of which is for the standing, loading and unloading of motor trucks, tractor trailers to avoid undue interference with the public use of streets and alleys. Such space shall be not less than 12 feet in width, 50 feet in length and 15 feet in vertical clearance, exclusive of access aisles and maneuvering space. *Amended, 08-1-4*

Lodging or Rooming House: A building with not more than five guest rooms where lodging is provided for compensation pursuant to previous arrangement, but not open to the public or to overnight guests.

Lot: A parcel of land occupied or intended for occupancy by a use permitted in this Zoning Code, including one or more principal buildings and accessory buildings or structures as permitted by the City, yards, and open spaces required in this Zoning Code for off-street parking or loading facilities, and having its principal frontage upon a street or upon an officially approved place. Such parcel of land shall be established by a plat of subdivision approved by the City and recorded with the County Recorder's Office. The word "lot" when used alone shall mean a "zoning lot" unless the context of this Zoning Code clearly indicates otherwise.

Lot Area: The area of a horizontal plane bounded by the front, side and rear lines of a lot.

Lot, Corner: A parcel of land situated at the intersection of two or more streets or adjoining a curved street at the end of a block.

Lot Coverage: The area of a zoning lot occupied by the principal building or buildings and accessory buildings.

Lot Depth: The horizontal distance between the front and rear lot lines measured in the mean

direction of the side lot lines.

Lot Frontage: The front of a lot shall be that boundary of a lot along a public or private street. For a corner lot the owner may elect either street line as a front lot line for the purposes of orientation of a dwelling or building thereon, except if the front of the lot is designated on the plat of subdivision. Notwithstanding the choice of such orientation, a corner lot shall be deemed to have two front yards for the purposes of establishing setback requirements. See also Building Front.

Lot, Interior: A lot other than a corner lot, through lot, or reversed corner lot.

Lot Line, Front: The front property line of a zoning lot. See Lot Frontage for additional requirements.

Lot Line, Interior: A side lot line common with another lot.

Lot Line or Property Line: A line dividing one lot from another, or from a street or right-of-way, or from any public place.

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

Lot Line, Side: The lot line or lines other than front or rear lot lines, except for corner lots, where the side lot line adjacent to a street shall be deemed a front lot line for the purposes of establishing setback requirements.

Lot of Record: A lot properly platted and recorded in the office of the McHenry County Recorder of Deeds.

Lot, Reversed Corner: A corner lot, the rear of which abuts upon the side of another lot, whether across an alley or not.

Lot, Through: A lot having frontage on two parallel or approximately parallel streets, and which is not a corner lot.

Lot, Width: The horizontal distance between the side lot lines, measured at right angles to the lot depth at the building setback line. However, for lots where the side lot lines are not parallel, the established lot width shall be the average of the front and rear lot widths, where the lot width is the length of a straight line between the points at which the required building setback line intersects the side lot lines.

Lot, Zoning: See “Zoning Lot.”

Manufacture: The making of anything by an agency or process.

Marquee or Canopy: A roof like structure of a permanent nature which projects from the wall of a building and may overhang the public way.

Mean Water Line: The line at which the water usually stands when free from disturbing causes, including but not limited to, snow melt and rainfall.

Medical Office: An establishment where human patients, not animals or pets, are admitted for diagnosis and treatment by licensed physicians, medical practitioners and professional associates, who may utilize jointly the same reception area, medical supply, laboratory, auto parking and other physical accommodations.

Motor Freight Terminal, Private: A building in which freight, brought to said building by motor truck, is assembled and sorted for routing in intrastate and interstate shipment by motor truck.

Municipal Code: The Marengo Municipal Code of which the Zoning Code is Chapter 22.

Municipal Facilities: Any building, structure or appurtenance thereto, open space or parcel of property owned or leased by the City.

NOAA: National Oceanic & Atmospheric Administration.

Non-Conforming Use: Any building, structure or land lawfully occupied by a use or lawfully established at the time of the adoption of this Zoning Code or amendments hereto, which does not conform after the passage of this Zoning Code or amendments hereto with the use regulations of this Zoning Code.

Noxious Matter: Matter which is capable of causing injury or illness to living organisms or is capable of causing detrimental effects to the health of the psychological, social or economic well being of humans.

Nursing Home or Rest Home: A private home for the care of children or the aged or inform, or a place of rest for those suffering bodily disorders, but not including facilities for the treatment of sickness injuries or for surgical care.

Nursery, Day: See “day care center” herein.

Nursery School: An institution providing day care service for children from four to six years of age.

Octave Band: An “octave band” is a means of dividing the range of sound frequencies into octaves in order to classify sound according to pitch.

Open Space: Open space shall include all public and private areas set aside from development in order to provide for recreational or conservation purposes, which may be either passive or active uses, and which are designated due to factors including, but not limited to, natural features worthy of protection or preservation, site significance or recreational opportunities.

Ordinance: Reference to “ordinance” herein shall be construed as the Zoning Code.

Outdoor Storage: The keeping, in an unroofed area, of any goods, material, merchandise or

vehicles in the same place for more than 24 hours.

Parcel Delivery Station: A building in which commodities, sold at retail within the area and packaged by the retailer, are assembled and routed for delivery to retail customers located within the area.

Park: An open space area with recreational facilities and related accessory structures, including, but not limited to, playground equipment, picnic shelters, paths/trails, benches, tennis or basketball courts, playing fields, fences and parking lots.

Parking: The stationary placement of any vehicle or equipment for a continuous period of less than 48 hours.

Parking Area, Private: An open hard-surfaced area of land, other than a street or public way, designed, arranged and made available for the parking of private passenger vehicles only of occupants and their guests of the building or buildings for which the parking area is developed and is accessory.

Parking Area, Public: An open, hard surfaced area, other than a street or public way, intended to be used for the temporary storage of passenger automobiles and commercial vehicles under 1½ ton capacity, and available to the public, whether for compensation, free or as an accommodation to clients or customers. *Amended, 08-1-4*

Parking Space, Automobile: Space within a public or private parking area of not less than 162 square feet 8½ feet by 19 feet, exclusive of access drives or aisles, ramps, columns or office and work areas, for the storage of one passenger automobile or commercial vehicles under 1½ ton capacity.

Paved Surface: Includes concrete, bituminous, brick pavers, or other impervious or pervious material commonly used for a finish surface material of a parking or driveway area. *08-1-4*

Performance Standard: A criterion to control noise, odor, smoke, toxic or noxious matter, vibration, fire and explosive hazards, or glare to be moved or removed.

Planned Development: A “planned development” is a tract of land which is developed as a unit under single ownership or control which includes two or more principal buildings, and which may not completely conform to all of the regulations of the district in which it is located. The development of a “planned development” shall be according to regulations as hereinafter set forth.

Planning and Zoning Commission: The City Planning and Zoning Commission. Any reference to Commission in this Zoning Code shall also mean the Planning and Zoning Commission.

Play Equipment: A free-standing accessory structure, exclusively for the use of children, including but not limited to swing sets, “jungle gyms” and similar recreational structures.

Playhouse: A free-standing accessory building, whether permanent or portable, fully or mostly

enclosed with walls, roof, window(s) and a door, exclusively for the use of children. For the purposes of this definition, a treehouse shall be deemed to be equivalent to a playhouse.

Plot: A parcel of land consisting of one or more lots or portions thereof which is described by reference to a recorded plat or by metes and bounds.

Porch: A roofed-over structure projecting out from the wall or walls of a main structure and commonly open to the weather in part.

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.

Public Utility: Any person, firm, corporation or municipal department, duly authorized to furnish under public regulation to the public, electricity, gas, steam, telephone, telegraph, transportation or water.

Railroad Right-of-Way: A strip of land with tracks and auxiliary facilities for track operation, but not including depots, loading platforms, stations, train sheds, warehouses, car shops, car yards, locomotive shops or water towers.

Reconstruct: As applied to nonconforming structures, "reconstruct" means to rebuild after partial or total destruction.

Recreational Vehicle: A term encompassing any type of vehicle used primarily for recreational pleasure. Examples are, but not limited to, travel trailers, motor homes, boats, etc.

1. Travel trailer is a structure designed to provide temporary living quarters for recreational, camping or travel use, constructed with integral wheels to make it mobile and/or towable by a motor vehicle, not to exceed eight feet in width and a body length of 35 feet.

2. Camper trailer (pop up) is a structure designed to provide temporary living quarters for recreational, camping or travel use, constructed with integral wheels to make it mobile and/or towable by a motor vehicle, not to exceed 24 feet in length and five feet six inches in height in a collapsed position.

3. Motor home is a portable dwelling designed and constructed as an integral part of a self-propelled vehicle not to exceed 40 feet in length and 12 feet in height.

4. Pickup camper is a structure designed primarily to be mounted on a pickup or truck chassis and with sufficient equipment to render it suitable for use as a temporary dwelling for travel, recreational or vacation use.

5. Watercraft is any unit that is used for water travel or pleasure, 35 feet or less in length, but not to exceed 12 feet in height, either mounted on a boat trailer or unmounted; also boat

trailer without boat mounted.

6. Snowmobiles are considered recreational vehicles.

Redevelopment: The removal of the principal buildings or structures from land and/or the construction or erection of other principal buildings or structures thereon, or the development of vacant properties.

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.

Ringelmann Number: The "Ringelmann Number" is the number of the area of the Ringelmann Chart that coincides most nearly with the visual density of emission.

Satellite Dish Antenna: Any parabolic, dish-type, circular, rectangular, concave, convex, or similarly-shaped structure, which is solid or open-web in construction, designed for receiving communications, radio, television, data, or other signals from a satellite or other sources, or for transmitting such signals to a receiving station, or both. For the purposes of this definition, a "miniature satellite dish antenna" shall mean any satellite dish antenna that has a diameter or width of one meter (approximately 39 inches) or less, and a "regular satellite dish antenna" shall mean any satellite dish antenna that has a diameter or width of more than one meter.

Screening: Trees, shrubs, walls, solid fences, etc. used as a means of visual and noise control.

Self-Storage, Mini Warehouse: A building or buildings in a controlled access area that contain varying sizes of individual, compartmentalized and controlled access stalls or lockers for the storage of a customer's goods or wares.

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

Setback: The horizontal distance between the building or structure and the lot line.

Setback Line, Building: See "Building Setback Line."

Shed: A fully or mostly enclosed accessory building or structure, also known as a "storage shed," utility shed or "tool room," that is used for sheltered storage of personal property pertaining to the principal building to which the shed is accessory.

Smoke Units: "Smoke Units" represent the number obtained by multiplying the smoke density in Ringelmann numbers by the time of emission in minutes. For the purpose of this chart, Ringelmann density reading is made at least once every minute during the period of observation; each reading is then multiplied by the time in minutes during which it is observed; and the various products are added together to give the total number of "smoke units" observed during the total period under observation.

Special Use: A use, either public or private, of land or buildings or both, which because of its unique characteristics, cannot properly be classified as a permitted use in any particular zoning district or districts, and which, in accordance with the provisions of Section 16.3 herein, after due consideration in each case of the impact of such use upon adjoining properties and of the need or appropriateness for the particular use at the particular location, such special use may or may not be granted, and if granted, may be subject to conditions or restrictions.

Stop Order: A type of corrective action order used by the Administrator to halt work in progress that is in violation of this or other ordinances.

Storage: The stationary placement of any vehicle or equipment for a continuous period of 48 hours or more, and/or for which further evidence of storage intent may include, but is not limited to, covering said vehicle or equipment with a tarp or other type of cover, failure to keep tires inflated, removal of tires and allowing said vehicle or equipment to be in or fall into a state of disrepair by any means that renders it incapable of being driven, operated or moved.

Story: That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling next above it. Any portion of a story exceeding 14 feet in height shall be considered as an additional story for each 14 feet or fraction thereof.

Story, Half: A half story is that portion of a building under a gable, hip or mansard roof, the wall plates of which on at least two opposite exterior walls, are not more than 4½ feet above the finished floor of such story.

Street: A public way other than an alley.

Street Line: A line separating an abutting lot, piece or parcel, from a street.

Structural Alterations: Any change other than incidental repairs which would prolong the life of the supporting members of a building or structure, such as bearing walls, columns, beams or girders.

Structure: Anything constructed or erected which required location on the ground or is attached to something having location on the ground.

Tanning Salon: A room or booth which houses ultraviolet lamps or products containing such lamps intended to induce skin tanning through the irradiation of any part of the human body for cosmetic or non-medical related purposes.

Tavern: A building where liquors are sold to be consumed on the premises.

Temporary Use Permit: A permit issued in accordance with the provisions of this ordinance and valid for not more than one year, which allows the occupation of a temporary structure or the operation of a temporary enterprise

Terrace, Open: A level and rather narrow plane or platform, which for the purpose of this Zoning

Code, is located adjacent to one or more faces of the principal structure and which is constructed not more than four feet in height above the average level of the adjoining ground.

Topography: The relief features or surface configuration of an area.

Tourist Home: A dwelling in which accommodations are provided or offered for transient guests.

Trailer, Trailer House or Mobile Home: A vehicle without motored power, designed to be drawn by a motor vehicle and to be used for human habitation or for carrying persons and property, including a trailer coach or house trailer or mobile homes.

Truck Parking Area, or Yard: Any land used or intended to be used for the storage or parking of trucks, tractors, truck trailers and including commercial vehicles, while not loading or unloading, and which exceed 1½ tons in capacity.

Use: The purpose for which land or a building thereon is designed, arranged or intended, or for which it is occupied or maintained, let or leased.

Used Car Lot: A zoning lot on which used or new cars, trailers or trucks are displayed for sale or trade.

Utility Substation: A secondary utility facility such as an electrical substation, gas regulator station, telephone exchange facility, sewage treatment plant, etc.

Variation: A divergence from bulk, setback, height, parking and loading, or other regulatory elements of this Zoning Code.

Vehicle, Non-Passenger: A motor vehicle eight feet or more in overall height or 22 feet or more in overall length and any vehicle or trailer except recreational vehicles and equipment not customary or incidental to the use of occupancy of residential properties, such as, but not limited to: dump trucks; step vans; cargo trucks; tow trucks; semi trailer tractors; fire trucks; boom trucks; tank trucks; hearses; livery vehicles, such as taxis and limousines; and the like. *08-1-4*

Vehicle, Passenger: Any motor vehicle licensed for on-street use measuring less then eight feet in overall height and less than 22 feet in overall length designed and commonly used for personal or work related day-to-day transportation purposes carrying not more than 15 persons, including the driver. A passenger vehicle includes automobiles, sport utility vehicles (SUVs), vans and pick-up trucks with a manufacture's nominal rating carrying capacity of one ton or less and commonly known as a pick-up truck, and a van designed with no barrier separation between the operator area and the remainder of the cargo carrying area with a manufacture's nominal rating carrying capacity of one ton or less. Passenger vehicles shall not include buses, motorcycles, motorized bicycles, motorized foot scooters, as well as non-passenger vehicles, school buses, trailers, recreational equipment or recreational vehicles as defined by the Section. A handicap equipment van used for personal purposes shall be deemed a passenger vehicle regardless of the height. *08-1-4*

Yard: An open space on the same zoning lot with a principal building or group of buildings, which is unoccupied and unobstructed from its lowest level upward, except as otherwise permitted by this Zoning Code, and which extends along a lot line and at a depth or width specified in the yard regulations for the district in which the zoning lot is located. In measuring a yard for the purpose of determining the depth of a front yard, the width of a side yard, or the depth of a rear yard, the minimum horizontal distance between the lot line and the principal building shall be used.

Yard, Front: A yard extending across the full width of the zoning lot and lying between the front line of the lot and the nearest line of a building.

Yard, Rear: A yard extending across the full width of the zoning lot and lying between the rear line of the lot and the nearest line of the principal building.

Yard, Side: That part of the yard lying between the nearest line of the principal building and a side lot line, and extending from the front yard to the rear yard, or situated in between the front yard and the rear yard.

Zoning Administrator: The officer designated by the City as the person responsible for administering and enforcing the requirements of the Zoning Code. (See Section 17.01 herein.)

Zoning Code: The City of Marengo Zoning Code, which is Chapter 22 of the Marengo Municipal Code.

Zoning District: A division of the geographic area of the City, as shown on the Zoning Map, wherein the character and intensity of land use is regulated by the terms of this Zoning Code. Also, a geographical area for which the regulations governing uses, setback and bulk requirements, and other conditions of uses are uniform as provided for in this Zoning Code. The terms “district,” “use district” and “zone” are deemed synonymous.

Zoning Lot: A plot of ground, made up of one or more parcels, which is or may be occupied by a use, building or buildings including the open spaces required by this Zoning Code.

Zoning Map: The map or maps incorporated into this Zoning Code as a part hereof, designating zoning districts. *pjh:Marengo.Zone\Section3.Definitions.Jan08.doc*

Section 4

USE DISTRICTS

4.01 Zoning Districts
4.02 Zoning Maps
4.03 New and Annexed Land
4.04 Zoning of Streets, Alleys, Public Ways, Waterways and Railroad Rights-of-Way
4.05 Boundary Lines
4.06 General Provisions
4.07 Meeting Minimum Zoning Requirements
4.08 Access Required
4.09 Front Setbacks-Corner/Through Lots
4.10 Private Garages
4.11 Lot Coverage

4.01 ZONING DISTRICTS *Amended, 06-12-3*

In order to carry out the purposes and provisions of this Zoning Code the City is hereby divided into the following districts:

ER Estate Residential District
R-1 Single Family District
R-2 Single Family District
R-3 Single Family District
R-5 Multiple Family District
B-1 Central Business District
B-2 General Business District
B-3 Regional Shopping District
BP, Business Park District
ORI Office, Research & Light Industrial District
M Manufacturing District

4.02 ZONING MAPS

The location and boundaries of the districts established herein are shown upon the zoning map which is hereby incorporated into this Zoning Code. The zoning map together with all notations references and other information shown thereon and all amendments thereto shall be a part of this Zoning Code and shall have the same force and effect as if the zoning map together with all notations references and other information shown thereon were fully set forth and described herein.

4.03 NEW OR ANNEXED LAND

Submerged land heretofore reclaimed or which may be reclaimed hereafter and land heretofore annexed or which may be annexed to the City hereafter and which is not shown on the zoning map made a part of this Zoning Code shall be classified in the ER Estate Residential District until such

time as the City County designates the permitted use of the land in accordance with the provisions of this Zoning Code.

4.04 ZONING OF STREETS, ALLEYS, PUBLIC WAYS, WATERWAYS AND RAILROAD RIGHTS-OF-WAY

All streets, alleys, public ways, waterways and railroad rights-of-way, if not otherwise specifically designated, shall be deemed to be in the same zone as the property immediately abutting upon such alleys, streets, public ways, waterways and railroad rights-of-way. Where the center line of a street alley public way or railroad right-of-way serves as a district boundary the zoning of such areas unless otherwise specifically designated shall be deemed to be the same as that of the abutting property up to such center line.

4.05 BOUNDARY LINES

Wherever any uncertainty exists as to the boundary of any use district as shown on the zoning maps incorporated herein the following rules shall apply:

1. Where district boundary lines are indicated as following streets alleys or similar rights-of-way they shall be construed as following the center lines thereof.

2. Where district boundary lines are indicated as approximately following lot lines such lot lines shall be construed to be such boundaries.

3. Where a lot held in one ownership and of record at the effective date of this Zoning Code is divided by a district boundary line the entire lot shall be construed to be within the less restricted district; provided that this construction shall not apply if it increases the area of the less restricted portion of the lot by more than 20 percent.

4.06 GENERAL PROHIBITIONS

No structure or part thereof shall be erected, used, occupied, enlarged, altered, relocated or reconstructed except in conformity with the provisions of this Zoning Code. Similarly, no lot or part thereof shall be used, occupied or developed except in conformity with the provisions of this Zoning Code.

4.07 MEETING MINIMUM ZONING REQUIREMENTS

Except as specifically provided elsewhere in this Zoning Code, every lot must meet the minimum dimensions and minimum setback requirements of the district in which it is located independent of counting any portion of an abutting lot.

4.08 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 that conforms to the standards set forth in the Subdivision Control

Ordinance of the City.

4.09 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.

4.10 PRIVATE GARAGES *Amended, 04-2-1*

Private garages or carports are not to exceed 15 feet, 6 inches in height, nor to exceed the following capacities or size:

1. For single-family residence: Three car garage maximum with 700 square feet in area for a detached or free-standing garage, and either the width or length is limited to 32 lineal feet.

2. For multiple-family residence: Two car garage per dwelling unit, maximum five 550 square feet.

3. Hold no more than three cars.

4.11 LOT COVERAGE

A. The maintenance of yards, courts and other open space and minimum lot area legally required for a building shall be a continuing obligation of the owner of such building or the property on which it is located as long as the building is in existence. Furthermore, no legally required yards, courts or other open space or minimum lot area allocated to any building shall by virtue of change of ownership or for any other reason be used to satisfy yard, court, open space or minimum lot area requirement for any other building.

B. Division of Zoning Lots: No improved zoning lot shall hereafter be divided into two or more zoning lots unless all improved zoning lots resulting from each such division conform with all the applicable bulk regulations of the zoning district in which the property is located.

C. Location of Required Open Space: All yards, courts and other open spaces allocated to a building or dwelling shall be located on the same zoning lot as such building or dwelling group.

D. Required Yards for Existing Buildings: No yards now or hereafter provided for a building existing on the effective date of this Section 4 shall subsequently be reduced below or further reduced below if already less than the minimum yard requirements of this Zoning Code for equivalent new construction without a variance.

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Section 5

GENERAL PROVISIONS

5.01 Scope of Regulations
5.02 Permits
5.03 Building Height, Bulk and Lot Coverage
5.04 Lot Area and Dimension
5.05 Location of Buildings
5.06 Buildings Under Construction
5.07 Buildings on a Zoning Lot
5.08 Rezoning of Public and Semi Public Areas
5.09 Vision Clearance, Corner Lots
5.10 Regulation of Space and Density of Residential Dwelling Units
5.11 Home Occupations - Regulations
5.12 Fences, Shrubs, Hedges and Decorative Structures
5.13 Yard and Building Setback Exceptions
5.14 Travel Trailers and Recreational Vehicles
5.15 Outside Display, Sales and Storage Special Permit
5.16 Use of Commercial Truck Trailers and Railroad Cars for Storage
5.17 Refuse Containers
5.18 Determination of Similar and Compatible Uses

5.01 SCOPE OF REGULATIONS

All buildings and structures erected hereafter, all uses of land, structures or buildings established hereafter, all structural alterations, conversions, reconstructions or relocations of existing structures or buildings occurring hereafter, and all enlargements of, additions to, or intensifications of existing uses occurring hereafter shall be subject to all regulations of this Zoning Code which are applicable to the districts in which such buildings, structures, uses or land shall be located, and no building, structure, use or land may be used other than that which is permitted in the district in which the building, structure, use or land is located.

5.02 PERMITS

No application for a building permit or other permit or license, or for a certificate of occupancy, shall be approved by the Zoning Administrator and no permit or license shall be issued by any other City department which would authorize the use or change in use of any land or building contrary to the provisions of this Zoning Code, or the erection, moving, alteration, enlargement or occupancy of any building designed or intended to be used for a purpose or in a manner contrary to the provisions of this Zoning Code.

5.03 BUILDING HEIGHT, BULK AND LOT COVERAGE

A. No building shall be erected, reconstructed, relocated or structurally altered so as to have a greater height, a higher ratio of lot coverage or smaller open space about it than permissible

under the limitations set forth herein for the district in which such building is located, except that parapet walls, chimneys, cooling towers, elevator bulkheads, fire towers, stacks, stage towers or scenery lofts and necessary mechanical appurtenances, shall be permitted to exceed the maximum height provisions when erected in accordance with all other ordinances of the City. For the purposes of establishing height of a building, the measurement shall begin at the established grade on the front side of the building.

B. No space allocated to a building or dwelling group for the purpose of complying with the side, rear or front yard, or court or other open space or lot area requirements of this Zoning Code, shall thereafter, by reason of change in ownership or for any other reason, be used to satisfy the yard, court, open space or lot area requirements of any other building or dwelling group.

C. No usable open space or off-street parking space or loading space existing or provided hereafter for any building be reduced below the minimum requirements hereinafter set forth for usable open space, parking space or loading space, nor further reduced if already less than minimum requirements.

5.04 LOT AREA AND DIMENSION

When two or more parcels of land, each of which lacks adequate area and dimension to qualify for a permitted use under the requirements of the use district in which they are located, are contiguous and are held in one ownership, they shall be used as one zoning lot for such use.

5.05 LOCATION OF BUILDINGS

Except as otherwise provided for in this Zoning Code, every building shall be constructed or erected upon a lot or parcel of land which abuts upon a public street or permanent easement of access to a public street, which easement shall have a minimum width of 25 feet, unless an easement of lesser width was of record prior to the adoption of this Zoning Code.

5.06 BUILDINGS UNDER CONSTRUCTION

Nothing in this Zoning Code shall be deemed to require any change in the plans, construction or designated use of any building or structure upon which actual construction was lawfully begun prior to the adoption of this Zoning Code, or any subsequent amendment thereto that would affect said plans, construction or use, provided, however, that construction is begun or the use is begun to be established within one year from such effective date of adoption or amendment, and said construction or establishment of use has been diligently carried on to completion in accordance with the approved plans on the basis of which a building permit or other permit has been issued, and furthermore, may upon completion be occupied or put into use under a certificate of occupancy or a certificate of use and compliance for the use for which it was originally designated. However, such building or establishment of use shall be completed within one year from the issuance of the building permit or other permit unless otherwise provided for in the Marengo Municipal Code. Furthermore, such a building, structure or use shall thereafter be subject to the provisions of Section 6, Non-Conforming Buildings and Uses, of this Zoning Code.

5.07 BUILDINGS ON A ZONING LOT

Every building hereafter erected or structurally altered to provide dwelling units shall be located on a zoning lot as herein defined and in no case shall there be more than one such building on one zoning lot.

5.08 REZONING OF PUBLIC and SEMI-PUBLIC AREAS

An area indicated on the zoning map as a public park, recreation area, public school site, cemetery or other similar open space, shall not be used for any other purpose than that designated and when the use of the area is discontinued, it shall automatically be zoned to the most restricted adjoining district until such time as the Mayor and City Council designate a different classification in accordance with the provisions of this Zoning Code.

5.09 VISION CLEARANCE, CORNER LOTS *Amended, 08-1-4*

On corner lots no building hereafter erected and no planting or other obstruction to the vision of drivers of motor vehicles shall exceed a height of three feet above the grade within 25 feet of lot lines which are adjacent to streets.

5.10 REGULATION OF SPACE AND DENSITY OF RESIDENTIAL DWELLING UNITS

No person shall occupy or let to be occupied any dwelling unit, for the purpose of living therein, unless there is compliance with the requirements of this Section 5.10.

1. The maximum occupancy for any dwelling unit shall not exceed the lesser value of the following requirements:

    a. For the first occupant, there shall be at least 1,000 square feet of habitable floor space. There shall be at least 200 square feet of habitable floor space for every additional occupant.

    b. The total number of persons shall be no more than two times the number of habitable bedrooms within the dwelling unit.

2. Habitable floor space shall be permitted in a basement only when the floor is not more than four feet below finished grade level at all exterior walls containing openings required for natural light and ventilation.

3. No space located more than four feet below grade shall be considered habitable space, except that a basement recreation or family room, where a separate living room is provided elsewhere in the dwelling unit, may have a floor level more than four feet below finished grade level.

4. Every room occupied for sleeping purposes shall contain at least 100 square feet of habitable floor space.

5. Within every dwelling unit there shall be a bathroom with a flush water closet in good working condition for each six persons or fraction thereof living within that dwelling unit.

6. Habitable space shall include a room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, laundries, furnace rooms, pantries and utility rooms of less than 50 square feet, foyers or communicating corridors, stairways, closets, storage space and workshops.

5.11 HOME OCCUPATIONS - REGULATIONS

The conduct of business or commercial activity in dwelling units in residential zoning districts may be permitted under the provisions of this Section 5.11. Home occupations shall be regulated as follows:

1. A home occupation is an accessory use by the occupant(s) of a dwelling unit in which goods are produced or traded, or services are rendered as an economic enterprise. Such use shall be clearly incidental or subordinate to the residential use of a dwelling. Beauty shops, barber shops and massage services are not considered home occupations.

2. Home occupations do not include garage or yard sales.

3. Home occupations are permitted as an accessory use to a residence only when all of the following criteria are met:

    a. Area of use: Home occupations shall be entirely contained within the interior of a residence or located in garages or accessory structures on the site. No visible evidence of the business shall be apparent from the street nor surrounding area. A home occupation shall use no more than 20 percent of the total dwelling unit floor area. Those home occupations which require occasional meetings using more than 20 percent of the floor space may be permitted providing such meetings do not occur more frequently than once a month.

    b. Employees: The home occupation shall be conducted by family members residing on the premises with no assistance from other individuals or groups.

    c. Sales, repairs and leasing:

        i. Sales: The commercial exchange of tangible goods or other items constituting a sale between the proprietor of a home occupation and members of the general public shall not be permitted on the premises of a home occupation. Members of the general public shall not include persons in the home by prior individualized invitation.

ii. Leasing: The exchange of items in a lease agreement between the proprietor of the home occupation or an assistant and a customer shall not occur on the premises of a home occupation.

d. Traffic and parking: No parking in the public right-of-way shall occur as a result of this home occupation except for occasional meetings. If parking for a home occupation occurs in a manner of frequency causing disturbance to the normal traffic flow for the neighborhood, the occupation shall be considered a business best handled in a commercial district rather than as a home occupation.

e. Changes to exterior: The appearance of a dwelling as a residence shall not be altered to the extent that attention is drawn to the structure as a commercial or business operation. Alterations of building material, size or color, lighting fixtures or intensity, parking area or any other exterior change should not cause the structure to lose its residential character nor should it detract from the residential character of the neighborhood.

f. Nuisance controls: A home occupation shall not create excessive noise, dust or dirt, heat, smoke, odors, vibration and glare or bright lighting which would be over and above that created by a single-family residential dwelling. The production, dumping or storage of combustible or toxic substances shall not be permitted on site. Additionally, a home occupation shall not create interference or fluctuations of radio or television reception.

g. Visitation: A home occupation may attract patrons, students or any business-related individuals only between the hours of 6:00 a.m. and 9:00 p.m. At any time during the day or evening, the parking standards in this Zoning Code shall apply to the activity generated by the home occupation, excluding family day-care homes. A home occupation shall not generate more than six arrivals and six departures per day by vehicles. Family day-car operations shall not generate more than 12 arrivals and 12 departures per day by vehicles. These standards shall not be construed so as to prohibit occasional group gatherings, recitals or demonstrations. However, such gatherings shall not occur more frequently than once per month and must be held within the visitation hours specified herein.

h. Signage: Signage or other forms of advertising pertaining to the home occupation may be placed or painted onto the exterior of the residence or in the yard of a residence. These signs may not exceed two square feet in area.

5.12 FENCES, SHRUBS, HEDGES AND DECORATIVE STRUCTURES *Amended, 08-1-4, 04-3-1*

In order to provide for the maximum safety of persons using the streets, rights-of-way, sidewalks and other public ways of the City, and to provide for the maximum enjoyment of the use of property, the following regulations shall apply to all fences, hedges and similar structures or elements located in the City.

1. For purposes of minimizing traffic hazards at street intersections by improving visibility for converging vehicles, obstructions higher than three feet shall not be permitted to be planted, placed or erected on any corner lot within the triangular portion of land designated as "restricted area." This triangular area shall consist of a portion of land extended from the corner of the lot 25 feet in either direction.

2. No barbed wire or other sharp pointed fence and no electrically charged fence shall be erected or maintained except in the industrial district. In the industrial district barbed wire cannot be lower than six feet from ground level. This requirement does not apply to agricultural zoned property.

3. No permanent fence or retaining wall shall be constructed or erected within any public street or alley right-of-way unless authorized by the City Council. Fences erected on public easements or across ditches shall be so constructed that drainage shall not be obstructed. Fences erected in any overland drainage easement shall be constructed to be at least 50 percent open to facilitate the passage of storm water/drainage. For every one unit of horizontal, vertical and diagonal fencing aforementioned, 50 percent requirement may be reduced if an adequate opening is provided at the base of the fencing to allow for the free passage of water in sufficient amounts as deemed appropriate by the City Administrator, Building Commissioner or the City Engineer. In the event of necessity for removal of such fence for maintenance or other purpose, removal and/or replacement of such fence or other improvement shall be the responsibility of the property owner.

4. Fences, walls and hedges in all residential districts shall not exceed a maximum height of six feet and may be located up to lot lines.

5 Fences, walls and hedges in the industrial district shall not exceed a maximum of eight feet and may be located up to lot lines.

6. With the exception of corner lots (see paragraph 1 herein), fences, walls and hedges shall not exceed four feet in height when located in the front and corner side yards. Chain link fencing is prohibited in front and corner side yards.

7. On a through lot both street lines shall be deemed front lot lines, but in the case of two or more contiguous through lots there shall be a common front.

8. All of the framing on any fence shall be on the interior side of the fence.

9. A wall of a private swimming pool shall not be located less than 10 feet from any rear or side property line or 10 feet from the side lot line abutting a street or 10 feet from any principal structure.

5.13 YARD AND BUILDING SETBACK EXCEPTIONS *Amended, 08-1-4*

The following structures or structural elements shall be allowed to project into or to be constructed

in any required yard, or beyond the building setback line, except as otherwise provided in this Zoning Code, and except that in no case shall such structure, structural element, or component part thereof extend beyond the property line:

1. Accessory buildings or structures as provided for in Section 7 of this Zoning Code.

2. Air conditioner (window); central air conditioner, provided that the unit is placed next to the dwelling if for residential use, and placed as designated on an approved site plan and the hot air is baffled in an upward direction if for non-residential use. Central air conditioners shall be prohibited in front yards.

3. Awnings and canopies as governed by Chapter 16 of the Municipal Code.

4. Balconies, unenclosed, not to exceed three feet in depth.

5. Bay or bow windows, one or two stories, not to exceed three feet in depth.

6. Driveways and curbs.

7. Fences, walls, hedges and decorative structures as provided for in Section 5.12 of this Zoning Code.

8. Fireplace chimneys, not to exceed three feet in depth, so long as the chimney chase does not exceed six feet in width.

9. Landscape features and plant materials, such as trees, shrubs and flowers. Planter boxes attached to a building shall not exceed two feet in depth.

10. Overhanging or projecting roofs, eaves, cornices or other similar architectural features, not to exceed two feet in depth (including any gutters attached thereto). For any portion of such features in excess of two feet in depth, only the portion in excess shall count towards any setback or yard requirements.

11. Parking spaces as governed by Section 8 of this Zoning Code.

12. Public or municipal utility equipment and supporting structures.

13. Sidewalks and ramps.

14. Signs as governed by Chapter 16 of the Municipal Code.

15. Steps, stairs and porches, all unenclosed, attached to and projecting from a principal building or to give access to a principal building, not to exceed four feet in height or depth.

16. Yard lights and parking lot lighting poles and fixtures.

17. Fire escapes not to exceed four feet into required yard.

18. Patios, no limit of intrusion.

19. The United States flag, a state flag, a municipal flag or a corporate flag are exempt from this restriction. One flag of each type shall be allowed on each zoning lot. Flags shall hang no greater than one third the length of the pole that it is on. Flagpoles shall be no higher than 30 feet.

5.14 TRAVEL TRAILERS AND RECREATIONAL VEHICLES *Amended, 08-1-4*

The requirements of paragraphs 1, 3 and 4 herein do not apply to travel trailers or other recreational vehicles parked on a permitted recreational vehicle sales lot.

1. Not more than one travel trailer or other recreational vehicle shall be parked on any one lot.

2. No travel trailer or other recreational vehicle shall be used as a dwelling.

3. No travel trailer or other recreational vehicle shall be used as an office or for any other commercial purpose except for approved construction offices.

4. If no City sidewalk is present, the parking of a travel trailer, utility trailer or other recreational vehicle shall only be permitted behind the front property line between the dates of April 15 and October 15. The parking area must be paved in accordance with Chapter 8, Off-Street Parking and Loading, of this Zoning Code. After October 15 and prior to April 15, the parking of a travel trailer, utility trailer and/or other recreational vehicles shall only be permitted behind the building setback line.

5. All travel trailers and recreational vehicles shall conform to and not exceed regulations for height and weight restrictions when used within City boundaries. No vehicle shall be parked or stored in a manner that inhibits or impedes travel on City throughways.

6. Storage or parking of travel trailers and recreational vehicles must not violate any existing Marengo Fire Protection District code.

7. In rear yards and side yards, parking of only the following types of vehicles shall be permitted in addition to private passenger vehicles:

    a. Travel trailer, 35 feet or less in length and not to exceed eight feet in width.

    b. Camper trailer (pop-up) shall be stored in a collapsed position

    c. Pop-up camper, 24 feet or less in length and not to exceed 66 inches in height.

    d. Watercraft, 35 feet or less in length, but not to exceed 12 feet in height, either mounted on a boat trailer or unmounted; also boat trailer without boat mounted.

e. Trailers used as sales offices and/or construction offices or construction storage may remain on a construction site during the period in which the building and/or subdivision is under construction. Upon issuance of the final occupancy permit for a single building project, or the occupancy permit for the final building in a subdivision, all construction trailers must be removed.

5.15 OUTSIDE DISPLAY, SALES AND STORAGE SPECIAL PERMIT

No outside display, sale or storage of materials (raw, semi-finished, or finished in nature), vehicles (including tractor trailers), equipment, merchandise and other similar goods or containers, shall be permitted except by issuance of a special permit unless specifically allowed in the use restrictions section in the specific zoning district. Consideration for the issuance of an Outside Display, Sales and Storage Special Permit shall be based upon the following criteria:

1. A site plan, site lighting plan, site design plan, landscape plan, engineering plan and building elevations shall be provided, as applicable, to demonstrate that the proposed special use will not have a negative effect upon the surroundings or adjacent properties. An engineering plan that addresses stormwater management in accordance with Chapter 28 of the Marengo Municipal Code shall be required where paving of display, sales or storage areas occurs, since such paving will contribute to or increase on-site run-off.

2. An on-site circulation plan for both pedestrians and vehicles, illustrating the location of the outdoor display, sales or storage area, shall be provided that demonstrates that no adverse effect on circulation, parking or general functioning of the site will occur.

3. All outdoor storage areas shall be enclosed by a screening fence, wall or densely planted evergreen hedge and associated appropriate landscaping treatment, of a height sufficient to screen such containers, storage areas or products from view of adjoining properties of public and private streets. The primary requirement shall be for landscaping screening. The substitution of walls or fencing shall be deemed a secondary solution subject to proof of hardship. Stored materials shall not exceed the height of the screening, and no materials, goods, vehicles and the like shall be displayed, sold or stored outside of the screened area. Solid latch able doors or gates thereto shall be required. Walls or fencing shall be of the same material as the principal building or shall be of a compatible material. The City shall reserve the right to regulate the nature, height and location of the screening and to impose any other terms and conditions as is deemed in the best interests of the City as part of the review of the special use.

4. Written evidence shall be provided that standards and requirements for health, safety and environmental protection by the City, as well as those required by jurisdictions other than the City, have been met.

5. All activities involving the manufacturing, fabricating, assembly, disassembly, repairing, cleaning, servicing and testing of materials, products, vehicles and goods shall be deemed ineligible for an Outside Display, Sales and Storage Special Permit and shall be conducted

solely within completely enclosed buildings.

6. All display, sales and storage areas shall be confined to locations in the rear of the building erected on the premises, or at the side of said building and behind the front line of said building as extended, but not both, unless the petitioner can demonstrate that no adverse impact is created.

7. Anything displayed, sold or stored outdoors that has a tendency to be windborne shall be effectively covered so it does not become windblown.

8. All areas to be used for outside display, sales or storage shall be covered with a hard surface, such as two inches of asphalt or four inches of concrete, or as the City shall otherwise require.

9. Existing outside display, sales or storage uses that are rendered nonconforming by virtue of enactment of these regulations shall be made conforming with the issuance of an Outside Display, Sales and Storage Special Permit by the City or shall be removed on or before December 31, 2002.

5.16 USE OF COMMERCIAL TRUCK TRAILERS AND RAILROAD CARS FOR STORAGE

Under no circumstances may commercial truck trailers and/or railroad cars be placed on any lot for the purpose of serving as a place for storage.

5.17 REFUSE CONTAINERS

Multifamily residential dwellings with four or more dwelling units shall place all refuse containers in visually screened areas. All multifamily units that have refuse containers which are one or more cubic yards in volume shall be in visually screened areas.

5.18 DETERMINATION OF SIMILAR AND COMPATIBLE USES

It shall be the duty of the Zoning Administrator to review and determine whether uses that are not specifically enumerated in any zoning district are similar and compatible to those use/uses that are specifically enumerated within a particular district. The Zoning Administrator may approve any such use/uses within a particular district, upon a finding by the Zoning Administrator that such use/uses are similar and compatible to those use/uses enumerated within the particular district for which the use is being requested. The approval or denial of such use/uses within a particular district by the Zoning Administrator shall be in writing, stating the reasons therefor, and the determination of the Zoning Administrator shall be appealable to the Planning and Zoning Commission. Any appeals from the determination of the Zoning Administrator must be in writing, specifying the grounds for appeal, and filed with the office of the Zoning Administrator within 30 days of the written determination of the Zoning Administrator. Any appeal from a decision of the Zoning Administrator pursuant to this Section 5.14 shall be processed in accordance with the provisions of Section 13 of this Zoning Code. *pjh:Marengo.Zone\Section05.GeneralProvisions.Jan08.doc*

Section 7

ACCESSORY BUILDINGS, STRUCTURES AND USES

7.01 Uses Permitted as Accessory Buildings, Structures and Uses
7.02 Location of Accessory Buildings, Structures and Uses
7.03 Construction of Accessory Buildings and Structures
7.04 Number, Height and Size of Accessory Buildings and Structures
7.05 Distance Between Buildings or Structures
7.06 Regulations for Specific Accessory Buildings, Structures and Uses
7.07 Wireless Telecommunications Towers and Antenna Regulations
7.08 Antennas in Residential Zoning Districts
7.09 Antennas in Business and Manufacturing Districts
7.10 Amateur Radio Facilities With Surface Area Exceeding 10 Square Feet
7.11 Additional Regulations for Antennas and Antenna Support Structures in all Zoning Districts
7.12 Non-conforming Accessory Buildings, Structures and Uses

7.01 USES PERMITTED AS ACCESSORY BUILDINGS, STRUCTURES AND USES

The term "accessory building," "accessory structure" or "accessory use" includes, but is not limited to the following permitted accessory buildings, structures or uses; subject, however, to the limitations of this Section 7:

1. For residential uses: private garden house or greenhouse; detached garage; shed or building used for domestic storage; swimming pool; spa/hot tub; yard lights; attached or detached deck, platform or terrace open to the sky; gazebo; dog run; tennis court; and similar structures and buildings for accessory use.

2. For business/commercial uses: storage building for merchandise or materials normally carried in stock as part of a principal use on the same lot and placed as designated on an approved site plan; off-street parking and loading facilities; garages; exterior swimming pools as part of a hotel/motel; pump islands and attached or detached canopies for automobile service stations.

3. For institutional and office uses: storage buildings for materials relating to the principal use on the same lot and placed as designated on an approved site plan; guardhouses and gatehouses; off-street parking and loading facilities; garages.

4. For industrial/manufacturing uses: process or maintenance facilities and storage buildings, clearly subordinate and incidental to the principal use on the same lot and placed as designated on an approved site plan; guardhouses and gatehouses; off-street parking and loading facilities; garages.

7.02 LOCATION OF ACCESSORY BUILDINGS, STRUCTURES AND USES

Amended, 03-81-1

A. Where a substantial part of the wall of an accessory building or structure is part of the wall of the principal building, or where an accessory building is attached to the principal building in a substantial manner as by a roof, such accessory building or structure shall be deemed to be part of the principal building and shall conform to all regulations applicable thereto.

B. No accessory building, structure, or use may be located in a front yard in any zoning district, and on a corner lot, no accessory building, structure or use may be located in any yard adjacent to a street in any zoning district, except as otherwise provided in this Zoning Code and except that a single basketball pole may be located at the side of a driveway for private recreational use.

C. An accessory building, structure, or use may be located in a required rear or side yard setback in any zoning district, as follows:

1. Unless specified within a specific zoning classification, an accessory building, structure or use in a residential zoning area may be located to within 10 feet of the rear lot line and to within seven feet of a side lot line, provided that such building, structure or use is not located on a recorded utility or drainage easement (except for equipment pertaining to said easement), and provided that the wall of an accessory building facing the rear lot line shall contain no openings.

2. No accessory building, structure, or use shall be located within 10 feet of a principal building. Decks, patios, platforms and terraces open to the sky may be attached to the principal building but shall be subject to setback requirements for accessory structures.

3. Storage, process and maintenance buildings in non-residential zoning districts shall be as governed by the applicable district regulations.

D Prohibited accessory buildings, structures and uses:

1. Above-ground or ground storage tanks for oil, gas, fuel or any other material on residential lots;

2. Servants' quarters or similar dwelling units.

7.03 CONSTRUCTION OF ACCESSORY BUILDINGS AND STRUCTURES

Amended, 08-1-4

A. An accessory building or structure shall not be erected prior to the establishment or

construction of the principal building to which it is accessory.

B. All provisions of Chapter 24, Building Code, of the Marengo Municipal Code, are to be followed as they pertain to accessory buildings, structures or uses.

C. Detached carports with posts and a roof structure without enclosed walls are prohibited.

7.04 **NUMBER, HEIGHT AND SIZE OF ACCESSORY BUILDINGS AND STRUCTURES** *Amended, 08-1-4, 04-3-1, 03-81-1*

A. No detached accessory building or structure shall exceed one story, with a maximum height of 15 feet, six inches unless otherwise provided in this Section 7.04.

B. Detached garages shall not exceed 700 square feet in size.

C. The sum total square footage of all accessory buildings and structures shall not exceed 50 percent of a rear or side yard of a lot unless specified within a specific zoning classification.

7.05 **DISTANCE BETWEEN BUILDINGS OR STRUCTURES**

The required distance between the principal building and the accessory building or structure shall be as follows, unless otherwise provided in this Section 7.

Between the principal building and the accessory building or structure on the same lot: 10 feet. However, in the case of a deck which is not attached to the principal structure, the required distance from the principal structure to the deck shall not apply.

7.06 **REGULATIONS FOR SPECIFIC ACCESSORY BUILDINGS, STRUCTURES AND USES** *Amended, 04-3-1*

A. Swimming Pools:

1. In addition to the provisions in Section 24.21 of the Municipal Code, pools for swimming or bathing shall be in compliance with the requirements of this Section 7.06-A. However, these regulations shall not be applicable to any such pool less than 24 inches deep or having a surface area less than 250 square feet except when such pools are permanently equipped with a water recirculating system.

2. A wall of a private swimming pool shall not be located less than 10 feet from any rear or side property line or 10 feet from side lot line abutting a street or 10 feet from any principal structure. A swimming pool shall not be located in any front yard.

3. For the purposes of establishing setbacks, the outer edge of pools and spas/hot tubs shall include all associated decking, walk areas, required fence enclosures and pump

equipment. Pump and filter equipment may be located adjacent to a principal structure.

B. Tents and Recreational Vehicles: No tents, recreational vehicles or camping trailers shall be used, erected or maintained as living quarters. No tents shall be used for the storage of personal property, goods, materials, vehicles or equipment. Tents, however, shall not be prohibited when used for weddings, festivals and other special events subject to conditions placed on other accessory buildings and structures.

C. Mobile Homes and Modular Units: A house trailer, mobile home/office or modular unit, as defined by the Illinois Compiled Statutes, shall not be considered to be permissible as an accessory building, structure or use, or as a principal building, structure or use, and no person shall park, store, occupy or otherwise use a trailer, mobile home/office or modular unit without obtaining a temporary use permit from the City Council.

D. Parking Facilities: Accessory off-street parking facilities may be permitted to be located elsewhere than on the same lot as the building or use to be served by said parking; subject, however, to approval of the City in conjunction with a site plan review of the principal and the accessory buildings or uses.

7.07 WIRELESS TELECOMMUNICATIONS TOWERS AND ANTENNAS REGULATIONS

See Section 9 of this Zoning Code.

7.08 ANTENNAS IN RESIDENTIAL ZONING DISTRICTS

No antenna shall be erected, constructed, maintained or operated in any residential zoning district except in conformance with the following regulations:

1. Antennas with Surface Areas of 10 Square Feet or Less: Antennas and antenna support structures having a combined surface area not greater than 10 square feet, and no single dimension exceeding 12 feet, shall be permitted as an accessory use.

2. Antennas, Other Than Amateur Radio Facilities, With Surface Areas Exceeding 10 Square Feet: Antennas and antenna support structures having a combined surface area greater than 10 square feet, or having any single dimension exceeding 12 feet, shall be permitted as an accessory use only in compliance with the following regulations:

    a. Number Limited: No more than one such antenna and antenna support structure may be located on any zoning lot.

    b. Height Limited: No such antenna or antenna support structure shall exceed 12 feet in height unless such antenna and antenna support structure is attached to a building

pursuant to paragraph 2d of this Section 7.08.

c. Diameter Limited: No such antenna or antenna support structure shall exceed 10 feet in diameter.

d. Attachment to Buildings Limited: No such antenna or antenna support structure shall be attached to a principal or accessory structure unless all of the following conditions are satisfied:

i. Size: The antenna and its support structure shall not exceed 15 square feet in area or 12 feet in any dimension.

ii. Height: The antenna and its support structure shall not extend more than 3 feet above the highest point of the building on which it is mounted or the maximum permissible building height, whichever is less.

iii. Mounting: The antenna and its support structure shall not be attached or mounted upon any building appurtenance, such as a chimney. The antenna and its support structure shall not be mounted or attached to the front of any principal building or to the side of any building facing a street, including any portion of the building roof facing any street. The antenna and its support structure shall be designed to withstand a wind force of 80 miles per hour on its own and without the support of guy wires.

iv. Color: The antenna and its support structure shall be a color that blends with the roof or building side on which it is mounted.

v. Grounding: The antenna and its support structure shall be bonded to a grounding rod.

vi. Other Standards: The antenna and its support structure shall satisfy such other design and construction standards as the Building Commissioner determines are necessary to ensure safe construction and maintenance of the antenna and its support structure.

vii. Screening: The antenna and its support structure shall be located so as to provide the maximum, reasonably achievable screening, as determined by the Building Commissioner, of such antenna and antenna support structure from view from adjoining properties and public or private streets.

e. Setback from Street: No such antenna or its support structure shall be erected or maintained closer to any street than the wall of the principal building to which it is accessory that is nearest to such street.

f. Guy Wires Restricted: No guy or other support wires shall be used in connection with such antenna or its support structure except when used to anchor the antenna or support structure to an existing building to which such antenna or support structure is attached.

g. Screening: When any such antenna and antenna support structure is ground mounted, appropriate landscaping or fencing shall be located and maintained between such ground-mounted antenna and antenna support structure and each lot line of the property on which it is located so as to provide the maximum, reasonably achievable screening as determine by the Building Commissioner, of such antenna and antenna support structure from view from adjoining properties and public or private streets. Notwithstanding the foregoing, no such screening is required to extend more than 10 feet in height.

7.09 ANTENNAS IN BUSINESS AND MANUFACTURING DISTRICTS

No antenna shall be erected, constructed, maintained or operated in any business or industry zoning district except in conformance with the following regulations:

1. Antennas with Surface Areas of 10 Square Feet or Less: Antennas and antenna support structures having a combined surface area not greater than 10 square feet, and no single dimension exceeding 12 feet, shall be permitted as an accessory use.

2. Antennas, Other Than Amateur Radio Facilities, With Surface Areas Exceeding 10 Square Feet: Antennas and antenna support structures having a combined surface area greater than 10 square feet, or having any single dimension exceeding 12 feet, shall be permitted as an accessory use only in compliance with the following regulations:

   a. Number Limited: No more than one such antenna and antenna support structure may be located on any zoning lot.

   b. Height Limited: No such antenna or antenna support structure shall exceed 12 feet in height unless such antenna and antenna support structure is attached to a building pursuant to paragraph 2d of this Section 7.08.

   c. Diameter Limited: No such antenna or antenna support structure shall exceed 10 feet in diameter.

   d. Attachment to Buildings Limited: No such antenna or antenna support structure shall be attached to a principal or accessory structure unless all of the following conditions are satisfied:

      i. Height: The antenna and its support structure shall not extend more than 3 feet above the highest point of the building on which it is mounted or the

maximum permissible building height, whichever is less.

ii. Mounting: The antenna and its support structure shall not be attached or mounted upon any building appurtenance, such as a chimney. The antenna and its support structure shall not be mounted or attached to the front of any principal building or to the side of any building facing a street, including any portion of the building roof facing any street. The antenna and its support structure shall be designed to withstand a wind force of 80 miles per hour on its own and without the support of guy wires.

iii. Color: The antenna and its support structure shall be a color that blends with the roof or building side on which it is mounted.

iv. Grounding: The antenna and its support structure shall be bonded to a grounding rod.

(1) Other Standards: The antenna and its support structure shall satisfy such other design and construction standards as the Building Commissioner determines are necessary to ensure safe construction and maintenance of the antenna and its support structure.

(2) Screening: The antenna and its support structure shall be located so as to provide the maximum, reasonably achievable screening, as determined by the Building Commissioner, of such antenna and antenna support structure from view from adjoining properties and public or private streets.

v. Setback from Street: No such antenna or its support structure shall be erected or maintained closer to any street than the wall of the principal building to which it is accessory that is nearest to such street.

vi. Guy Wires Restricted: No guy or other support wires shall be used in connection with such antenna or its support structure except when used to anchor the antenna or support structure to an existing building to which such antenna or support structure is attached.

e. Screening: When any such antenna and antenna support structure is ground mounted, appropriate landscaping or fencing shall be located and maintained between such ground-mounted antenna and antenna support structure and each lot line of the property on which it is located so as to provide the maximum, reasonably achievable screening as determine by the Building Commissioner, of such antenna and antenna support structure from view from adjoining properties and public or private streets. Notwithstanding the foregoing, no such screening is required to extend more than ten feet in height.

7.10 AMATEUR RADIO FACILITIES WITH SURFACE AREA EXCEEDING 10 SQUARE FEET

In any zoning district, any antenna and antenna support structure having a combined surface area greater than 10 square feet or having any single dimension exceeding 12 feet that is capable of transmitting as well as receiving signals and is licensed by the Federal Communications Commission as an amateur radio facility must satisfy each of the following conditions:

1. Number Limited: No more than one such antenna support structure with a surface area greater than 10 square feet or any single dimension exceeding 12 feet may be located on any zoning lot.

2. Height Limited: No such antenna support structure shall, if ground mounted, exceed 75 feet in height of, if attached to a building pursuant to this Section 7.10, the height herein specified.

3. Attachment to Buildings Limited: No such antenna or its support structure shall be attached to a principal or accessory structure unless all of the following conditions are satisfied:

    a. Height: The antenna and its support structure shall not extend more than 20 feet above the highest point of the building on which it is mounted.

    b. Mounting: The antenna and its support structure shall not be attached to or mounted upon any building appurtenance, such as a chimney. The antenna and its support structure shall not be mounted or attached to the front of any principal building or to the side of any building facing a street, including any portion of the building roof facing any street. The antenna and its support structure shall be designed to withstand a wind force of 80 miles per hour on its own and without the support of guy wires.

    c. Grounding: The antenna and its support structure shall be bonded to a grounding rod.

    d. Other Standards: The antenna support structure shall satisfy such other design and construction standards as the Building Commissioner reasonably determines are necessary to ensure safe construction and maintenance of the antenna and its support structure.

4. Setback from Street: No such antenna or its support structure shall be erected or maintained closer to any street than the wall of the principal building to which it is accessory that is nearest to such street.

5. Setbacks from Adjacent Buildings: No such antenna or its support structure shall be located in any required sideyard or nearer than one-half the height of the antenna and support structure to any habitable building on any adjacent property.

7.11 ADDITIONAL REGULATIONS FOR ANTENNAS AND ANTENNA SUPPORT STRUCTURES IN ALL ZONING DISTRICTS

A. Certificate of Compliance: In addition to any other provisions, no such antenna or antenna support structure permitted under Sections 7.08-B, 7.09-B and 7.10 shall hereafter be constructed, altered or enlarged in the City unless a certificate of zoning compliance therefor has been issued by the Building Commissioner. An application for such certificate shall be accompanied by two sets of plans, two plats of survey, and electrical, construction and design specifications drawn to scale and showing locations, heights, structural design, and any other pertinent information or certifications deemed necessary by the Building Commissioner to demonstrate compliance with all provisions of the City's Zoning Code and Building Code. When applicable, an application for a certificate of zoning compliance shall include landscaping plans demonstrating that the screening requirements of Sections 7.08-B-7 and 7.09-B-7 will be satisfied within 8 months after the date of the issuance of such certificate. A refundable cash deposit in an amount estimated by the Building Commissioner as necessary to cover the cost of implementing the proposed landscaping and screening must accompany each application for a certificate of zoning compliance for the antenna and antenna support structure. The deposit shall be returned when, but only when, a final inspection by the Building Commissioner confirms that all required landscaping and screening is in place.

B. Unless specifically provided to the contrary, when the regulations of Sections 7.08, 7.09, 7.10 or 7.16 are more restrictive than any other regulations generally applicable within the zoning districts, the provision of Sections 7.08, 7.09, 7.10 and 7.16 shall apply.

C. For purposes of Sections 7.08, 7.09 and 7.10, the surface area of an antenna and its support structure shall be determined by adding together the actual surface area of each solid element or part of the antenna or its support structure, where "solid" is defined to include all air spaces that are fully bounded by solid elements.

D. Except as otherwise expressly provided in Sections 7.08, 7.09 and 7.10, all such antennae and antennae support structures shall be subject to all the provisions of this ordinance applicable to accessory uses and structures.

E. The foregoing special regulations shall not apply to antennae and antennae support structures owned or maintained by the City.

7.12 NON-CONFORMING ACCESSORY BUILDINGS, STRUCTURES AND USES

All accessory buildings, structures and uses heretofore lawfully constructed and not conforming to the provisions hereof are declared legal nonconforming uses and may be permitted to continue to exist, but shall not be reconstructed or altered, and if rebuilt, must conform to existing codes as of

the passage of this Section 7, which is August 26, 2002.

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Section 8

OFF-STREET PARKING AND LOADING

8.01 Purpose
8.02 General Provisions, Parking and Loading
8.03 Additional Regulations, Parking
8.04 Location of Parking Areas
8.05 Off-Street Loading and Unloading
8.06 Formulas for Off-Street Loading and Unloading Requirements
8.07 Number of Parking and Loading Spaces Required
8.08 Additional Parking Regulations

8.01 PURPOSE

The purpose of this Section 8 of this Zoning Code is to alleviate or prevent congestion of the public streets, and so promote the safety and welfare of the public by establishing minimum requirements for the off-street parking and loading and unloading of motor vehicles in accordance with the property use.

8.02 GENERAL PROVISIONS, PARKING AND LOADING *Amended, 08-1-4*

A. Procedure: An application for a site plan review, zoning action or building permit for a new or enlarged building, structure or use shall include a plot plan, drawn to scale, and fully dimensioned, showing any parking and/or loading facilities to be provided in compliance with the requirements of this Zoning Code.

B. Extent of Control: The off-street parking and loading requirements of this Zoning Code shall apply as follows:

1. When a building or structure erected prior to or after the effective date of this Zoning Code shall undergo any decrease in number of dwelling units, gross floor area, seating capacity, number of employees or other unit of measurement specified hereinafter for the required parking or loading facilities, and further, when said decrease would result in a requirement for fewer total parking or loading spaces through application of the provisions of this Zoning Code thereto, parking and loading facilities may be reduced accordingly, provided that existing parking or loading facilities remaining would at least equal or exceed the parking or loading requirements resulting from application of the provisions of this Zoning Code to the entire building or structure as modified.

2. When a building or structure undergoes any increase in the number of dwelling units, gross floor area, seating capacity, number of employees or other unit of measurement specified hereinafter for required parking or loading facilities, and further, when said

increase would result in a requirement for additional total parking or loading spaces through application of the provisions of this Zoning Code thereto, parking and loading facilities shall be increased accordingly, provided that existing parking or loading facilities shall be so increased that the facilities would at least equal or exceed the parking or loading requirements resulting from application of the provisions of this Zoning Code to the entire building or structure as modified.

3. When any building or structure is hereafter erected, or any use of land hereafter established upon previously vacated land.

4. When the intensity of use of any building, structure or premises is increased.

5. When any existing use of a building, structure or the premises is changed or converted to a new use.

C. Existing Parking and Loading Spaces: Accessory off-street parking and loading spaces in existence on the effective date of this Zoning Code may not be reduced in number unless already exceeding the requirements of this Section 8 for equivalent new construction; in which event said spaces shall not be reduced below the number required herein for such equivalent new construction.

D. Permitted Parking and Loading Spaces. Nothing in this Section 8 shall prevent the establishment of off-street automobile parking or loading facilities to serve any existing use of land or buildings, subject to full compliance with the provisions of this Section 8.

E. Damage or Destruction: Any building, structure or use which is in existence and is a conforming use on the effective date of this Zoning Code and which subsequently shall be damaged or destroyed by fire, collapse, explosion or other cause may be reconstructed, re-established or repaired without meeting current standards for off-street parking or loading facilities, except that parking or loading facilities equivalent to any maintained at the time of such damage or destruction shall be restored or continued in operation. However, it shall not be necessary to restore or maintain parking or loading facilities in excess of those required by this Zoning Code for equivalent new construction.

F. Submission of Plot Plan: Any application for a building permit or for a certificate of occupancy where no building permit is required, shall include a plot plan drawn to scale and fully dimensioned showing any parking or loading facilities to be provided in compliance with this Zoning Code.

G. Use of Parking Facilities: Off-street parking facilities accessory to residential use and developed in any residential district in accordance with the requirements of this Section 8 shall be used solely for the parking of passenger automobiles owned by occupants of the dwellings to which such facilities are accessory or by guests of such occupants.

H. Surfacing: All open off-street parking areas in any zoning district shall be surfaced with asphalt, concrete, brick or brick pavers and pursuant to Section 24.11 of the Marengo Municipal Code.

I. Required Parking and Loading Facilities:

1. Tables for Required Parking and Loading: Requirements governing the number and location of off-street parking and off-street loading facilities in relation to the use of property are established hereinafter in subsections of this Zoning Code. The parking and loading requirements for any use not specified herein shall be the same as for a similar specified use, as determined by Section 8.03 herein.

2. Floor Area: The term "floor area" as employed in this Section 8, in the case of office, merchandising or service types of use, shall mean the gross floor area of a building or structure used or intended to be used for service to the public as customers, patrons, clients, patients, tenants and employees, including areas occupied by fixtures and equipment used for display or sale of merchandise. All calculations shall be pro-rated when floor areas are used as the standard. "Floor areas" for the purposes of this Section 8 shall not include any area used for:

(a) Storage accessory to the principal use of a building.

(b) Incidental repairs.

(c) Processing or packaging of merchandise.

(d) Show windows or offices incidental to the management or maintenance of a store or a building.

(e) Rest rooms.

(f) Utilities/utility rooms.

(g) Dressing, fitting or alteration rooms.

8.03 ADDITIONAL REGULATIONS, PARKING

A. Use of Parking Facilities: Off-street parking facilities accessory to residential uses and developed in any residential zoning district in accordance with the requirements of this Section 8.03 shall be used solely for the parking of motor vehicles owned by occupants of the dwelling units to which such facilities are accessory or by guests of said occupants. Under no circumstances shall required parking facilities accessory to residential structures be used for the parking, repair or storage of commercial vehicles of over one-ton capacity including trucks, trailers, vans and other such vehicles, except when parked temporarily in

making delivery, loading, unloading or service calls.

B. Control of Off-Site Facilities: When required accessory off-street parking facilities are provided elsewhere than on the lot on which the principal use served is located, they shall be in the same possession, either by deed or long-term lease, as the property occupied by such principal use, and the owner shall be bound by covenants filed of record in the office of the McHenry County Recorder of Deeds requiring the owner and his or her heirs and assigns to maintain the required number of parking spaces during the existence of said principal use. However, no parking facilities accessory to a non-residential use shall be located in a residential zoning district.

C. Design and Maintenance:

1. Parking Space Description: A required off-street parking space shall be an area of not less than 171 square feet nor less than nine feet wide by 19 feet long, exclusive of access drives or aisles, ramps, or columns or exclusive of private non-residential driveways or aisles leading to streets. Where parking spaces overhang landscaped areas, spaces may be reduced in length by one foot.

2. Measurement of Space: When determination of the number of required off-street parking spaces results in a requirement of a fractional space, any fraction shall be interpreted as one parking space.

3. Open and Enclosed Spaces: Parking areas may be open or enclosed and the parking facilities provided shall be as approved by the City upon review of the site plan and use.

4. Access: Parking facilities shall be designed with appropriate means of vehicular access to a street in such a manner as will least interfere with the movement of traffic. The design of parking areas shall also minimize conflicts between pedestrian and vehicular movements. Driveway accesses or curb cuts in any zoning district shall be governed by Chapter 24 of the Marengo Municipal Code.

5. Signs: No signs shall be displayed in any parking area within any residential zoning district, except such as may be necessary for the orderly use of the parking facilities as provided in Section 9, Signs, of this Zoning Code.

6. Required Setbacks: No parking space nor portion thereof established on a zoning lot without a building shall be located closer to any right-of-way than the front yard setback required for the zoning district in which the parking space is located. Further, any wall, fence or hedge developed around any parking area shall be subject to the front yard setback requirements of this Zoning Code in the same manner as a building or structure. No parking space shall be designed in such a way so as to cause a vehicle to block a sidewalk.

7. Surfacing: All open off-street parking areas, including driveways, aisles, service drives and aprons, shall be improved with a compacted crushed stone or gravel base, and surfaced with asphaltic or bituminous concrete (also known as “asphalt” and “blacktop”), Portland cement concrete, brick or pavers, pursuant to Section 24.11 of the Marengo Municipal Code.

8. Screening: All open off-street parking areas for eight or more motor vehicles shall be effectively screened by a wall, a solid fence or a densely planted compact hedge along any side which adjoins or is directly across a street from a property in a residential zoning district or an institutional property. Such wall, fence or hedge shall be at least three feet, but not more than five feet, in height and shall be maintained in good condition.

9. 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 with every parking lot that contains eight or more parking spaces.

   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 eight or more 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, drainage and scheduled maintenance of landscaped islands or planting beds; and

      (3) Sketch indicating proposed spatial relationships of landscaped areas, parking spaces, automobile circulation and pedestrian movement.

10. Lighting: Any lighting used to illuminate an off-street parking area shall be arranged to reflect the light away from adjoining properties. Maximum horizontal foot candles as given off by the neighboring property as measured in the following districts shall not exceed:

Zoning District	**Foot Candles**	**Lux**
Single Family	.1	1.0
Multiple Family	.2	2.0
Business	2.0	21.5

Zoning District	Foot Candles	Lux
Manufacturing, ORI	5.0	53.8
Municipal	5.0	53.8

All lighting fixtures erected 20 to 40 feet above ground level shall:

a. Be flat bottom optically controlled sharp cut-offs, approved by the City Engineer;

b. Not be installed with diffusing refractors; and

c. Maintain a ratio of 3:1 or less of lighting fixture spacing to lighting fixture mounting heights.

All lighting fixtures erect from zero to 20 feet above ground level shall:

a. Be of translucent materials and not transparent material, approved by the City Engineer;

b. Not be installed with diffusing refractors; and

c. Lighting fixtures shall not be erected higher than 40 feet above ground level.

Upon the obsolescence or replacement of existing non-conforming lighting in off-street lighting parking areas, lighting shall conform to this Section 8.

D. Special Use Public Parking Areas: Any parking area developed for transient trade, and not accessory to specific principal uses or groups of uses for which parking is required by this Zoning Code, shall be treated as a "special use" as defined in Section 3 herein and as allowed in accordance with the provisions of Section 15 by the City Council.

E. Accessible Parking Spaces:

1. Accessible parking spaces for mobility impaired persons shall be at least 16 feet wide including an eight-foot wide access aisle, and adjacent parking spaces shall not share a common access aisle. All access aisles shall be diagonally striped and shall be provided with a gradual transition to an accessible route to the on-site destination. Such spaces shall also measure 19 feet in length. Where such spaces overhang landscaped areas, spaces may be reduced in length by one foot.

2. The number of spaces required, and their placement within the parking facility, shall be in accordance with State of Illinois accessibility standards. For some uses, a certain number of spaces in any self-park facility shall be set aside for wheelchair access as summarized in the following table:

Total Spaces	Minimum Accessible Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2% of the total
1,001 and over	20 plus 1 per 100 over 1,000 spaces

Some flexibility in the placement of such spaces may be considered if interpretation of such standards permits.

F. Service Area Parking Spaces: Parking spaces located in the rear area of project sites or the service area of a project shall be discouraged. Where permitted, such spaces shall be limited to employee and service parking only.

G. Off-street Guest Parking (Residential Areas): Off-street parking areas intended for residential guest parking shall be located a minimum of 10 feet from any adjacent right-of-way, and shall not be placed in the required minimum side or rear yard areas of any residential zoning lot.

H. Aisle Widths, Lengths: The width and length of all aisles providing direct access to individual parking spaces shall be in accordance with the requirements specified in the table below.

Angle of Parking	Minimum Width of Space Parallel to Aisle	Minimum Length of Space Perpendicular to Aisle	Minimum Width of Aisle
45 degrees	12 feet, 9 inches	19 feet, 9 inches	12 feet
60 degrees	10 feet, 5 inches	20 feet	17 feet
90 degrees	9 feet	19 feet	22 feet

I. Joint Parking Facilities: Off-street parking facilities for different buildings, structures or uses, or for mixed uses, may be provided collectively in any zoning district in which separate parking facilities for each constituent use would be permitted or required, provided that the total number of spaces so located together shall not be less than the sum of the separate requirements for each use.

J. Shared Parking Facilities: Cumulative parking requirements for mixed use occupancies may be reduced by the City Council where it can be determined that the peak requirement of the several occupancies occurs at different times (either daily or seasonally). The *Shared Parking* report published by the Urban Land Institute may be used as a guideline in the estimation of parking demand for mixed use buildings and sites.

8.04 LOCATION OF PARKING AREAS *Amended, 03-6-5*

A. Extent of Control: Off-street parking facilities shall be located as hereinafter specified: where a distance is specified, such distance shall be the walking distance measured from the nearest point of the parking area to the nearest entrance of the building that said parking area is required to serve.

1. Residential Districts: 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 or side yard with the exception of a paved area not to exceed 22 feet in width at the property line and 33 feet in width overall. Such parking spaces shall not be located any further into the front yard toward the principal structure than the garage and shall be set back from the side property line a minimum of 5 feet. 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. Parking areas constructed after the adoption of this Zoning Code shall be constructed of asphalt or concrete.

2. Non-Residential Uses: All parking spaces accessory to permitted non-dwelling uses located in any residential district generally shall be located on the same lot as the use serviced. However, the Zoning Administrator may allow such parking facilities to be located on another parcel within 200 feet of the use served if the “same lot” requirement is not feasible.

3. Business and Manufacturing Districts:

a. Parking spaces accessory to any building or use located in any business district shall either be located on the same lot as the principal building or on another parcel within 200 feet of the premises. Parking lots accessory to any business or manufacturing use located in any business district or in a manufacturing district shall be located within 500 feet of the use serviced; provided that no portion of any such parking lot shall extend into any residential district except by special use permit.

b. In any business or manufacturing district, off-street parking facilities for different buildings or uses may be provided collectively; but only if the total number of spaces located together is not less than the sum of the separate requirements for each use and if all regulations governing location or parking

spaces in relation to the uses served are observed.

4. All parking areas constructed after the adoption of this Zoning Code shall be constructed of asphalt or concrete.

8.05 OFF-STREET LOADING AND UNLOADING

All off-street loading facilities shall conform to the minimum standards indicated below:

1. Size of Space: Every required off-street loading space shall be at least 12 feet wide and 50 feet long, exclusive of aisle and maneuver space, and shall have vertical clearance of at least 15 feet. In no case shall a vehicle being loaded or unloaded overhang into the public right-of-way.

2. 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 12 feet wide.

3. Surfacing: Every off-street loading area shall be improved with a compacted stone base at least 7 inches thick and surfaced with at least 2 inches of asphaltic concrete.

4. Buffer Strips: No loading space or area for vehicles over 2-ton cargo capacity shall be developed closer than 50 feet to the lot line of any residential district unless space/area is completely enclosed by walls, a solid fence or closely planted shrubbery of sufficient density to block the view from the residential property and in conformity with landscape regulations.

5. Location: Every off-street loading space that is required or provided shall be located on the same parcel of land as the use served and not closer than 50 feet to the intersection of the rights-of-way of 2 or more streets or in required front yards.

8.06 FORMULAS FOR REQUIRED PARKING/LOADING SPACES

In computing the number of parking spaces required by this Zoning Code, the Zoning Administrator shall apply the following rules:

1. 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 parking space shall be required per 1.5 employees,” unless otherwise stated.

2. In computing parking or loading space requirements on the basis of building floor area, the gross floor area shall be used.

3. Whenever it is necessary to translate gross parking lot area into number of parking spaces; 350 square feet of gross area shall be deemed one parking space.

4. If computation of the number of parking or loading spaces required by this Zoning Code results in a fractional space, any fraction of one-half or more shall be counted as one space.

5. 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.

8.07 NUMBER OF PARKING AND LOADING SPACES REQUIRED

Off-street parking and loading spaces shall be provided as provided in the following table. 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.

USE	PARKING SPACES REQUIRED	LOADING SPACES REQUIRED (IF ANY)
Automobile car wash/laundry	3 spaces per wash lane	Not applicable
Bank, savings & loan, walk-in	1 space per 300 square feet of floor area plus employee parking	Not applicable
Bank drive-in or automated teller	5 spaces per teller window	Not applicable
Beauty, barber shop	2 spaces per chair plus employee parking	Not applicable
Bowling alley	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
College, business, professional, trade school	1 space for every 3 students that the building is designed to accommodate plus employee parking	On review by the Zoning Administrator
Commercial, office, service	4 spaces per 1,000 square feet of floor area	Not applicable up to 10,000 square feet of floor area; 1 space if more than 10,000 square feet; 1 space plus 1 additional space per 50,000 square feet of floor area in excess of 10,000 square feet
Educational, institutional, church, auditorium	1 space per 4 seats in the largest seating area	Not applicable

USE	PARKING SPACES REQUIRED	LOADING SPACES REQUIRED (IF ANY)
Furniture, appliance store	1 space per 600 square feet of floor area	To 25,000 square feet of floor area; more than 25,000 square feet of floor area 2 spaces plus square feet of floor area in excess of 25,000 square feet
Hospital	1 space per 2 beds plus employee parking	1 space if floor area is 50,001 - 100,000 square feet; 2 spaces if floor area is 100,001 - 200,000 square feet; over 200,000 square feet the number of spaces is determined by the Zoning Administrator
Hotel, motel, boarding house	1 space per unit plus employee parking and additional spaces as required herein for affiliated uses such as restaurants and taverns	Not applicable
Laundromat	1 space per washer plus 1 space per employee	Not applicable
Manufacturing, any manufacturing, other industrial use	1 space for each up to 100,000 square feet; 1 space for each 2,000 square feet in excess of 100,000 square feet	To 20,000 square feet, 1 space; 20,001 - 50,000 square feet, 2 spaces; 50,001 - 90,000 square feet, 3 spaces plus 2 additional spaces per 50,000 square feet of area in excess of 90,000 square feet
Mortuary	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 square feet or more of floor area
Multiple family dwelling	2 spaces per dwelling unit	Not applicable
Municipal or privately owned recreation building or community center	1 for each 2 employees plus spaces adequate in number to the visiting public as determined by the Zoning Administrator	Not applicable
Nursing home	1 space per 5 beds plus employee parking area	To 50,000 square feet of floor area, 1 space; 50,001 -100,000 square feet, 2 spaces; 100,001 - 200,000 square feet, 3 spaces

USE	PARKING SPACES REQUIRED	LOADING SPACES REQUIRED (IF ANY)
Office, generally	4 spaces per 1,000 square feet of floor area	To 30,000 square feet of floor area, none required; 30,000 - 100,000 square feet, 1 space plus 1 additional space per 100,000 square feet of floor area in excess of 100,000 square feet
Refreshment stand, drive-in/drive-through restaurant	1 space per 25 square feet of floor area. 5 stacking spaces per service window	1 space per structure having 10,000 square feet or more of floor area
Restaurant, sit down	1 space per 4 seats or 1 space per 50 square feet of floor area, whichever is greater	1 space per 10,000 square feet or more of floor space
Service station	2 spaces per service staff plus employee parking	Not applicable
Single family and 2-family dwellings	2 spaces per dwelling unit	Not applicable
Tavern	1 space per 4 seats or 1 space per 50 square feet of floor area, whichever is greater	1 space per structure having 10,000 square feet or more of floor area
Theater, drive-in	On review by the Zoning Administrator	Not applicable
Theater, indoor	1 space per 4 seats	Not applicable
Vehicle sales (autos, boats, trailers, etc.)	1 space per 300 square feet of enclosed floor area and up to 10,000 square feet of open lot area	As determined by the Zoning Administrator.

8.08 **ADDITIONAL PARKING REGULATIONS** *Amended, 08-1-4, 03-6-5*

A. In any R-5 Residential District the following parking regulations are also applicable:

1. Except as follows, parking spaces shall not be located in any required front yard:

a. A single family dwelling may have a driveway not to exceed 33 feet in width.

b. A two-family dwelling may have a driveway for each dwelling unit. Each driveway shall not exceed 22 feet in width and shall be separated from the other driveway by a minimum 24 inches of landscaping that has a minimum height of two feet. Grass and/or sod are not classified as landscaping.

2. Each parking space accessory to a multiple family dwelling shall be unobstructed so that no vehicle need be moved in order to allow another vehicle to enter/exit the parking area.

3. All parking areas in this district shall be constructed of asphalt or concrete.

4. Parking shall not be permitted in the required rear yard.

B. In any B-3 Regional Shopping District the following parking regulations are also applicable:

1. Parking:

a. Parking is not allowed in required yards.

b. Parking spaces shall be based on the following:

(1) Office use: four spaces per 1,000 feet of building space.

(2) Retail use: five spaces per 1,000 square feet of building space and outdoor retail space.

2. Loading: Pursuant to Section 8.05 herein.

3. Access Control Requirements:

a. Driveways: All projects are restricted to one driveway for each 250 feet from the nearest driveway (including adjacent properties which intersect with a major roadway)

b. Whenever possible, access to a project shall be provided from cross streets, in place of an additional driveway from major roadway.

c. Driveways shall be located and designed to minimize interference with the operation of left-turn lanes at street intersections.

d. Whenever possible, access between properties should be provided in order to minimize the number of driveways from a property.

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Section 10

RESIDENTIAL DISTRICTS

10.01 Purpose
10.02 ER Estate Residential District
10.03 R-1 One-Family District
10.04 R-2 One-Family District
10.05 R-3 One-Family District
10.06 R-5 Multiple Family District

10.01 PURPOSE

The residential districts set forth herein are established in order to protect public health and promote public safety, convenience, comfort, morals, prosperity and welfare. These general goals include, among others, the following specific purposes:

1. To protect residential areas against fire, explosion, noxious fumes, offensive odors, noise, smoke, vibrations, dust, heat, glare and other objectionable factors.

2. To protect residential areas to the extent possible and appropriate in each area against unduly heavy motor vehicle traffic, especially through-traffic, and to alleviate congestion by promoting off-street parking.

3. To protect residential areas against undue congestion of public streets and other public facilities by controlling the density of population through regulation of the bulk of buildings.

4. To protect and promote the public health and comfort by providing for ample light and air to buildings and the windows thereof.

5. To promote public comfort and welfare by providing for usable open space on the same zoning lot with residential development.

6. To provide sufficient space in appropriate locations to meet the probable need for future residential expansion and to meet the need for necessary and desirable services in the vicinity of residences, which increase safety and amenity for residents and which do not exert objectionable influences.

7. To promote the best use and development of residential land in accordance with a comprehensive land use plan, to promote stability of residential development and protect the character and desirable development and protect the value of land and improvements and so strengthen the economic base of the City.

10.02 ER ESTATE RESIDENTIAL DISTRICT *Amended, 09-9-2, 04-3-1*

It is the purpose of the ER Estate Residential District to establish regulations for larger single family residential lot areas. It is anticipated that neighborhoods in this district shall consist of very low density single family homes. Because of the large size of the lots in this district, the City Council may waive the requirement that dwelling units be connected to City sewer.

1. Dwelling standards:

    a. Every one story building hereafter erected shall have a total ground floor area of not less than 1,000 square feet measured from the outside of the exterior walls including utility rooms but excluding cellars, basements, open porches, breezeways, garages or other habitable spaces.

    b. Every dwelling of more than one story hereafter erected shall have a floor area measured from the outside of the exterior walls of not less than 1,000 square feet in area on the first floor including utility rooms, but excluding cellars, basements, open porches, breezeways, garages, and other spaces not frequently or during extended periods for living, eating or sleeping purposes.

2. Accessory buildings: The following accessory buildings shall be permitted on an ER Estate Residential District zoning lot:

    a. Up to a four-car garage, not exceeding 1,400 square feet.

    b. Swimming pool with a bath house not exceeding 300 square feet.

    c. Tennis courts no closer than 25 feet to the property line

    d. Greenhouses (total square feet shall not exceed 300 square feet).

    e. Guest house up to 850 square feet in area if the lot is two acres or more in size. The guest house shall not be rented or leased.

    f. Accessory buildings shall not be located in any required yard.

    g. Accessory buildings shall only be permitted behind the building setback line.

3. Lot requirements:

    a. The minimum lot size is one acre (43,560 square feet) in area.

    b. The minimum lot width shall be 100 feet.

    c. The minimum setbacks shall be:

i. Front yard, 50 feet;
ii. Corner side yard setback, 50 feet;
iii. Interior side yard setback, 25 feet;
iv. Rear yard setback, 50 feet; and
v. Maximum lot coverage shall be 30 percent.

4. Permitted uses:

a. Single family detached dwelling on any one platted lot or parcel.

b. Home occupations pursuant to Section 5.11 of this Zoning Code.

c. Group homes, subject to the following:

i. the group home houses no more than 8 persons plus staff;
ii. the group home is licensed or certified by the State of Illinois; and
iii. there is a minimum distance of 1,000 feet maintained between group homes.

d. Lots containing five or more acres may have up to three horses. A stable or barn housing the horses shall be not less than 200 feet from the property line. Horses shall not be permitted in the front yard. No stables or other quarters shall be erected, maintained or used on any portion of the property for stabling or accommodating any cattle, swine, goats, sheep, bees or fowl.

e. Parks and recreational facilities when publicly owned.

5. Special uses:

a. Golf courses including accessory driving ranges, bars, restaurants, meeting and banquet rooms.

b. Country clubs including accessory driving ranges, bars, restaurants, meeting and banquet rooms.

c. Group homes pursuant to Section 16.8 of this Zoning Code.

d. Bed and breakfast establishments.

10.03 **R-l SINGLE FAMILY DISTRICT** *Amended, 09-9-2*

A. Dwelling standards:

1. Every one story building hereafter erected shall have a total ground floor area of not

less than 1,000 square feet measured from the outside of the exterior walls including utility rooms but excluding cellars, basements, open porches, breezeways, garages or other habitable spaces.

2. Every dwelling of more than one story hereafter erected shall have a floor area measured from the outside of the exterior walls of not less than 1,000 square feet in area on the first floor including utility rooms, but excluding cellars, basements, open porches, breezeways, garages, and other spaces not frequently or during extended periods for living, eating or sleeping purposes.

B. Building allowance: Only one principal building shall be permitted on any one platted lot.

C. Accessory buildings:

1. No accessory building shall exceed 15 feet in height.

2. No part of an accessory building shall be located: closer than 5 feet to the side lot line; closer than 5 feet to the rear lot line; and closer than 10 feet to the principal building.

3. No accessory building or structure shall be constructed on any lot prior to the start of construction of the principal building to which it is accessory.

4. Use of any accessory structure as a dwelling is strictly prohibited.

5. Accessory building shall not cover more than 30 percent of the rear yard.

6. Accessory buildings are only allowed behind the building setback line.

D. Lot and building requirements:

1. Minimum lot area shall be 14,000 square feet.

2. Minimum lot width shall be 74 feet at the established building line.

3. Minimum principal building setbacks shall be:

a. Front yard setback, 25 feet
b. Corner side yard setback, 25 feet
c. Interior side yard setback is 10 percent of the lot width at the building line, but not less than 10 feet.
d. Rear yard setback, 30 feet
e. Maximum principal structure height, 30 feet
f. Maximum lot coverage, 30 percent

E. Permitted Uses:

1. Single family dwellings

2. Group homes subject to the following:

   a. the group home houses no more than 8 persons plus staff;
   b. the group home is licensed or certified by the State of Illinois; and
   c. there is a minimum distance of 1,000 feet maintained between group homes.

3. Home occupations as provided in Section 5.11 herein.

4. Parks and recreational areas when publicly owned.

F. Special Uses:

1. Public or private schools (elementary, middle, high, junior college, university) including playground and athletic fields.

2. Churches, chapels, temples, synagogues

3. Convents, monastery and religious retreats

4. Golf courses including accessory uses such as driving ranges, bars, restaurants, meeting and banquet rooms. This does not include miniature golf courses and pitch and putt courses.

5. Public library

6. Museums

7. Cemeteries

8. Hospitals and nursing home

9. Planned developments

10. Public utilities

11. Group homes subject to Section 16.8 of this Zoning Code

12. Bed and breakfast establishments

G. No building shall be erected or maintained on any portion of a residential district for manufacturing or industrial purposes; and no noxious or offensive trade shall be carried on upon any portion of a residential district nor shall anything be done thereon which may be or become a legal nuisance to the neighborhood.

10.04 R-2 SINGLE FAMILY DISTRICT *Amended, 09-9-2*

It is the purpose of this district to establish regulations for single family dwellings in established residential neighborhoods. This district is not to be used in newly developed areas.

A. Dwelling standards:

1. Every one story building hereafter erected shall have a total ground floor area of not less than 1,000 square feet measured from the outside of the exterior walls including utility rooms but excluding cellars, basements, open porches, breezeways, garages or other habitable spaces.

2. Every dwelling of more than one story hereafter erected shall have a floor area measured from the outside of the exterior walls of not less than 1,000 square feet in area on the first floor including utility rooms, but excluding cellars, basements, open porches, breezeways, garages, and other spaces not frequently or during extended periods for living, eating or sleeping purposes.

B. Building allowance: Only one principal building shall be permitted on any one platted lot.

C. Accessory buildings:

1. No accessory building shall exceed 15 feet in height.

2. No part of an accessory building shall be located: closer than 5 feet to the side lot line; closer than 5 feet to the rear lot line; and closer than 10 feet to the principal building.

3. No accessory building or structure shall be constructed on any lot prior to the start of construction of the principal building to which it is accessory.

4. Use of any accessory structure as a dwelling is strictly prohibited.

5. Accessory building shall not cover more than 30 percent of the rear yard.

6. Accessory buildings are only allowed behind the building setback line.

D. Lot and building requirements:

1. Minimum lot area shall be 7,500 square feet.

2. Minimum lot width shall be 60 feet at the established building line.

3. Minimum principal building setbacks shall be:

   a. Front yard setback, 25 feet
   b. Corner side yard setback, 20 feet
   c. Interior side yard setback is 10 percent of the lot width at the building line, but not less than 10 feet.
   d. Rear yard setback, 25 feet
   e. Maximum principal structure height, 30 feet
   f. Maximum lot coverage, 30 percent

E. Permitted Uses:

1. Single family dwellings

3. Group homes, subject to the following:

   a. the group home houses no more than 8 persons plus staff;
   b. the group home is licensed or certified by the State of Illinois; and
   c. there is a minimum distance of 1,000 feet maintained between group homes.

3. Home occupations as provided in Section 5.11 herein.

4. Parks and recreational areas when publicly owned.

F. Special Uses:

1. Public or private schools (elementary, middle, high, junior college, university) including playground and athletic fields.

2. Churches, chapels, temples, synagogues

3. Convents, monastery and religious retreats

4. Golf courses including accessory uses such as driving ranges, bars, restaurants, meeting and banquet rooms. This does not include miniature golf courses and pitch and putt courses.

5. Public library

6. Museums

7. Cemeteries

8. Hospitals and nursing home

9. Planned developments

10. Public utilities

11. Group homes subject to Section 16.8 of this Zoning Code.

G. No building shall be erected or maintained on any portion of a residential district for manufacturing or industrial purposes; and no noxious or offensive trade shall be carried on upon any portion of a residential district nor shall anything be done thereon which may be or become a legal nuisance to the neighborhood.

10.05 R-3 SINGLE FAMILY DISTRICT *Amended, 09-9-2, 04-5-5*

It is the purpose of this district to establish regulations for single family dwellings in established residential neighborhoods which are in transition. This district is not to be used in newly developed areas.

1. Dwelling standards:

   a. Every one story building hereafter erected shall have a total ground floor area of not less than 1,000 square feet measured from the outside of the exterior walls including utility rooms but excluding cellars, basements, open porches, breezeways, garages or other habitable spaces.

   b. Every dwelling of more than one story hereafter erected shall have a floor area measured from the outside of the exterior walls of not less than 1,000 square feet in area on the first floor including utility rooms, but excluding cellars, basements, open porches, breezeways, garages, and other spaces not frequently or during extended periods for living, eating or sleeping purposes.

   c. Two-family dwelling structures shall have a total floor area of not less than 700 square feet for each dwelling unit including utility rooms but excluding all other areas not used for eating and sleeping purposes.

2. Building allowance: Only one principal building shall be permitted on any one platted lot.

3. Accessory buildings:

   a. No accessory building shall exceed 15 feet in height.

b. No part of an accessory building shall be located: closer than 5 feet to the side lot line; closer than 5 feet to the rear lot line; and closer than 10 feet to the principal building.

c. No accessory building or structure shall be constructed on any lot prior to the start of construction of the principal building to which it is accessory.

d. Use of any accessory structure as a dwelling is strictly prohibited.

e. Accessory building shall not cover more than 30 percent of the rear yard.

f. Accessory buildings are only allowed behind the building setback line.

4. Lot and building requirements:

a. Minimum lot area shall be 7,500 square feet.

b. Minimum lot width shall be 60 feet at the established building line.

c. Minimum principal building setbacks shall be:

i. Front yard setback, 25 feet
ii. Corner side yard setback, 20 feet
iii. Interior side yard setback is 10 percent of the lot width at the building line, but not less than 10 feet.
iv. Rear yard setback, 25 feet
v. Maximum principal structure height, 30 feet
vi. Maximum lot coverage, 30 percent

5. Permitted Uses:

Single family dwellings: a special use permit shall be required for all new construction that abuts a primary thoroughfare designated by a state or federal highway number.

Group homes, subject to the following:

a The group home houses no more than 8 persons plus staff;
b. The group home is licensed or certified by the State of Illinois; and
c. There is a minimum distance of 1,000 feet maintained between group homes.

Home occupations as provided in Section 5.11 herein.

Parks and recreational areas when publicly owned.

6. Special Uses:

Bed and breakfast establishments

Cemeteries

Churches, chapels, temples, synagogues

Convents, monastery and religious retreats

Conversion of single family dwelling into two-family dwelling only when the following conditions are met:

a. When divided each dwelling unit shall have a minimum of 600 square feet in floor area including space used for utility rooms but excluding all other areas not used for living and/or sleeping purposes.

b. On-site paved parking area shall be provided. Parking areas shall not be in the required yard setback areas with the exception of the driveway; there shall be a minimum of two parking spaces for each dwelling.

c. All other building and yard requirements for this district must be met.

Conversion of existing structures (not including newly constructed structures) into offices for professionals such as physicians, dentists, attorneys-at-law, architects, engineers, music teachers, artists, teachers, accountants, photographers, real estate agents, insurance agents, public stenographers, brokers, business consultants and other professional offices as determined by the Commission. These properties must meet the following conditions:

a. Paved parking approved by the City Council.
b. All parking shall be behind the front building line.
c. Signage shall be approved by the City Council.
d. The subject property shall abut a state designated highway.

Golf courses including accessory uses such as driving ranges, bars, restaurants, meeting and banquet rooms. This does not include miniature golf courses and pitch and putt courses.

Group homes subject to Section 16.8 of this Zoning Code.
Hospitals and nursing homes

Museums

Planned developments

Public library

Public or private schools (elementary, middle, high, junior college, university) including playground and athletic fields.

Public utilities

Two-family dwellings.

G. No building shall be erected or maintained on any portion of a residential district for manufacturing or industrial purposes; and no noxious or offensive trade shall be carried on upon any portion of a residential district nor shall anything be done thereon which may be or become a legal nuisance to the neighborhood.

10.06 R-5 MULTIPLE FAMILY DISTRICT

It is the purpose of this district to establish regulations for multiple family dwelling districts. These regulations establish limitations on the use and character of development so as to take advantage of, and to avoid conflict with, natural topography and existing development.

1. Dwelling Standards

   a. Every one story dwelling hereafter erected shall have a total ground floor area of not less than 1,000 square feet measured from the outside of the exterior walls including utility rooms but excluding cellars, basements, open porches, breezeways, garages or other habitable spaces.

   b. Every dwelling of more than one story hereafter erected shall have a floor area, measured from the outside of the exterior walls of not less than 1,000 square feet on the first floor including utility rooms, but excluding cellars, basements, open porches, breezeways, garages, and other spaces not used frequently or during extended periods for living, eating or sleeping purposes.

   c. Two-family dwelling structures shall have a total floor area of not less than 700 square feet for each dwelling unit including utility rooms but excluding all other areas not used for eating or sleeping purposes.

   d. Multiple family dwelling structures shall have a total floor area of not less than the following:

      i. Efficiency apartments shall have a floor area of no less than 600 square feet per dwelling unit.

ii. One bedroom apartments shall have a total floor area of not less than 800 square feet per dwelling unit.

iii. Apartments of more than one bedroom shall have a total floor area of not less than that required for a one bedroom apartment plus 150 square feet of floor space for each additional bedroom.

2. Building allowance: Only one principal building shall be erected on any single platted lot.

3. Accessory buildings:

a. No accessory building shall exceed 15 feet in height.

b. No part of an accessory building shall be located closer than: 10 feet to the side lot line; 5 feet to the rear lot line; and 10 feet to the principal building.

c. No accessory building or structure shall be constructed on any lot prior to the start of construction of the principal building to which it is accessory.

d. Use of any accessory structure as a dwelling is strictly prohibited.

e. Accessory building shall not cover more than 30 percent of the rear yard.

f. Accessory buildings shall only be permitted behind the building setback line.

4. Lot and building requirements:

a. The minimum lot area shall be as follows:

i. Single family dwelling, 14,000 square feet.

ii. Two-family dwelling, 14,000 square feet.

iii. Multiple family dwelling, 5,000 square feet for each dwelling unit but not less than 14,000 square feet total. This standard applies to new construction. This standard also applies to the conversion of homes originally constructed as single family dwelling into a building which has more than three dwelling units within one structure.

b. The minimum lot width shall be 60 feet at the established building line.

c. The minimum principal building setbacks shall be:

i. Front yard, 25 feet. For buildings exceeding 25 feet in height, the minimum front year shall be increased by one foot for each 2 feet or fraction thereof by which the building exceeds 25 feet.

ii. Corner side yard, 20 feet.

iii. Interior side yard, 10 percent of the lot width at the building line but no less than 10 feet.

iv. Rear yard, 25 feet.

For through lots the setback from each street shall be the same as the front yard requirements.

d. Maximum lot coverage is 30 percent;

e. Maximum height is limited to 3 stories and 50 feet.

5. Permitted Uses:

Group homes, subject to the following:

a. the group home houses no more than 8 persons plus staff;
b. the group home is licensed or certified by the State of Illinois; and
c. there is a minimum distance of 1,000 feet maintained between group homes.

Home occupations pursuant to Section 5.11 of this Zoning Code.

Multiple family dwellings

Parks and recreation areas when publicly owned

Single family dwellings

Two-family dwellings

6. Special Uses:

Barber shops and/or beauty shops

Bed and breakfasts

Cemeteries

Churches, chapels, temples, synagogues

Convents, monastery and religious retreats

Convenience stores

Conversion of existing structures (not including newly constructed structures) into offices for professionals such as physicians, dentists, attorneys-at-law, architects, engineers, music teachers, artists, teachers, accountants, photographers, real estate agents, insurance agents, public stenographers, brokers, business consultants and other professional offices as determined by the Commission. These properties must meet the following conditions:

a. Paved parking approved by the City Council.
b. All parking must be behind the front building line.
c. Signage shall be approved by the City Council.
d. The subject property shall abut a state designated highway.

Drug stores

Golf courses including accessory uses such as driving ranges, bars, restaurants, meeting and banquet rooms. This does not include miniature golf courses and pitch and putt courses.

Group homes subject to Section 16.8 of this Zoning Code.
Hospitals

Medical and dental offices and group medical centers

Mobile home and manufactured home park designed and intended for residential purposes, provided they meet the following requirements:

a. Single family dwelling units only

b. Each dwelling unit shall be located on a lot which has a minimum size of 5,000 square feet in area with a minimum lot width of 35 feet.

c. Each lot must front on a street

d. Streets (including public and private) shall have a minimum of a 60-foot right-of-way and a pavement width of 30 feet (face to face). The pavement structure shall consist of 6”BBC base, 2” Class B surface or 6” PC concrete, or 10” aggregate base, Type B (100% crushed), 2½” Class I surface (1½” binder and 1’ surface). Curb and cutter (M-6.12, B-6.12) are required. A 4-foot wide sidewalk is required unless an off-street system is provided and approved by the City Council.

e. Each unit shall be properly anchored by a method which is approved by the City.

f. Each unit will contain a NOAA early warning weather radio

g. Each park will have a minimum of 10 units

h. Common recreational areas shall be provided as follows:

   i. Up to 20 units, 700 square feet per unit.

   ii. 21 to 50 units, 14,000 square feet plus 600 feet per unit in excess of 20 units.

   iii. 51 to 100 units, 32,000 square feet plus 400 feet per unit in excess of 51 units.

i. A minimum of 2 off-street parking spaces per individual lot shall be provided.

j. All lots must be serviced by City water and sewer. The size of the mains shall be determined by the City Engineer.

k. All utilities shall be placed underground.

l. No sales of new or used units by dealers or brokers shall be permitted unless the unit has been placed on a lot and connected to City sewer and water.

Museums

Planned developments

Public library

Public or private schools (elementary, middle, high, junior college, university) including playground and athletic fields.

Public utilities

Religious retreats

Restaurants

Rest homes, nursing homes hospitals, sanitariums which are licensed and /or registered

Section 11

BUSINESS DISTRICTS

11.01 Purpose
11.02 B-1 Central Business District
11.03 B-2 General Business District
11.04 B-3 Regional Shopping District
11.05 BP, Business Park District

11.01 PURPOSE

The business districts set forth herein are established to protect public health and promote public safety, comfort, convenience and the general welfare, and to protect the economic base of the City and the value of property. These general purposes include, among others, the following specific objectives:

1. To promote the most desirable use of land in accordance with a well considered plan so that adequate space is provided in appropriate locations for the various types of business uses, thereby protecting and strengthening the economic base of the City.

2. To place in separate districts those businesses which may create noise, odors, hazards, unsightliness or which may generate excessive traffic.

3. To permit selected business uses in districts where adjacent to or inclusion in a residential area has sufficient elements of service or convenience to such areas to offset the disadvantage.

4. To encourage the grouping in appropriate locations of compatible business uses which will tend to draw trade that is mutually interchangeable and so promote public convenience and business prosperity and contribute to the alleviation of traffic and pedestrian congestion.

5. To provide for the establishment of off-street parking facilities, permitted and required, so as to alleviate traffic congestion and so promote shopping convenience and business prosperity.

11.02 B-1 CENTRAL BUSINESS DISTRICT *Amended, Ord. 04-3-1*

A. Purpose: A pedestrian-oriented district geographically designated within the central core of the City in which retail and service uses are provided.

B. Use Restrictions:

   1. Retail/office only: All establishments located in this district shall deal directly with patrons

2. Enclosed activities: All activities must be located in an enclosed building (except as indicated in the following paragraph 3).

3. Enclosed activities: Merchandise may be displayed outside but may not use more than 25 percent of the enclosed building square footage.

4. Processing incidental: Any processing or treatment of goods on any premises must be clearly incidental to the retail business conducted on such premises.

5. Drive-in/through: In this district a special use permit is required to establish any business that will offer goods or services directly to customers waiting in parked motor vehicles.

6. Parking: See Section 8, Off-Street Parking and Loading, of this Zoning Code.

7. Signs: See Chapter 16 of the Municipal Code.

8. Unless a special use permit has been issued, dwelling units and lodging rooms shall not be permitted below the second floor. This is not applicable to hotels and motels.

9. Refuse containers: All refuse generated by facilities located within this district shall be stored in covered containers placed in areas screened by a screening fence or densely planted evergreen hedge of adequate height to screen the refuse containers from adjoining properties and the street. Non-conforming refuse containers existing shall comply with this Zoning Code within one year after the adoption of this Zoning Code, which is August 26, 2003.

10. Only one principal building may be erected on any one lot.

C. Lot and Building Requirements: Every building erected in this district shall conform to the following requirements:

1. Minimum lot area: None.

2. Minimum lot width: Twenty feet at the established building line.

3. Minimum lot depth: None.

4. Minimum setback: Generally none required except as necessary to achieve compliance with applicable off-street parking and loading requirements.

5. Maximum floor area ratio: None.

6. Maximum percentage of lot building coverage: None.

7. Height requirements: Maximum height of three stories or 36 feet.

D. Permitted Uses: Provided all the use restrictions of this district are observed, the following uses are permitted:

Auditoriums, meeting rooms and other places of assembly
Banks, savings and loans
Churches
Clubs and lodges
Dry cleaning operations (including on-site processing)
Dwelling units above the first floor only
Funeral establishments
Hotels and motels
Laundries
Libraries
Mass transit facilities
Museums
Offices
Printing and publishing (under 5,000 square feet in area)
Restaurants
Retail establishments
Schools, music studios, dance studios
Service establishments
Taverns/saloons
Theaters (indoors)

E. Special Uses: Provided all the use restrictions of this district are observed, the City may allow the following uses special use permit:

Any use that involves a retail or service activity which is less than 25 percent outside completely enclosed building. (Outside activity which is over 25 percent is prohibited.)

Any use such as drive-in restaurants, drive-in banks, automobile service stations that offer goods or services directly to customers waiting in parked vehicles or that sell food or beverages for consumption in parked motor vehicles on the premises.

Auto service station
Dwelling units if located below the second story, except in hotels and motels.
Planned development
Public facilities
Recreational facilities, public and private
Restaurant/saloons with live entertainment
Tattoo parlors
Utility stations

11.03 **B-2 GENERAL BUSINESS DISTRICT** *Amended, 04-3-1*

This district is intended to accommodate and regulate commercial/business development outside of the B-1 Central Business District. These typically require direct access to major streets and large lots for off-street parking and loading.

1. Use Restrictions:

    a. Uses: These uses shall deal directly with consumers.

    b. Unenclosed activities: In this district, outside display of inventory is allowable up to 25 percent of the indoor floor space under the following conditions:

        i. It is on private property.

        ii. The area is not designated as parking or required open space. Any outside activity in excess of 25 percent of the total enclosed area requires a special use permit.

    c. Refuse containers: All refuse generated by facilities located within this district shall be stored in covered containers placed in visually screened areas. All non-conforming refuse containers shall comply with this Section 11.03 within 1 year from the effective date of this Zoning Code, which is August 26, 2003.

    d. 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 6 feet high and of sufficient density to completely block the view from the adjacent residential property, shall be installed.

    e. Any accessory building shall meet yard setback requirements.

    f. Only 1 principal building shall be permitted on a zoning lot.

    g. Parking: Pursuant to Section 8, Off-Street Parking and Loading, of this Zoning Code.

    h. Signs: Pursuant to Chapter 16, Signs, of Municipal Code.

    i. Drive-In/through: In this district a special use permit is required to establish any business that will offer goods or services directly to customers waiting in parked motor vehicles.

2. Lot and Building Requirements: Every principal building erected in this district shall conform to the following requirements.

    a. Minimum lot area: 15,000 square feet.

b. Minimum lot width: 100 feet at the established building line.

c. Minimum setbacks: front yard, 50 feet; corner side yard, 50 feet; side yards, 25 feet; and rear yard, 25 feet.

d. Maximum floor area ratio: Two square feet of floor space for each 1 square foot of lot area.

e. Maximum percentage of lot building coverage: 50 percent.

f. Height requirements: Maximum height of 3 stories or 50 feet.

g. General building setbacks: In addition to any other building setback or yard requirement contained herein, every building hereafter erected or enlarged shall provide and maintain a setback from the public street in accordance with the following requirements:

Primary thoroughfare designated by a state or federal highway number: 75 feet from the property line or 150 feet from the center line of the right-of-way, whichever distance is greater.

3. Permitted Uses: Provided all the use restrictions of this district are observed, the following uses are permitted:

Auditoriums, meeting rooms and other places of assembly
Automobile car wash/ laundry
Banks, savings and loans
Blueprinting and photostating
Bowling alleys
Churches
Clubs and lodges
Dry cleaning operations (including on-site processing)
Funeral homes
Hotels and motels
Libraries
Mass transit facilities
Museums
Offices
Printing and publishing (under 5,000 square feet in area)
Radio and television broadcasting
Restaurants
Retail establishments
Schools, music studios, dance studios
Service establishments
Taverns/saloons

Theaters (indoors)
Wholesale when used in connection with retail

4. Special Uses:

Any use that involves a retail or service activity conducted more than 25 percent outside completely enclosed buildings.

Any use, such as a drive-in restaurant, drive-in bank or automobile service station, that offers goods or services directly to customers waiting in parked vehicles or that sell food or beverages for consumption in parked motor vehicles on the premises.

Automobile repair
Automobile service station
Dwelling units, if located above the first story, except in hotels and motels.
Heating, air conditioning, electrical, plumbing, general contracting; retail, wholesale
Motor vehicle sales, new and used
Movie and stage outdoor theaters
Planned developments
Printing and publishing (over 5,000 square feet in area)
Public facilities
Recreational facilities (public and private)
Restaurants with live entertainment
Tattoo parlors
Utility stations

11.04 B-3 REGIONAL SHOPPING DISTRICT *Amended, 04-3-1*

This district is intended to accommodate and regulate business developments which are directly and indirectly accessed from major arterial roadways.

1. Use restrictions:

a. In this district all activities shall be conducted within enclosed buildings with the exception that an outdoor area up to 25 percent of the indoor floor space may be used for outdoor sales and display of inventory under the following conditions:

i. On private property.

ii. Area is not designated as parking or required open space.

b. Refuse containers: All refuse generated by facilities located within this district shall be stored in covered containers placed in visually screened areas. Non-conforming refuse containers shall comply within 1 year after the effective date of this Zoning Code, which is August 26, 2003.

c. Along the side and rear lot lines of any lot abutting any residential district, screening (a wall, solid fence at least 6 feet high and of such density to completely block the view from adjacent residential property) shall be installed.

d. Uses shall consist of office, financial or retail-type activities.

e. Signs, see Chapter 16, Signs, of the Municipal Code.

f. Parking, see Section 8, Off-Street Parking and Loading, of this Zoning Code.

g. Only one principal building shall be erected on any one lot.

2. Lot and Building Requirements:

a. Minimum lot area: 5 acres

b. Minimum lot width: 75 feet fronting a major roadway; other roadways, 150 feet at the established building line.

c. Minimum setbacks: front yard, 50 feet; corner side yard, 50 feet; side yards, 35 feet; and rear yard, 35 feet.

d. Maximum floor area ratio: One-quarter square foot of floor space for each 1 square foot of lot area.

e. Maximum percentage of lot coverage: 50 percent (all structures, including principal buildings and accessory buildings shall be included in the 50 percent).

f. Accessory buildings shall meet the minimum setbacks.

g. Height requirements: Maximum height of 3 stories or 50 feet.

h. General building setbacks: In addition to any other building setback or yard requirement contained herein, every building hereafter erected or enlarged shall provide and maintain a setback from the public street in accordance with the following requirements:

Primary thoroughfare designated by a state or federal highway number: 75 feet from the property line or 150 feet from the center line of the right-of-way, whichever distance is greater.

3. Permitted Uses:

Animal hospitals (no outside kennel)
Department stores
Dry cleaning operations (including on-site processing)

Financial institutions
Hotels, motels
Medical, dental and general offices
Movie and stage theaters, indoor
Piano and musical, retail only
Professional offices
Restaurants
Retail establishments
Service establishments
Supermarkets
Taverns (including live entertainment)
Variety stores

4. Special Uses:

Any use that requires commercial, service or storage activities conducted outdoors, amounting to more than 25 percent of indoor floor space.

Any use, such as a drive-in restaurant, drive-in bank or automobile service station, that offers goods or services directly to customers waiting in parked vehicles or that sell food or beverages for consumption in parked motor vehicles on the premises.

Auto repair and automobile service stations
Drive-in theaters
Motor vehicles sales, new and used
Public facilities
Tattoo parlors
Utility stations
Planned development, commercial

Planned developments, mixed use with residential must meet the following requirements for residential uses:

a. Lot size: 5 acres.

b. Minimum lot width: 250 feet fronting any major roadway; fronting other roadways, 100 feet at established building line

c. Minimum setbacks:

Yard	**Major Roadway**	**Other Roadway**
Front yard	60 feet	40 feet
Corner side yard	50 feet	30 feet
Side yards	40 feet	20 feet

Yard	Major Roadway	Other Roadway
Rear yard	40 feet	30 feet

d. Maximum residential density: 12 units per acre.

e. Minimum unit size: 600 square feet.

6. Minimum percentage of lot coverage: 35 percent

7. Parking and access regulations pursuant to Section 8 of this Zoning Code shall apply.

11.05 BP, BUSINESS PARK DISTRICT *06-12-3; Amended, 08-1-4*

A. Purpose: The purpose of the BP, Business Park District is to provide a course of predictability in business park development, set a minimum level of standards by which a business park can be developed and establish a regulatory framework for the planning and development of future business and manufacturing growth.

B. Use Restrictions: All permitted uses in this zoning district are subject to the following conditions:

1. Any production, processing, cleaning, servicing, testing, repair or storage of goods, materials or products shall conform to the performance standards set forth in Section 14, Performance Standards, of this Zoning Code.

2. Except as provided in Section 11.05-B3, no outside display, sale or storage of materials (raw, semi-finished or finished in nature), vehicles (including tractor trailers), equipment, merchandise and other similar goods or containers, shall not be permitted except by the issuance of a special use permit as provided in Section 15, Special Uses, of this Zoning Code.

3. Outside display of retail inventory shall be permitted on up to 25 percent of the indoor floor space with the following conditions: (i) the area is located within the zoning lot; and (ii) the area is not designated as parking or required open space. Any outside activity in excess of 25 percent of the total indoor floor space shall require a special use permit as provided in Section 15, Special Uses, of this Zoning Code.

4. Refuse containers: All refuse generated by facilities located within this zoning district shall be stored in covered containers that are located in an area that is not visible from the street. Screening shall enclose all refuse containers.

5. Screening: Along the side and rear lot lines of any lot abutting a residential zoning district, screening (a wall, solid fence or closely planted shrubbery) at least six feet high and of sufficient density to completely block the view from the adjacent residential property shall be installed.

6. Accessory Uses: Any accessory use shall meet the same required yard setbacks as required for the principal building.

7. Principal Building: Only one principal building shall be permitted on any zoning lot.

8. Parking: Parking shall be pursuant to Section 8, Off-Street Loading, of this Zoning Code.

9. Signs: Signage shall be pursuant to Chapter 16, Signs, of the Marengo Municipal Code.

10. Landscaping: Any new construction after January 1, 2007, shall comply with the requirements of Chapter 21, Landscape Code, of the Marengo Municipal Code.

C. Lot and Building Requirements: Every principal building erected in this zoning district shall conform to the following requirements:

1. Yard Requirements: In addition to any other building setback or yard requirement contained herein, every building hereafter erected or enlarged shall provide and maintain a setback from a public street in accordance with the following requirements:

a. Primary Thoroughfare Designated by a State or Federal Highway Number: 75 feet from the property line or 150 feet from the center line of the right-of-way, whichever distance is greater.

b. Minimum Setbacks: Front yard, 40 feet; corner side yard, 40 feet; interior side yard, 20 feet; and rear yard, 20 feet.

c. Transitional Yards: Where a side or rear lot coincides with a side or rear lot line in an adjacent residential zoning district, a yard shall be provided along such side or rear lot line not less than 50 feet in depth and shall be screened as provided in Section 11.05-B5. Where a side or a rear lot line coincides with a side or rear lot yard in an adjacent business district, a yard shall be provided along such side or rear lot line not less than 30 feet in depth.

2. Maximum Percentage of Lot Building Coverage: 50 percent for a one-story building; 60 percent for buildings containing two or more stories. A mezzanine is not considered a story.

D. Permitted Uses: Provided all the use restrictions of this zoning district are observed, the following uses shall be permitted:

Animal hospitals (with indoor kennels);

Assembly, production, processing, wholesaling, warehousing or manufacturing of any commodity, from semi-finished (other than raw) materials, provided explosives, flammable materials, nuclear materials and/or livestock are not involved;

Animal retail sales;

Auditoriums, meeting rooms and other places of assembly;

Automobile car wash;

Banks, savings and loans;

Blueprinting and photostating;

Bowling alleys;

Building materials sales with indoor storage;

Churches;

Clubs and lodges;

Drycleaning operations (including on-site processing);

Greenhouses with indoor storage;

Funeral homes;

Healthcare and rehabilitation facilities, not involving overnight visits;

Heating, air conditioning, electrical, plumbing, general contracting, retail, wholesale, with indoor storage;

Hospitality;

Hotels and motels;

Indoor recreation facilities;

Institutional;

Library;

Local cartage and express facility, provided explosives, flammable materials, nuclear

materials and/or livestock are not involved, with no outside vehicle storage;

Mass transit facilities;

Museums;

Offices;

Printing and publishing;

Public utility and transportation facilities including shelters, terminals, parking areas and service buildings;

Radio and television broadcasting;

Railroad right-of-way;

Research and development facility or parks, provided explosives, flammable materials, nuclear materials and/or livestock are not involved;

Restaurants;

Retail establishments;

Schools, music studios and dance studios;

Service establishments;

Sleep research facilities with overnight visits;

Taverns, saloons; and

Theater (indoor).

E. Special Uses:

Any use that involves a retail or service activity that is conducted on more than 25 percent outside of a completely enclosed building;

Any use, such as a drive-in restaurant, drive-in bank or automobile service station that offers good or services directly to customers waiting in parked vehicles or that sell food or beverages for consumption in parked motor vehicles on the premises;

Automobile repair;

Automobile service station;

Dwelling units if located above the first story, except in hotels and motels;

Fuel sales and storage;

Motor vehicles sales, new and used;

Movie and stage outdoor theaters;

Non-retail outdoor storage;

Outdoor recreation facilities;

Outdoor storage tanks;

Planned developments;

Recreational facilities (public and private);

Restaurants with live entertainment;

Utility stations; and

Wireless communication facilities.

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Section 15

SPECIAL USES

15.01 Purpose
15.02 General Requirements
15.03 Standards for Special Uses
15.04 Motor Vehicle Special Uses
15.05 Motor Vehicle Service Stations
15.06 Kennels
15.07 Rest Homes, Nursing Homes
15.08 Group Homes
15.09 Earth Materials Extraction, Processing, Site Reclamation and Related Operations
15.10 Adult Businesses
15.11 Bed and Breakfast Establishments
15.12 Conditions of Approval

15.01 PURPOSE

The principal objective of this Zoning Code is to provide for an orderly arrangement of compatible building and land uses, and for the proper location of all types of uses required for the social and economic welfare of the City. To accomplish this objective, each type and kind of use is classified as permitted in one or more of the various districts established by this Zoning Code. However, in addition to those uses specifically classified and permitted in each district, there are certain additional uses which it may be necessary to allow because of their unusual characteristics or the service they provide the public. These "special uses" require particular consideration as to their proper location in relation to adjacent established or intended uses, or to the planned development of the community. The conditions controlling the location and operation of such "special uses" are established by the following provisions of this Section 15.

15.02 GENERAL REQUIREMENTS

The general requirements of the specific zoning district in which the requested use will be located are applicable except where specifically modified by a special use permit. All conditions and requirements, as determined by the City Council and based on recommendations of the Planning and Zoning Commission and City staff, shall be considered as additions to the general requirements as found in this Zoning Code. The special use permit shall include the approved specific conditions required to address circumstances unique to the proposed use.

15.03 STANDARDS FOR SPECIAL USES

The City Council may authorize a special use permit as provided herein upon determining and finding as fact, the following:

1. That the proposed use will not be detrimental to the public health, safety, comfort or general welfare, nor substantially diminish or impair the value of other properties or improvements in the vicinity.

2. That the proposed use will comply with the regulations of the zoning district in which it is located and this Zoning Code generally, including, but not limited to all applicable yard and bulk regulations, parking and loading regulations, sign control regulations, wetlands and flood plain regulations, building and fire codes, and all other applicable City ordinances, or if exceptions are requested, that such exceptions are justified.

3. That the proposed use will not negatively impact the existing off-site traffic circulation; will adequately address on-site traffic circulation; will provide adequate on-site parking facilities; and if appropriate or required, will contribute financially, in proportion to its impact, to upgrading roadway systems.

4. That the proposed use will not negatively impact existing public utilities, facilities and municipal service delivery systems without due consideration for adequate means of upgrading such utilities, facilities and systems.

5. That the proposed use will not negatively impact the environment by creating air, noise or water pollution, ground contamination, or unsightly views without due consideration for adequate means of controlling, mitigating or buffering such impacts.

6. That the proposed use will maintain, where possible, existing mature vegetation; provide adequate screening to residential properties; and provide appropriate landscaping.

7. That the proposed use will meet standards and requirements established by jurisdictions other than the City, such as federal, state, county or other governmental units or agencies requiring licensing, permitting or health/safety inspections, and submit written evidence thereof.

8. That the proposed use shall conform to the regulations established for specific special uses as provided in this Section 15.

15.04 MOTOR VEHICLE SPECIAL USES

Motor vehicle sales and services, parking; used car sales; and sales and service of agriculture implements shall be a special use in any business district. Before a Certificate of Zoning Compliance is issued for any sales and/or used motor vehicle car sales lot special use, the following requirements must be met:

1. The applicant shall demonstrate that the proposed use is economically compatible with existing uses.

2. The special use will not injure surrounding property values.

3. Lighting sources shall be directed away from surrounding properties.

4. Display area shall have a paved surface.

In the event that a sales and/or used motor vehicle sales lot is proposed to be established on a previously improved zoning lot where no Certificate of Zoning Compliance was required, the requirements of this Section 15.04 must be met prior to the issuance of any occupancy permit for such use.

15.05 MOTOR VEHICLE SERVICE STATION

Motor vehicle service station shall be a special use subject to the following:

1. All gasoline pumps and other service facilities shall be located at least 25 feet from any street right-of-way line, side lot line or rear lot line.

2. Every access way shall be located at least 200 feet from the principal building of any fire station, school, public library and church at least 30 feet from the corner of the lot when the lot is at the intersection of public streets.

3. All trash receptacles, except minor receptacles adjacent to the gasoline pumps, shall be screened from view.

4. Whenever the use of a service station has been discontinued for 12 consecutive months or for 18 months during any three-year period, the Zoning Administrator shall order that all underground storage tanks be removed or filled with material approved by the fire chief.

5. Auto repair stations:

    a. All body shop repairs to motor vehicles shall be conducted wholly within an enclosed building whose doors shall be kept shut tightly during all body repairs or painting work. Such enclosed building shall be located at least 40 feet from the nearest property line with doors not facing toward any residentially zoned or occupied lot.

    b. There shall be no outside parking of motor vehicles except on a temporary basis not to exceed 14 days. Junk parts and junk vehicles shall not be kept outside the building unless in an enclosed privacy fence. This fence must meet all City fence requirements.

    c. Parking shall be provided on the site at a ratio of one parking space for each 3,000 square feet of site area.

15.06 KENNEL SPECIAL USE

A kennel is considered a special use subject to the following:

1. The lot on which the kennel is situated shall have a minimum of three acres.

2. Every kennel shall be located at least 200 feet from the nearest dwelling and not less than 100 feet from any lot line.

15.07 REST HOMES, NURSING HOMES

Rest home and nursing home are a special use in any use district provided that when located in a business district such uses shall be established above the first floor when located in a building constructed for a business use. A building originally constructed for residential use in a business district may be used in whole or in part for rest homes or nursing homes.

15.08 GROUP HOMES

Group home is a special use in any residential zoning district that is licensed or certified by the State of Illinois, supervised and has 9 or more persons plus staff, subject to the following:

1. A minimum distance of 1,000 feet is maintained between group homes;

2. The group home conforms to all current provisions of the Zoning Code, City building code and State of Illinois licensing standards, if applicable to the use. Said conditions may be waived by the City Council.

15.09 EARTH MATERIALS EXTRACTION, PROCESSING, SITE RECLAMATION, AND RELATED OPERATIONS

A. Definitions: In addition to the definitions in Section 3 herein, terms (whether capitalized or not) used in this Section 15.09 shall have the following meanings:

Concrete building materials production plant: A facility that incorporates machinery and earth materials to produce cement or concrete-based products used in the construction of structures or in the building and landscaping industry for marketing and sale.

Concrete recycling plant: A facility that incorporates machinery and a supply of used concrete, cement products and debris to crush and process such materials into raw products to be utilized for sale or incorporation into other products. The term “concrete” herein specifically excludes bituminous concrete, also known as asphalt.

Earth materials extraction: The mining of any natural earth materials or minerals, such as gravel, sand, stone, clay or aggregate by removing the overburden lying above natural depos-

its thereof and mining directly from natural deposits thereby exposed, or from the deposition of overburden therefrom. The term "surface mining" shall be deemed synonymous with "earth materials extraction."

Earth materials processing: The transporting, washing, sorting, screening, grading, crushing and similar processing of natural earth materials or minerals, such as gravel, sand or aggregate, in order to prepare such materials for marketing, sale or incorporation into other earth materials-based products.

Ready-mix plant: A facility used for the dispensing of cement, water, stone and sand into mixer trucks in order to create liquid concrete products to be transported off-site for use in construction of concrete structures and products.

B. Intent: The purpose of this Section 15.09 is to recognize that earth materials extraction and processing and related operations, such as ready-mix plants, concrete recycling plants and concrete building materials production plants, as well as the associated exterior storage of raw and recyclable materials, are uses requiring unique regulatory controls to ensure that:

1. Operations are conducted in a manner that are compatible with the natural and man-made environment;

2. Adverse impacts on surrounding areas, including, without limitation, property values, air quality and noise are minimized; and

3. Mined areas are restored to productive use compatible with the surrounding areas.

It is the further purpose of this Section 15.09 to:

4. Establish regulations and standards for earth materials extraction and processing, ready-mix plants, concrete recycling plants and concrete building materials production plants; the storage and stockpiling of associated raw and recyclable materials; and the trucking and other related operations pertaining to these activities; and

5. Provide for the conservation and reclamation of lands affected by earth materials extraction, processing and related operations in order to restore them to optimum future productive use consistent with the protection of public health and the environment.

Therefore, earth materials extraction and processing, and the operation of ready-mix plants, concrete recycling plants, and concrete building materials production plants shall only be permitted on a special use basis.

C. Applicable Zoning Districts and Operations: In M Manufacturing Districts only, an operator desiring to extract and/or process earth materials shall apply for a special use permit jointly with the owner or any person who is entitled to legal possession of the property to be af-

fected and shall comply with the operation and reclamation regulations in this Section 15.09.

D. Compliance with State and Federal Regulations: It shall be unlawful for any owner/operator to engage in surface mining in an area where the overburden shall exceed 10 feet in depth or where the operation will affect more than 10 acres during the permit year without first obtaining from the Illinois Department of Mines and Minerals a permit to do so, pursuant to the Surface-Mined Land Conservation and Reclamation Act, 225 ILCS 715/1 *et seq.*, as amended.

All owner/operators shall comply with the regulations of the United States Environmental Protection Agency, the United States Army Corps of Engineers, the Illinois Environmental Protection Agency, and any other applicable state or federal laws or regulations, including, but not limited to, occupational health and safety. Any necessary permits shall be obtained prior to issuance of the special use permit. Before the onset of any operations, the City Administrator must be provided with copies of all necessary permits. Such permits must be kept valid and in force for the special use permit to be valid and in force.

E. Application for special use permit: All owner/operators shall apply for a special use permit. In addition to the other requirements of this Section 16, the owner/operator shall present the statements, maps and plans required in Sections 15.09-F and 15.09-G herein. Review and approval of the special use permit and any terms and conditions imposed upon and included with said special use permit shall take into account the materials provided in Sections 15.09-F and 15.09-G herein.

F. Statements: The following statements shall accompany an application for a special use permit:

1. Ownership of land.

2. Minerals to be mined.

3. Character and composition of vegetation and wildlife on land to be affected.

4. The nature, depth and proposed disposition of the overburden.

5. The estimated depth to which the mineral deposit will be mined.

6. Estimated type and volume of excavation.

7. The techniques and equipment proposed to be used, as applicable, for:

   a. earth materials extraction;

   b. earth materials processing;

c. ready-mix plant;

d. concrete recycling plant; and

e. concrete building materials production plant.

8. Practices and methods proposed to be used to minimize noise, dust, air contaminants and vibration and to prevent pollution of surface or underground water.

9. The method of recycling water used for washing and grading.

10. The proposed usage or drainage of excess water.

11. Location of existing roads, and anticipated access and haulage roads planned to be used or constructed in conducting surface mining.

12. Location and names of all streams, creeks and bodies of water within lands to be affected.

13. Drainage on and away from the lands to be affected, including directional flow of water, natural and artificial drainways and waterways, and streams or tributaries receiving the discharge.

14. Proposed days and hours of operation of all excavation, processing and operations on the property.

15. Projected dates of commencement and completion of all excavation, processing and operations on the property.

G. Maps and Plans: The following maps and plans, which shall constitute the Operations Plan, shall accompany an application for a special use permit:

1. A map or maps (scale of 1” = 100’) showing the following:

a. Existing topography at 2’ contour intervals.

b. Location of existing water courses or drainage systems.

c. Location and extent of flood hazard areas.

d. Boundaries of the area to be excavated and of each phase if excavation is to proceed or be contemplated to proceed in phases.

e. Locations of proposed and existing structures, equipment and material storage areas and processing areas.

f. Existing or proposed locations of equipment used for grading, crushing, sorting and other related purposes.

g. Location, orientation and dimensions of all proposed landscaping, berming, screening, fencing and gates.

h. Location, dimensions and surface treatment of proposed entrance and exit drive(s), on-site haul roads and parking areas.

i. Access routes between the property and nearest arterial street designated on the City's comprehensive plan.

j. Location, width and grade of all right-of-ways or easements on or abutting the property.

k. Cross-sections showing extent of overburden, extent of deposits to be extracted and water table.

l. North arrow, scale, date of preparation, name of registered civil engineer, landscape architect or surveyor that prepared the map.

m. Existing or proposed location of ground water monitoring well(s).

2. A Reclamation Plan meeting the following requirements:

a. Map (scale of 1" = 100') showing the final condition of the site after extraction and processing activities have been completed.

b. Locations of proposed water courses, water features and drainage systems.

c. Future structures, land uses, roadways and open spaces.

d. Staged schedule of reclamation actions by area detailing dates of completion and reclamation methods.

e. Future landscaping and ground cover.

f. Final grading.

3. All approvals of special use permits for earth materials extraction and processing shall expire 10 years from the date they are approved by the City Council, unless a

longer time is approved by the City Council. The maximum allowable time limit will be 20 years. The City Administrator or his designee will be responsible for monitoring the operation throughout the life of the operation and special use.

H. Renewal of a Special Use Permit: A renewal of a special use under this Section 15.09 shall be for a period of time not more than 10 years.

1. A request to renew a special use permit that involves acreage or equipment in addition to that allowed in the original special use permit, shall be treated in the same manner as the initial application.

2. A request to renew a special use permit when no additional acreage or equipment will be brought into use shall be handled in the following manner:

   If an owner/operator is unable to finish mining the acreage described in the original special use permit in the time specified, he shall apply to the Zoning Council of Appeals for renewal of the special use permit. A public hearing will be held. The maps required by this Section 15.09 for the initial hearing shall be revised, updated and resubmitted, along with a statement of the current status of the mining reclamation.

   Any application for a renewal of a special use under this Section 15.09 shall be filed with the Commission not less than 120 days before the expiration date of the original special use permit or any renewal thereof. A failure to file a request for renewal within the required time designated in this Section 15.09 shall result in a required cessation of mining and sale of product upon the expiration of the special use permit.

I. Surety: All owner/operators shall be required to obtain the proper permits and submit an acceptable irrevocable letter of credit to ensure the completion of the reclamation of the site. If any form of surety is required by the state, the owner/operator shall only be required to provide the City Administrator with a photocopy. A letter of credit will be required by the City of not less than $3,500.00 for each acre to be affected. The actual dollar amount will be established by the City Administrator based upon 150 percent of the City Engineer's estimate of the cost of reclamation per acre average at the time mining is to be performed. This estimate shall take into consideration inflation of costs in future years. The actual operation shall be monitored by the City Administrator, or his designee, and he/she shall prepare a written report for review by the City Council on the progress before partial or full release or reduction of the letter of credit.

The surety shall be held by the City. Such surety shall remain in effect until the affected lands have been reclaimed in accordance with the Reclamation Plan, and the work is approved by the City Administrator at the annual review of the operation (see Section 15.09-N herein). Land shall not be mined unless a surety for that land has been filed with the City. The surety shall be approved by the City Attorney. The surety shall be for assurance of completion of reclamation, and the initial surety amount shall be set on an anticipated three years

working basis with reasonable allowance for inflation of costs. Before the end of each one-year period, the City Administrator's evaluation and the approval of the past year's work shall be required for release of or reduction of the letter of credit amount, and at that time, the surety level shall be established for the next one-year period or fraction thereof. Decisions of the City Administrator relative to any aspect of this Section 15.09-I are appealable to the City Council, whose decision is final.

J. Reclamation Regulations: The Reclamation Plan map and statement of sequential operation and reclamation shall be followed to produce a finished condition that complies with the Reclamation Plan map and the provisions of this Section 15.09 so as to provide for the return to a useful purpose of the affected land.

K. Changing the Reclamation Plan: In the event a change in the Reclamation Plan is necessary due to the unanticipated characteristics of the area concerned, the City Administrator, after being provided with appropriate documentation, shall study the proposed change, and give a report to the City Council for its review. Changes may be made in the Reclamation Plan upon the mutual consent of the owner/operator and the City Administrator and approval by the City Council. The change shall preserve as substantially as possible the original Reclamation Plan, but shall also provide for the previously unknown variables.

L. Finished Conditions: The finished conditions of all land affected by surface mining shall:

1. Be back-filled with earth or other suitable fill material approved by the City and graded to a rolling topography traversable by machines necessary for maintenance in accordance with planned use, with slopes having no more than 15 percent grade. In the case of those lands to be reclaimed in accordance with the filed plan for forest plantations, recreation or wildlife, the final cut spoil, the outside slope of the box cut spoil, the outside slopes of all overburden deposition area, and the side slopes of haulage road inclines shall not exceed 30 percent grade; but such slopes need not be reduced to less than the original grade of the overburden of the area prior to mining;

2. Be designed to control conditions that could cause erosion on the site or on surrounding streets or properties;

3. Be designed to eliminate large undrained depressions other than artificial lakes, or depositions designed specifically for erosion control;

4. Be designed so that any surface drainage from the property shall leave the property at the original natural drainage points. If this is not possible, the drainage plans must be reviewed by the City Engineer as part of the overall submission. Drainage volume shall not be increased over what it would have been if the site was left in its former use and water conservation practices were applied. The finished condition must meet the City standards for storm water retention-detention contained within the Municipal Code;

5. Be covered with arable topsoil (except for areas under water) to a minimum depth of six inches, and shall have a minimum of 10 percent organic material, except that no greater depth of topsoil or percentage of organic material shall be required than that originally existed on the property prior to commencement of operations;

6. Be successfully planted (after replacement of the topsoil) with trees, shrubs, legumes, grasses or other vegetative ground cover in accordance with the Reclamation Plan in order to avoid erosion; and

7. Whenever production and/or processing on any property shall have been completed, then all processing plants, buildings (other than those shown on the Reclamation Plan), structures (except fences), and equipment, shall be entirely removed from the property within one year after completion, including, but not limited to, such items as stumps, boulders and other debris resulting from excavation and related activities.

M. Operations and Reclamation Requirements and Performance Standards: The operation and reclamation of the property shall be in accordance with the following conditions:

1. Existing trees, shrubs and other types of woody vegetation along road frontages shall be protected and maintained. Weeds and other unsightly noxious vegetation shall be cut or trimmed as may be necessary to present a reasonably neat appearance, to prevent grass fires or the hazard of grass fires.

2. The following apply to protection of ground water levels and quality:

   a. No extraction operations shall be conducted in such a manner that the ground water table of surrounding properties is harmfully lowered or impacted. The maximum excavation depth shall not go below existing ground water, except where the approved Reclamation Plan provides for a water feature or for refilling of such excavation. Any such refilling shall be in compliance with applicable state and federal laws and regulations governing ground water pollution.

   b. Water pumped from the site for the purpose of washing shall be retained in a pond until the silt and clay settles and then the water shall be recycled in the area affected.

   c. The owner/operator shall install a ground water monitoring well or wells, the location, type and number of which shall be shown on the Operations Plan. Such wells and related gauges shall be located and constructed to provide measuring data relative to the movement of ground water and changes in the levels thereof and water quality testing. The City shall have the authority to establish and periodically update ground water parameters consistent with

standards in the field of earth materials extraction monitoring typical in the State of Illinois. As of the date of the adoption of this Section 15.09-M2, which is August 26, 2002, the following parameters shall apply:

I. The owner/operator shall provide ground water level reports quarterly using the data from the monitoring well or wells and related gauges, at times and upon forms provided by the City Administrator.

II. The owner/operator shall provide annual ground water quality reports at times and on forms provided by the City Administrator using samples from the monitoring well or wells. If the operations involve the removal of materials from below the elevation of the ground water, or if the standing water exists within the area of active operation or disturbed area, then the owner/operator shall provide ground water quality data to the City Administrator quarterly with the ground water level reports.

3. If the subject areas shall front on a township road which is used for access to the site, the owner/operator shall, coincidental with commencement of operations, bring that township road up to the paving standards defined for industrial roads in the *Schedule of Minimum Design Requirements for Subdivision Roads in McHenry County*, from the entrance to the subject area to the nearest federal, state or county road used by the operator. The owner/operator shall repair any section of road damaged as a result of gravel hauling operations, but shall not be responsible for the normal wear and tear of the road. This provision shall not be construed to require the operator to purchase additional right-of-ways.

4. All operations shall be conducted in a safe manner, especially with respect to hazards to persons, damage to adjacent lands or improvements and wells, and damage to any street by slides, sinking or collapse of supporting soil adjacent to an excavation.

5. The following apply to surface mining conditions only, not to reclamation conditions:

a. Surface mining operations that remove and do not replace the lateral support shall not approach property lines, established right-of-way lines of any public roads, streets or highways closer than a distance equal to 100 feet unless a lesser distance is mutually agreed to by the operator and adjacent property owner and submitted in writing for review and approval by the City.

b. The bottom of the slope of the mined face of the excavation shall not be closer to the point determined per Section 15.09-M5a herein, than a distance equal to 1½ times the depth of the excavation.

c. If consolidated materials occur in the mined face, the slope of the face may be steeper than 1½ to 1 slope per Section 15.09-M5b herein for the depth(s) of those materials; however, all other mined slopes of unconsolidated materials shall be no steeper than those per Section 15.09-M5b herein.

d. Overburden shall not be removed from more land than is to be mined within one year. No overburden shall be removed from additional land until vegetative ground cover in conformance with the Reclamation Plan is installed on all land where excavation is complete and the land is not being used for earth material storage.

6. Notwithstanding any other provisions of this Section 15.09 or of other ordinances and codes relating to screening, all active operations shall be screened and buffered by an earthen berm of not less than six feet in height and/or a farm fence of not less than 54 inches in height, of such a design so as to allow the free flow of wild animals, but to discourage trespass by humans and farm animals. Berms that will remain in place for one year or longer shall be planted with grass or suitable vegetative ground cover, shrubs and trees and maintained as a visual and acoustical screen. They shall be designed so they do not erode into the road or highway right-of-way or onto the adjoining property. Such berms shall be installed prior to the commencement of any operations adjacent to said activity. The berm design and the landscaping plan, including the type, quantity and species of plants, shrubs and trees, shall be subject to review and approval of the City. Trees and shrubbery shall be planted on the berm. Trees planted shall be approximately 10 feet or more in height and shall be planted in two rows approximately 16 feet apart, and shall be centered approximately 20 feet apart in each row, with the back row staggered. Random shrubbery shall also be planted. The trees shall be as specially developed and recommended for rapid growth and appearance by the United States Forestry Service, and shall be in accordance with the standards adopted by the Illinois Department of Mines and Minerals pursuant to the Illinois Surface-Mined Land Conservation and Reclamation Act. Until such growth is established, the owner or operator shall be responsible for weed control and may be required to do re-seeding or re-planting for areas where the vegetation dies or does not take. A gate shall be placed at all entrances that will be kept locked whenever the owner, operator or their agent is not on site.

7. The processing and stockpiling of earth materials and recyclable materials shall not be conducted within 300 feet of the property lines of any adjoining residentially zoned property. There shall be no importation onto the site of materials that do not relate to the approved uses, including, but not limited to, mixed construction debris and asphalt. The maximum height of stock piles of any materials shall not exceed the height of the earthen berm on the perimeter of the property.

8. Other than maintenance functions, no earth extraction and processing operations, ready-mix or concrete production, or recycling of concrete, shall take place at any

time on Sundays, or holidays recognized by both state and federal governments, or on Saturday prior to 6:00 a.m. and after 4:00 p.m. or between 6:01 p.m. and 5:59 a.m. on all other days.

9. Operations shall be conducted so that noise levels and air and water standards comply with federal and state standards.

10. To minimize airborne dust and the deposit of dirt and gravel on public streets, all access ways and on-site roads shall be maintained in a dust-free condition either by paving or spraying with calcium chloride or other products of like effect.

11. The premises shall be neat and orderly, free from junk, trash, abandoned equipment, or unnecessary debris. Debris, including, but not limited to rebar from concrete recycling, shall be regularly removed from the site. The site shall not be used as storage for debris not related to the special use permit. Buildings and structures shall be maintained in a sound condition, in good repair and appearance. Salvageable equipment stored in a non-operating condition shall be suitably screened or garaged. Berms and fences shall be kept in good repair.

12. Enough topsoil must be stockpiled to meet the finished conditions of Section 15.09-M5 herein.

13. Trucks hauling excavated materials shall be loaded so as to prevent spillage onto public streets. All trucks shall be covered. Any spillage on streets must be removed by the owner or operator within 24 hours of a spill. The entrances into the site shall be swept on a regular basis, with no less a frequency than weekly during peak season (April 1 to November 30). The owner or operator shall attempt to minimize the migration of loose gravel onto public streets by requiring that spread pans, side rails, suspension systems and the like be kept free of sand and gravel to an extent as is reasonably possible.

14. All equipment, machinery and vehicles operating on the site shall be operated and maintained so as to minimize the possibility of oil or fuel leaks. Should a leak or similar accident occur, the owner or operator shall have a written emergency plan and the proper equipment and materials necessary to contain and clean up any such leak. If a leak occurs such that the plan is put into effect, the City shall receive a report of the incident. The plan shall be updated as technology evolves.

15. Only those vehicles and items of equipment which relate to the approved activities on the site may be parked or stored on the site.

16. In case of conflict between any Operations Plan or Reclamation Plan or map and the provisions of this Section 15.09-M, the greatest restriction or highest standard shall govern, unless an exception is specifically provided for in a special use permit.

N. Enforcement: The City Administrator, or his designee, in conjunction with the City Engineer, shall annually review each special use granted under this Section 15.09 Such inspections shall include all activities permitted on the property.

In addition to the Reclamation Plan/map, the owner/operator shall provide the City Administrator with an annual aerial photo of his total operation, enlarged to a scale of one inch equal 100 feet or other scale that would adequately display the property affected on a 30-inch square format. The first photo shall be taken during the first year in operation and subsequent photos shall be taken in the same month of the following years. Each year's photo shall be presented at the same scale for the purpose of comparison. The photo shall be taken in clear daylight when the area is without foliage or snow. Every three years, the City shall be provided with a new topographical map of the site drawn at two-foot contour intervals.

The City Administrator, in conjunction with the City Engineer, shall prepare a report and submit it to the City Council for its review and approval. If it is determined that the operator is not in compliance with this Section 15.09-N, the surety requirement, the operations and reclamation statements, plans or maps, or any other aspect of the approved special use permit, the City Administrator shall issue a stop-work order on all operations other than reclamation work needed to bring the operation into compliance.

Before release or reduction of a surety, an on-site inspection of the acreage reclaimed shall be made by the City Administrator and the City Engineer to check for compliance with the Reclamation Plan and any additional conditions of the special use permit. A random count procedure shall be used to check seeding, plantings and depth of topsoil.

The full costs of all inspections shall be borne by the owner/operator. Failure to pay invoices for such costs after the expiration of 30 days after the date the invoices are mailed or delivered to the owner/operator, shall result in a stop-work order being issued by the City.

15.10 ADULT BUSINESSES

A. Purpose and Intent: It is the intent of this Section 15.10 to protect and preserve the health, safety, welfare and morals of the citizens of the City by regulating adult business within the City.

B. General Standards:

1. A special use permit must be issued for each adult business pursuant to this Section 15.

2. Location Restrictions: No adult business shall be operated within 1,000 feet of a residential zoning district or within 1,000 feet of the property boundaries of any school, day care center, cemetery, public park, public housing, nursing home, rest home,

sheltered care facility and place of religious worship. The distance limitation shall be measured in a straight line from the lot lines of said adult business and applicable residential zoning district, school, day care center, cemetery, public park, public housing, nursing home, rest home, sheltered care facility and place of religious worship.

3. Only one adult business shall be permitted per block face.

4. Sign Requirements: The following sign requirements shall apply to any adult business:

   a. All signs shall be flat wall signs.

   b. The amount of allowable sign area shall be one square foot of sign area per foot of lot frontage on a street, or as permitted by the ordinances of the City, whichever is more restrictive.

   c. Window areas shall not be covered or made opaque in any way. No sign shall be placed in any window. One 1 square foot sign may be placed on the door to state hours of operation and admittance to adults only.

5. Advertising: No merchandise or pictures of the products or entertainment on the premises shall be displayed in window areas or any area where they can be viewed from the sidewalk in front of the building.

6. Alcoholic Liquor Prohibited: It shall be unlawful for any adult business to sell, distribute or permit beer or alcoholic beverages on the premises.

15.11 BED AND BREAKFAST ESTABLISHMENTS

Bed and breakfast establishments, as defined and regulated by 50 ILCS 820/1 *et seq.* and licensed by Section 31.03 of the Marengo Municipal Code, shall be a special use in any residential zoning district. When a bed and breakfast establishment is within a single family detached dwelling, the City, as part of the special use approval process, may consider the use of accessory structures for guest room accommodations.

15.12 CONDITIONS OF APPROVAL

A. Development of Conditions: The Planning and Zoning Commission may recommend, and the City Council may impose, such conditions of approval upon a special use permit as to the establishment, location, construction, maintenance and operation of a special use as deemed necessary for the protection of the public interest and to secure compliance with the standards and requirements of Section 15.03 herein.

B. Landscape Plan: A Landscape Plan shall be required for all applications for a special use permit. The Landscape Plan shall be prepared in accordance with Chapter 21, Landscaping Code, of the Marengo Municipal Code. The Commission or the City Council may request or require the review of all landscape plans as part of the consideration of a petition for a special use permit.

pjh:Marengo.Zone\Section15.SpecialUse.Sept09

CHAPTER 23
SUBDIVISIONS

23.01 Subdivision Control Regulations

23.01 SUBDIVISION CONTROL REGULATIONS

The Subdivision Control Regulations of the City of Marengo, established by Ordinance 96-7-4, passed and approved July 8, 1996, and subsequent amendments and supplements thereto are continued in full force and effect.

CHAPTER 24
BUILDING CODE

24.01	Adoption of Building Code
24.02	Exceptions
24.03	Building Permit Application
24.04	Professional Fees
24.05	Permit/Schedule Construction Schedule
24.06	Municipal Property Damage Deposits
24.07	Excavation in the Right of Way
24.08	Driveways
24.09	Grading, Seeding and Driveway Deposits
24.10	Remote Water Meter Readers
24.11	Certificate of Use and Occupancy
24.12	Local Rules
24.13	Unlawful Continuance of Building Activity
24.14	Swimming Pools
24.15	Architectural Design Requirements
24.16	Elevator/Conveyance Inspections
24.17	Permit and Reinspection, Added, Partial Inspection and Replacement Fees
24.18	Permit Application Appeals
24.19	Violation Penalties
24.20	Rights Continued
Exhibit A	Fee Schedule

24.01 ADOPTION OF BUILDING CODE *Amended, 09-12-6, 07-2-3*

The following list of codes are hereby adopted and amended as part of the City Building Code for the control of buildings and structures as therein provided for each code. Except as provided in Section 24.02 of this Chapter, each and all of the regulations, provisions, penalties, conditions and terms contained in each code described below are hereby referred to, adopted and made a part hereof as if fully set forth in this Chapter.

1. 2006 International Building Code (“IBC”);
2. 2006 International Energy Conservation Code (Residential Projects Only)
3. 2009 International Energy Conservation Code (Commercial Projects Only)
4. 2006 International Residential Code (“IRC”);
5. 2006 International Property Maintenance Code (“IPC”);
6. 2006 International Mechanical Code;
7. 2006 International Fire Code; (“IFC”);
8. 2006 International Existing Building Code;
9. 2006 International Fuel Gas Code;
10. 2005 National Electrical Code (“NEC”);
11. 2004 Illinois State Plumbing Code; and
12. 1997 Illinois Accessibility Code.

All words contained in the codes which refer to the municipality or other words of similar meaning shall mean the City of Marengo. The words "municipal authority" or "government authority" or words of similar meaning shall, for purposes of this Chapter 24, mean the City Council. The words "enforcing officer," "hearing officer," "building inspector," "building official" or other words of similar meaning shall refer to the person or entity designated by the City Council to act in that capacity. Words which refer to permit fees shall mean those fees found in Exhibit A of this Chapter 24.

24.02 EXCEPTIONS *Amended, 07-2-3, 04-4-1*

Each and all of the regulations, provisions, penalties, conditions and terms contained in each code adopted in Section 24.01 herein are hereby referred to adopted and made a part hereof as if fully set forth in this Chapter 24, except as provided below:

Exceptions to the codes adopted in Section 24.01 of this Chapter are:

Building Code Requirement	***Code(s) Section/Table***
Ejector Pumps: Ejector pumps installed to receive and discharge floor drain flows, wastewater or other sanitary sewage shall be connected to a sanitary sewer system.	
All factory-built fireplaces shall have a firebox enclosure of 1 hour rating with a corresponding draft stop.	2006 IRC 1004.1
Angled foundation walls are prohibited.	2006 IBC 1805.5
Each truss and/or roof rafter within roof structures shall be anchored to wall structures by means of a rafter clip.	2006 IBC 1604.8.1
All structures that have two or more dwelling units shall be separated by a minimum of a 2-hour fire wall and shall be constructed of masonry or concrete material.	2006 IBC 508.3.3
All attached garages shall be separated from the main dwelling by a 1-hour fire resistant wall and ceiling separation.	2006 IBC 406.1.4
Every occupancy must have a minimum of 2 means of egress.	2006 IBC 1018.2
All new electrical shall be encased in EMT conduit pipe.	2005 NEC 358.10
All electrical service work shall be in rigid metal conduit and shall be bonded and grounded directly to the street side of the water service, each with its own approved clamp. Water meters shall be jumped.	2005 NEC 230.32 / 2005 NEC 250.4 A (1-5)
Domestic water supply material shall be underground K copper only.	2004 IPC 890.210
Sewer service lateral shall be schedule 40 PVC, cast iron or SDR 26 only.	2004 IPC 890.210
No gravity type sewers are allowed below curb grade.	2004 IPC 890.1360
A 6 inch sewer line shall be installed to within 5 feet of the dwelling.	2004 IPC 890.1340
Every fixture shall be vented. Wet venting is permissible.	2004 IPC 890.1420
Above ground domestic water supply shall be type L or M copper or galvanized pipe.	2004 IPC 890.210
Water supplies shall not be located in exterior wall cavities.	2004 IPC 890.210

Approved materials for water distribution and service pipe in Section 890, Appendix A, of the *77 Illinois Administrative Code* are limited to brass pipe, copper/copper alloy pipe, copper/copper alloy tubing, galvanized steel pipe, welded copper water tube and silver solder.	
All new non-residential principal buildings shall be equipped with a sprinkler system.	2006 IBC 903.2
Every dwelling unit shall have minimum one exterior hose bib.	
Every dwelling unit shall be constructed with an attached or detached garage on the building lot upon which it is constructed. Said garage shall be at least 12 feet wide and 20 feet deep, and shall be connected to the street by a driveway constructed pursuant to City ordinances.	
All new dwelling units shall have radon mitigation measures installed pursuant to the International Building Code, as amended. (active or passive)	2006 IRC Appendix F
Occupancy in dwelling units shall not exceed the minimum area requirements of table 404.5 of the 2003 IPC.	2006 IPMC 404.5

24.03 BUILDING PERMIT APPLICATION

A. No building or structure shall hereafter be erected or altered until a building permit is issued by the Building Commissioner. A permit shall not be issued unless the proposed construction and use of the land comply with the ordinances of the City.

B. When a complete building permit application is submitted to the Building Department, the Building Commissioner shall review the application for Code compliance. Should the application comply with the provisions of this Code, a building permit shall be issued. In the event a permit application is rejected, the reasons shall be put in writing.

C. APPLICATIONS FOR PERMITS:

1. GENERAL PROVISIONS:

(a) The application for a permit shall be in writing using forms provided by the City. A permit application is not considered complete until all applicable items of information on said forms have been provided, and all accompanying information as required in this Section 24.03 has been furnished.

(b) A permit may be amended during the course of work according to the regulations provided for in this Chapter 24 and the payment of any applicable fees. However, any alterations or additions to be made after completion of the work shall require the issuance of another permit.

(c) The City may adopt reasonable administrative procedures for the processing of permit applications from time to time in order to

better carry out the purposes, intent and regulations of this Chapter 24.

2. INFORMATION ACCOMPANYING PERMIT APPLICATIONS:

(a) Each building permit application shall be accompanied by the following material:

(1) For multiple-family, commercial and industrial buildings and build-outs, 4 full sets of drawings of the proposed construction. All pages of said drawings shall be signed and stamped by an Illinois licensed architect or engineer. Said signatory shall also certify that the submitted plans meet the minimum standards under all applicable building codes of the City.

(2) A plat of survey of the lot showing the existing and proposed building(s), structure(s), underground facilities, easements and driveways, as well as building footprints on all immediately adjoining lots.

(3) For single family, 2 full sets of drawings of the proposed construction. It is recommended that all drawings be signed and stamped by an Illinois licensed architect or professional engineer.

(4) For all structures proposed to be constructed over an existing structure, 2 sets of drawings signed and stamped by an Illinois licensed architect or professional engineer is required.

(5) If the scope of the structural work is minor and limited in detail, the Building Commissioner shall have the discretion of modifying any portion of these requirements.

(b) The applicant shall provide such additional descriptive information in drawn or written forms as to the location, use, materials and design of buildings and structures and appurtenances thereof, and interior or exterior fixtures, such as, but is not limited to, electrical fixtures, plumbing fixtures (supply, drain and fixtures), heating and air conditioning appliances, in addition to the return and supply air duct sizes and locations, smoke detection devices, light and ventilation schedules, door and window schedules, truss certificates, manufacturers cut sheets or product specifications and MSDS sheets.

D. UNLAWFUL ISSUANCE OF A BUILDING PERMIT: No building permit shall be issued to a person who has an outstanding expired building permit where the permitted work is incomplete; or who is indebted to the City due to building code violations.

24.04 PROFESSIONAL FEES

Any person, firm or corporation, upon filing plans for a permit with the Building Department, shall bear the cost, including but not limited to the fees charged by an architect, attorney, engineer or other professional assistance when those fees are incurred by the Building Department regarding any plan submitted to it for review and comment. The permit applicant is required to complete the Re-imbursement of Fees Agreement pursuant to Chapter 20, Planning, Zoning and Development Review Fees, of this Code if required by the Building Commissioner.

24.05 PERMIT/SCHEDULE CONSTRUCTION SCHEDULE *Amended, 07-1-10, 05-2-2*

A. BEGINNING CONSTRUCTION: Any person or entity issued a building permit shall commence construction within 90 days of issuance of the building permit. Should construction not be started within 90 days of issuance, the permit shall be deemed null and void.

B. PRELIMINARY EXCAVATION: No excavation or ground stripping will be allowed without the express written permission of the Building Commissioner prior to issuance of a building permit.

C. SPOT SURVEY: Upon completion of the building foundation, a spot survey shall be submitted to the Building Department. The survey shall be certified by a licensed engineer or land surveyor and reflect the actual location and elevation of the structure. Completion of the structure shall continue only after the survey has been approved by the Building Department. If the foundation is found to be in violation of the approved grading plan, the Builder/Owner shall submit a revised grading plan acceptable to the City or remove the foundation. All fees and charges applicable to any proposal for a revised grading plan shall be paid by the Builder/Owner.

D. EXPIRATION OF PERMIT: Building permits shall expire if work is not completed within the following designated periods after a building permit is issued:

1. New residential/commercial/industrial construction: 12 months

2. Remodeling and additions; commercial build-outs: 6 months

3. All others: 3 months

E. EXTENSION OF PERMIT: Prior to the date of expiration, a one time extension, not to exceed the original permit length, with the exception of new construction, for a period of 3 months, shall be granted. After such time, a new permit must be obtained to complete the project. For new construction, the plans require reviewing and payment of applicable permit fees except impact fees as such are defined in the Subdivision Ordinance and the ordinance regarding developmental fees.

F. LAPSE IN CONSTRUCTION: If construction activity is dormant for 6 weeks during the permit period, the site must be closed and protected from risks to the satisfaction of the Building Department, to eliminate any health and safety risks until construction resumes. The City shall have the right but not the obligation to secure the construction site to ensure adequate safety to the general public. All costs of securing said site shall be the responsibility of the permit applicant.

G. FINAL INSPECTION: A final inspection by the Building Department will be required for each permit issued.

H. PERMIT FEE REFUND: If, after the purchase of a permit and before any inspections have been done, the permittee requests a refund of permit fees, $50 shall be retained for administrative and plan review services. When the permit fee is less than $50, or the request is received more than 30 days from the permit issue date, or inspections or other services have been rendered, no refund will be given.

I. CONSTRUCTION/PROJECT SITE REGULATIONS:

1. APPLICABILITY: Persons issued permits pursuant to this Chapter 24 and Chapter 29, McHenry County Stormwater Management Ordinance, of this Code shall abide by construction/project site regulations imposed in this Section 24.05-I, Section 24.12 and any applicable site regulations in Chapter 29.

2. CONDITION OF PERMIT: It is a condition of a permit issued pursuant to this Chapter 24 and Chapter 29, McHenry County Stormwater Management Ordinance, of this Code to maintain construction/project sites in a reasonably safe, clean and orderly condition as outlined in this Section 24.05-I.

3. SITE REGULATIONS: Construction equipment, tools and materials may be placed, parked or stored on private property subject to the following conditions:

a. A valid permit pursuant to this Chapter 24 or Chapter 29, McHenry County Stormwater Management Ordinance, of this Code exists for construction, building, grading or applicable work;

b. The equipment, tools and materials at issue are actively in operation and/or have been so utilized in the construction/project site in a continuous manner;

c. The equipment, tools and materials at issue are stored in an orderly, compact manner or inside storage facilities pursuant to Section 24.05-I3f herein;

d. The equipment, tools and materials at issue are secured;

e. The storage of equipment, tools and materials is to take place at least 300 feet from the nearest dwelling irrespective of the zoning classification of the building site. If the equipment, tools and materials are to be stored less than 300 feet from the nearest dwelling due to site size, conditions and/or configurations, the owner and/or individual or business using said equipment must present a storage plan for approval by the Building Department at the time of permit application. The owner and/or individual or business must comply with the terms of the plan as approved during the term of the permit;

f. For purposes of this Section 24.05-I3, equipment, tools and materials may be stored in approved trailers and/or storage facilities in compliance with ordinance, annexation agreement and/or project requirements;

g. Construction, equipment, tools and materials shall not be placed, parked or stored in a construction/project site for a period of 30 days or more following completion of a project; and

h. For purposes of this Section 24.05-I, equipment, tools and materials shall include, but not be limited to, machinery, trailers, vehicles, hand tools, formworks and any construction materials.

4. VIOLATIONS: It shall be unlawful for a person engaged in work for which a permit has been issued to fail to comply with the regulations of this Section 24.05-I and to cause, maintain or permit the littering of any public or private property with mud, dust, brush, stumps, tree limbs, construction or other type of debris such as building excavation or ground piles; nor shall a person cause damage to any public street, sidewalk, alley, curb, gutter, sewage system or property.

5. ENFORCEMENT: The Building Department is authorized and the permit holder shall allow the inspecting officer to enter the property where the construction equipment, tools and materials are being stored for the purpose of inspection to determine the substance of any potential violation regarding storage of such items and/or condition of the construction/project site. The inspecting officer shall cause photographs to be made of the premises and shall file the same in the office of the Building Commissioner. If the inspecting officer determines that a violation of this Section 24.05 exists, the City shall serve notice of the violation to the property owner and/or individuals, contractor or other acting for and/or on behalf of the developer and/or owner. Such notice

shall request the removal or abatement of said conditions within a period of 7 calendar days. If the violations and conditions are not cured within the 7 calendar-day period notice, the violation shall be deemed a nuisance.

6. PENALTY: Violation of this Section 24.05 shall result in a fine of $50 per day for each day that the violation continues as well as other remedies found in Section 24.19 of this Code.

7. COST OF ENFORCEMENT: In addition to the penalties imposed pursuant to this Chapter, the cost of abating the conditions by the City shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the condition pursuant to 65 ILCS 5/11-20-13, 5/11-31-1 or other applicable section of the Illinois Municipal Code.

24.06 MUNICIPAL PROPERTY DAMAGE DEPOSITS

A. Before commencing any new residential or commercial construction for which a building permit is required and which is not in an approved project covered by an acceptable letter of credit or performance bond for which a building permit is required or a project that disturbs soil in the public right-of-way, the applicant shall make a cash deposit with the City to cover the cost of repairing any damage which may be done to City property. The deposit shall be in the amount of $1,000.

B. The deposit shall be held by the City, at its discretion, for a period of not more than 2 years. If, after the 2 years, no damage has been incurred to City property, the total amount of the deposit shall be returned to the party making the deposit upon request. Any deposit not claimed within 7 seven years shall be deemed forfeited pursuant to State Statutes.

C. In the event the City property sustains damage, that portion of the deposit necessary to effect repairs shall be retained by the City; the balance shall be returned to the party making the deposit.

D. If the cost of repairs to the City property exceeds the amount of the deposit such additional costs shall be charged to the owner of the property and/or the person issued the building permit and it shall become immediately due and payable upon the owner receiving written notice of the amount of which the cost of repairs exceeds the deposit.

24.07 EXCAVATIONS IN THE RIGHT OF WAY

Wherever any alteration, construction or disruption of soil is done in any public right of way, the following conditions must be met:

1. The applicant shall install, pursuant to Chapter 29, McHenry County Stormwater Management Ordinance, of this Code, soil and erosion control measures prior to the start of construction.

2. All disturbed soils shall be restored by the applicant with sod and/or seed blankets inspected by the Public Works Department and/or Building Department prior to final approval of the project.

3. A cash deposit shall be made to the City to insure restoration of the right of way. If the right of way is not restored to the City's satisfaction the City will use the cash deposit for the restoration. Deposits required are as follows:

   a. Street opening, which is required any time it is necessary to cut into paved surfaces in streets and alleys, $1,500;

   b. Sidewalk, which is required when a sidewalk is removed or torn up, $1,000.

24.08 DRIVEWAYS

A. SPECIFICATIONS: Driveways and driveway approaches across sidewalks shall be constructed of concrete having a minimum thickness of 6 inches and a minimum compressive strength of 2,500 pounds per square inch in 28 days. All new driveway approaches shall have a surface material of either 2-inch thick bituminous concrete Class I, or 6-inch concrete in accordance with the preceding specification. Driveway construction, which shall have a gravel base thickness of not less than 6 inches and surfaced with at least 2 inches of asphaltic or bituminous concrete, shall extend from the garage to the street and shall be at least 12 feet in width.

B. COST: All new driveway approaches, including the culvert, subgrade preparation and surface, shall be at the owner's expense. For any replacement or repair work the City shall, subject to prior approval from the City Council, reimburse the property owner for permanent surface material meeting specifications up to a maximum surface area of 120 square feet per platted lot. Reimbursement will be made on the basis of actual surface measurements and will be reimbursed at the lower of actual invoice cost or the prevailing retail price per ton of bituminous concrete, Class I, F.O.B. point of origin, or concrete per yard, F.O.B. job site.

All labor and materials, including driveway removal, subgrade preparation and surface material installation, shall be at the expense of the property owner.

C. CULVERT: A corrugated metal culvert shall be installed under the driveway, at the owner's expense, where curb, gutter and storm sewers are not provided for the tract. The diameter and length of the culvert shall be approved by the City Engineer or Public Works Director. However, a culvert shall extend not less than 1 foot on each side of the driveway. Flares shall be installed on each side of the culvert. The method of installation and material shall be approved by the Public Works Director. Maintenance responsibility of the culvert and pipe are that of the property owner.

D. MODIFICATIONS: The Public Works Director may, at his/her discretion, grant exceptions or modifications to this Section 24.08 if good engineering principles are followed to

protect the integrity of the right of way and does not change or restrict the normal flow of stormwater.

24.09 GRADING, SEEDING AND DRIVEWAY DEPOSIT

A. Should there be outstanding weather-related items to be completed, prior to final inspection for a Certificate of Use and Occupancy between November 1 and April 30, a cash deposit or letter of credit of $2,000 shall be deposited with the City by the permit applicant. Should the permit applicant have a good standing letter of credit on file, the cash deposit is not required.

B. Grading, seeding and driveway work, guaranteed by a cash deposit or letter of credit, shall be completed by the following June 30.

C. In the event the required grading, seeding and driveway are not completed by the following June 30 the City shall use the cash deposit or proceeds from the letter of credit to have the work completed and/or issue fines and violations pursuant to this Chapter 24. If the work is completed within the required time period the total amount of the cash deposit shall be returned to the party making the cash deposit or the letter of credit released.

D. If conditions preclude grading and seeding between June 30 and October 30 and an occupancy is required in that period, a cash deposit may be made with the City for up to 45 days if approved by both the Building Commissioner and the Administrator.

24.10 REMOTE WATER METER READERS

A. For all new construction, the water meter shall be installed no later than the rough inspection. The permit holder is responsible to ensure the meter is protected from damage during construction. A metered reading of the water will be taken after the final inspection of the project and the permit holder shall be liable for payment of said metered water prior to the issuance of a Certificate of Use and Occupancy. Prior to requesting a Certificate of Use and Occupancy, proof of payment in full for the water must be provided to the Building Department.

B. Additions or remodeling requiring the location or relocation of the customer's water service pipe and/or inside water meter shall require installation of one-half inch, U.L. listed conduit and 22 gauge, 2-conductor solid wire for connection to a remote meter reading device. Installation shall be pursuant to Water Department regulations. If the conduit, outside location or wire do not conform to the specifications in this Section 24.10 a $100 installation fee and a $25 reinspection fee shall be charged for each nonconforming location before sealing the meter and issuance of the Certificate of Use and Occupancy for the premises.

24.11 CERTIFICATE OF USE AND OCCUPANCY

A. No building or structure hereafter erected or altered shall be occupied or used in any way, until a Certificate of Use and Occupancy has been issued by the Building Commissioner. The Certificate of Use and Occupancy shall be issued only after the Building

Commissioner makes a finding that the building or structure has been erected or structurally altered in conformance with the provisions of this Chapter 24 and other health and building laws and in accordance with the building permit.

B. Prior to the issuance of a Certificate of Use and Occupancy the following conditions must be met:

1. The builder/owner shall certify, by means of a professional engineer's or land surveyor's statement, that the elevations of the completed project are in accordance with the grading plan approved by the City.

2. A cash deposit or letter of credit, if applicable pursuant to Section 24.09 herein, has been deposited with the City.

3. The structure must be completed pursuant to this Code.

4. Temporary use and occupancy permits shall only be issued for a specific time to allow completion of work halted by weather-related conditions specified in Sections 24.08 and 24.09 herein.

5. The issuance of a Certificate of Use and Occupancy shall be subject to Section 6.19 and Section 24.03 of this Code.

24.12 LOCAL RULES *Amended, 05-11-4, 05-8-2*

A. BUILDING SITE RULES:

1. All approved permits issued by the Marengo Building Department must have the permit cards visible and accessible for every inspection to be signed, dated and approved or not approved by each inspector. In addition to the foregoing, each new construction lot must have the address and lot number posted on weather resistant material not to exceed 2 square feet. Such posting shall remain on the lot until a Certificate of Use and Occupancy has been issued. In the case where such permit card is not accessible, the inspection will not be conducted and a reinspection fee will be incurred by the applicant. Reinspection fees are found in Exhibit A of this Chapter 24.

2. In the case of the permit card, the weatherproof bag or clip issued by the Building Department has been lost, stolen, misplaced, or otherwise not in possession of the permit holder, a fee will be charged for the replacement of such materials. Building permit replacement card fees are found in Exhibit A of this Chapter 24.

3. Each lot shall be furnished with a proper container or containers for the deposit of construction debris and refuse and if applicable, for recycling of

discarded construction materials. Such containers shall be secured so as to prevent the blowing or scattering of materials and shall be emptied regularly and not allowed to overflow. No container shall be located on a City right of way. The contractor shall be responsible for litter and debris pickup and containment on the property.

4. Each lot shall be furnished with a proper portable toilet for use by construction workers which shall be regularly maintained by the toilet provider.

5. Prior to beginning work, a temporary gravel drive must be installed from the street into the lot in order to provide access to the lot for inspections. Culverts must be set in place in accordance with Section 24.08 before gravel is installed. The temporary drive shall consist of 6 inches of gravel base that extends at least half of the distance from the street towards the garage portion of the dwelling, or a minimum of 50 feet, and shall have a minimum width of 10 feet.

6. Property identification shall be posted on each lot prior to excavation and remain through final inspection. Materials used for said identification shall not fade and permit the attachment of inspection reports.

7. Working hours for construction relating to any approved building permit shall comply with the provisions of Section 43.08-I of this Code.

8. All permit holders shall keep vegetation in compliance with the provisions of Section12.08 of this Code and any applicable Construction/Project Site Regulations in Section 12.05.

B. STREET SIGNS: Temporary street signs made of weather-resistant materials and lettering identifying the streets in a new subdivision shall be erected before beginning any construction activity on any lot. Said signs shall remain posted and maintained in good repair until permanent street signs are erected as provided for in the Marengo Subdivision Ordinance.

C. USE OF STREETS AND LOTS DURING CONSTRUCTION:

1. It shall be prohibited to occupy any traveled portion of a paved street or right of way with construction materials, construction vehicles or construction material delivery or storage vehicles. Temporary blockage of a street by a construction vehicle shall be limited as governed by City traffic regulations.

2. No construction materials shall be placed so as to render inaccessible or subject to damage any fire hydrant, manhole, b-box, catch basin or similar structure, or so as to obstruct culverts or street gutters to prevent the proper flow of stormwater. Any damage caused by construction and/or

landscaping activity to said structures shall be repaired at the applicant's expense. Said structures are subject to inspection at the time construction and/or landscaping is completed, and a Certificate of Use and Occupancy may be withheld by the City until repairs are properly made.

3. Streets adjacent to building sites shall be regularly cleaned of dirt and mud deposits.

4. The washing out of any waste material from trucks, including but not limited to concrete and dirt, is prohibited in any City right of way or public or private drainage swale, similar stormwater conveyance, or on any other private lot or public property.

5. Driving over swales or ditches to access lots is prohibited. Any damage caused to ditches, shoulders, pavement and related vegetation from construction activity shall be the responsibility of the building permit applicant to repair, and the City may issue a stop-work order in addition to its other remedies in order to achieve compliance with this rule.

6. The City at all times reserves the right to stipulate and direct the manner and street network in which construction traffic may access a building site.

D. OVERHEAD SEWERS: All new buildings and additions with basements, half basements or a room or a floor below the grade of the adjacent street shall have sanitary wastes discharged into a gas tight covered and vented sump from which the waste shall be limited and discharged into a sanitary waste drain by automatic pumping equipment. The building drain shall come through the wall above the floor and have a sealed ejector basin.

E. SEPARATION OF STORMWATER AND WASTEWATER:

1. LEGISLATIVE INTENT: The intent of this Section 24.12-E is to protect the public health and safety by requiring the separation of stormwater flows from sanitary sewer flows, as more specifically provided herein and in this Code. For the purposes of this Section 24.12-E, the term sump pump is used in connection with stormwater, and the term ejector pump is used in connection with wastewater, although it is common parlance to also refer to sump pumps as part of a sanitary sewer system.

2. FOOTING AND FOUNDATION DRAINS, SUMP PUMP(S), DOWNSPOUT(S) EXTENSIONS: Sump pumps and downspout extensions installed to receive and discharge groundwater or stormwater shall be connected to a storm sewer system or discharged to approved drainage ditches or swales. The sump pump/downspout discharge may be fitted with an extension, provided that (a) the outlet of the discharge must not be located nearer than 6 feet to the property line and (b) the flow from the discharge extension must be oriented in the direction of the approved

drainage ditch or swale and not oriented to discharge said groundwater or stormwater directly onto adjacent properties. If an underground storm sewer system is available, such discharge shall be to the system rather than to another option, except that the City may, at its discretion, upon application and review, approve discharges into stormwater detention or retention ponds, lakes, wetlands, streams or other conveying bodies of water, subject to such terms and conditions as it deems appropriate or necessary to protect said conveyances.

3. A grease trap, if required by the Illinois State Plumbing Code, as amended, shall be installed in accordance with Section 25.38, Grease, Oil and Sand Interceptors, of this Code.

24.13 UNLAWFUL CONTINUANCE OF BUILDING ACTIVITY

Any person who shall continue any work in or about the structure after having been served with a stop order, except such work as he is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not less than $150 or more than $500, plus the City's costs of prosecution. Each day that a violation continues shall be deemed a separate offense.

24.14 SWIMMING POOLS

A. OUTDOOR SWIMMING POOL REQUIREMENTS: An outdoor swimming pool, including an in-ground, above-ground or on-ground pool, hot tub or spa shall be provided with a barrier which shall comply with the following:

1. BARRIER: The top of the barrier shall be at least 48 inches above grade measured on the side of the barrier which faces away from the swimming pool. The maximum vertical clearance between grade and the bottom of the barrier shall be 4 inches measured on the side of the barrier which faces away from the swimming pool. Where the top of the pool structure is above grade, such as an above-ground pool, the barrier may be at ground level, such as the pool structure, or mounted on top of the pool structure. Where the barrier is mounted on top of the pool structure, the maximum vertical clearance between the top of the pool structure and the bottom of the barrier shall be 4 inches.

2. NATURAL BARRIER: The barrier requirements are waived for the portion of the pool/spa/hot tub facing the natural barrier. On all other sides of the property, the barrier must extend to the legal, where established, or normal water level.

3. BARRIER OPENINGS: Openings in the barrier shall not allow passage of a 4-inch diameter sphere.

4. SOLID BARRIERS: Solid barriers which do not have openings, such as masonry or stone, shall not contain indentations or protrusions except for normal construction tolerances and tooled masonry joints.

5. HORIZONTAL, VERTICAL MEMBERS: Where the barrier is composed of horizontal and vertical members, the distance between the top and bottom horizontal members shall not exceed 45 inches. The vertical members' maximum clearance shall not be more than 2 inches between the bottom of the vertical members and top of grade, measured on the side of the barrier that faces away from the pool.

6. Where the barrier is composed of horizontal and vertical members and is 45 inches or more, spacing between vertical members shall not exceed 1¾ inches. Where there are decorative cutouts within vertical members, spacing within the cutouts shall not exceed 1¾ inches in width.

7. Maximum mesh size for chain link fences shall be a 1¼ inch square; if a larger mesh of fence is provided slats fastened at the top or the bottom that reduce the openings to no more than 1¾ inches shall be installed.

8. Where the barrier is composed of diagonal members, such as a lattice fence, the maximum opening formed by the diagonal members shall be no more than 1¾" inches.

9. Access gates shall comply with the requirements of this subsection and shall be equipped to accommodate a locking device. Pedestrian access gates shall open outward away from the pool only and shall be self-closing with a self-latching device. Gates other than pedestrian access gates shall have a self-latching device. Where the release mechanism of the self-latching device is located less than 54 inches from the bottom of the gate:

   (a) The release mechanism shall be located on the pool side of the gate at least 3 inches below the top of the gate; and

   (b) The gate and barrier shall have no opening greater than one-half inch within 18 inches of the release mechanism.

10. ABOVEGROUND POOL STRUCTURE USED AS BARRIER: Where an above-ground pool structure is used as a barrier or where the barrier is mounted on top of the pool structure, and the means of access is a ladder or steps, then:

   (a) The ladder or steps shall be capable of being secured, locked or removed to prevent access; or

(b) The ladder or steps shall be surrounded by a barrier which meets the requirements of Sections 24.14-A1 through 9 herein. When the ladder or steps are secured, locked or removed, any opening created shall not allow the passage of a 4-inch diameter sphere.

11. Where a moat is used to obtain the 48-inch clearance from ground surface to the top of the pool, it shall also be 48 inches from the outside rim of the moat to the top of the barrier (or rim of the pool).

B. BARRIER LOCATIONS: Barriers shall be located so as to prohibit permanent structures, equipment or similar objects from being used to climb the barriers.

C. EXEMPTIONS:

1. A spa with a solid lockable safety cover which complies with ASTM ES 13-89 shall be exempt from the provisions of this Section 24.14. Swimming pools with safety covers shall not be exempt.

2. Swimming pools/spas/hot tubs located greater than 500 feet from neighboring residences and that have been in existence prior to the effective date of this amendment (July 8, 1993) shall be exempt from all requirements in Sections 24.14-A and B herein.

D. VARIANCES: It is the intent of this Section 24.14 that all swimming pools, spas and hot tubs have an effective barrier to discourage access of children (less than 5 years of age). However, it is recognized that unique circumstances may exist that would preclude immediate compliance with all parts of Section 24.14 in existence prior to the effective date of this amendment. Variations from the regulations of this Section 24.14 may be granted in each of the following instances:

1. For the swimming pools/spas/hot tubs built prior to the effective date of this amendment and require measurement specifications as set forth in Section 24.14, they may be granted a variance provided that the “as-built” configuration does not deviate by more than 15 percent of the measurement specifications.

2. A variance may be granted by the Building Commissioner or City Council where evidence is presented and demonstrates:

(a) The swimming pool/spa/hot tub has been built prior to the effective date of this amendment.

(b) The swimming pool/spa/hot tub is located 200 feet to 500 feet from a neighboring residence or less than 50 feet from a natural barrier.

(c) The granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.

E. SEPTIC FIELD: In the event the property is serviced by a septic field, in-ground pools must be located at least 50 feet from a septic field. On-site inspection may be required to verify septic system location. Variations may be given to a distance of 25 feet, depending upon the on-site conditions. A request for a variation must follow the procedure established in the Marengo Zoning Code.

24.15 ARCHITECTURAL DESIGN REQUIREMENTS *Ord. 09-4-1*

A. PURPOSE AND INTENT: The following standards are intended to enhance the appearance of buildings and promote a high quality of design in order to protect the public health, safety and welfare. The intent of these standards are to: (i) encourage greater design compatibility with surrounding areas and establish a precedent for high quality design in areas with no established character; (ii) achieve greater architectural variation and interest through standards for the design of roofs, exterior walls and the use of exterior finish materials; (iii) encourage greater architectural cohesiveness and compatibility within new developments of multiple buildings; and (iv) reduce the negative visual impact of features and site improvements such as mechanical equipment. These standards are intended to be applied together with other development standards including, but not limited to, the Marengo Subdivision Ordinance, City building codes and the Marengo Zoning Code.

B. GENERAL APPLICATION:

1. NEW CONSTRUCTION: These standards shall apply to new construction of buildings and structures as specified in the following sections.

2. IMPROVEMENTS TO EXISTING STRUCTURES AND DEVELOPMENT SITES:

a. These standards shall apply to existing buildings only when a proposed building expansion exceeds 25 percent of the existing floor area measured on a cumulative basis starting from the date of adoption of this Section 24.15.

b. It is intended that a building expansion subject to these standards be reasonably integrated with the existing structure or site condition consistent with these standards.

c. These standards shall not be construed to necessitate improvements to existing buildings or site conditions beyond those necessary to integrate the proposed improvements with existing conditions in a manner consistent with these standards.

3. DEVELOPMENT OF PERMIT APPLICATIONS: These standards shall not apply to any complete development, zoning or building permit application submitted or approved prior to the adoption of these standards.

4. EXEMPTION FOR HISTORIC BUILDINGS: These standards shall not apply to historical structures as designated by federal, state or local historic preservation commissions for altered or restored structures. Such alterations shall be subject to review by the Marengo Historical Preservation Commission.

C. COMPLIANCE STANDARDS: Compliance with the standards set forth in this Section 24.15 is mandatory, unless a variance is granted pursuant to Section 17 of the Marengo Zoning Code.

D. APPLICATION AND APPEALS: Persons shall submit an application to the Building Commissioner who shall review said application pursuant to the standards in this Section 24.15. The Building Commissioner will issue a decision either approving the building permit. Any applicant that has submitted an application for a building permit that has been denied due to non-compliance of this Section 24.15 may appeal the decision to the Marengo Planning and Zoning Commission. Such appeal shall be in writing to the Administrator and must accompany a complete formal application for a hearing before the Planning and Zoning Commission with all applicable fees associated therewith. Hearings shall be scheduled for the next regularly scheduled Planning & Zoning Commission meeting on the third Monday of each month, but shall be subject to agenda limitations. In the event of a full agenda, the meeting shall be scheduled for no later than the following meeting. The Planning & Zoning Commission shall reach a decision within thirty (30) days from the date of the hearing.

E. COMMERCIAL (NON-INDUSTRIAL) ARCHITECTURAL STANDARDS:

1. APPLICATION:

a. The following standards shall apply to retail, office, institutional and other commercial buildings located in business zoned or designated areas, including but not limited to the business zoning districts. However, business or commercially designated areas developed pursuant to a planned unit development or special use permit may be subject to deviations from the standards prescribed in this Section 24.15.

b. It is intended that these standards apply to the primary façade of the building and that all sides of building, where visible from public rights-of-ways and private roads or service drives or adjacent residential neighborhoods, shall include design characteristics and materials consistent with those of the primary façade, except as provided in Section 24.15-D2. Also, standards

specified in Section 24.15-F Industrial Architectural Standards, shall be limited to façade and walls as specified in that section.

2. DESIGN COMPATIBILITY:

a. Building design shall contribute to the special or unique characteristics of an area and/or development through the use of predominant building massing and scale, building materials, architectural elements and color.

b. Design compatibility shall be achieved through techniques such as the repetition of roof lines, the use of similar proportions in building mass and outdoor spaces, similar relationships to the street, similar window and door patterns, and/or the use of building materials that have color shades and textures similar to those existing in the immediate area of the proposed development.

c. Where there is no established consistent neighborhood character or unifying theme, or where it is not desirable to continue the existing character because it does not reflect a design theme consistent with the architectural standards as described herein and/or as reflected in the Marengo Comprehensive Plan, the proposed development shall be designed to establish an attractive image and set a standard of quality for future developments and buildings within the area.

3. STANDARDS: All buildings shall be designed and maintained using the following building elements with a minimum of 1 item selected from 4 of the 5groups below (Group 4 is mandated to be a part of one of the 4 selections):

a. Group 1 Exterior Wall Articulation:

(i) Opening or elements simulating openings that occupy at least 20 percent of the wall surface area (excluding overhead or dock doors); or

(ii) Building bays created by columns, ribs, pilasters or piers or an equivalent element that divides a wall into smaller proportions or segments with elements being at least 1 foot in width, a minimum depth of inches, and be spaced at intervals no more than 25 percent of the exterior building walls. For buildings exceeding 20,000 square feet in gross floor area, such elements shall be at least 18 inches in width, with a minimum depth of 12 inches, and spaced at intervals of no more than 20 percent of the exterior building walls; or

(iii) A recognizable base treatment of the wall consisting of thicker walls, ledges or sills using integrally textured and colored material such as stone, masonry or decorative concrete; or

(iv) Some other architectural feature that breaks up the exterior horizontal and vertical mass of the wall in a manner equivalent to (i), (ii) or (iii) above..

b. Group 2 Roof Articulation:

(i) Changes in roof lines, including the use of stepped cornice parapets, a combination of flat and sloped roofs or pitched roofs with at least 2 roof line elevation changes; or

(ii) Some other architectural feature or treatment which breaks up the exterior horizontal and vertical mass of the roof in a manner equivalent to (i) above.

c. Group 3 Building Openings, Walkways and Entrances:

(i) Canopies or awnings accenting or blending with the architectural design over at least 30 percent of the openings of the building; or

(ii) Covered walkways, porticos and/or arcades accenting, blending or incorporated into the structural design and compatible with the architectural design, covering at least 30 percent of the horizontal length of the front façade; or

(iii) Raised cornice parapets over entries appropriate to the design of the principal building; or

(iv) Some other architectural feature or treatment which adds definition to the building openings, walkways or entrances in a manner equivalent to (i), (ii) or (iii) above.

d. Group 4 Building Materials: (The area of windows and doors, including overhead doors, shall be excluded from the wall area calculation for the following standards.)

(i) At least 2 kinds of materials distinctively different in texture or masonry pattern, at least one of which is decorative block, clay brick or stone, with each of the

required materials covering at least 50 percent of the exterior wall of the building; or

(ii) Clay brick or stone (including synthetic stone) covering at least 75 percent of the exterior walls of the building.

(iii) Remaining exterior building materials include, but are not limited to, materials such as concrete masonry units (block), glass block, fiber cement siding, glass, culture stone, calcium silicate products, decorative precast panels and tilt-up panel construction.

(iv) Exterior Insulation Finishing Systems (EIFS)/Dryvit (synthetic stucco) is permitted as a building material for architectural detailing only or as an accent material only and cannot exceed 15 percent (less window and door area) of the aggregate exterior wall.

(v) Metal siding may be used as an exterior finish material as long as the amount used does not exceed 25 percent of the area of any single wall, exclusive of the roof, and provided it matches or compliments the building color and/or material scheme. Further, such metal siding shall be a "standing seam" type or equivalent quality, not a "corrugated" type. Architectural metals, such as bronze, brass, copper and wrought iron, may be used and may exceed the 25 percent area limit.

e. Group 5 Other Architectural Definition:

(i) Overhanging eaves extending at least 24 inches past the supporting walls, or with flat roofs, cornice parapets or capstone finish; or

(ii) Ornamental lighting fixtures (excluding neon) for all exterior building lighting; or

(iii) A feature that adds architectural definition to the building, in a manner equivalent to (i) or (ii) above.

4. ARTICULATION OF WALLS; STANDARDS: Facades and any wall of the building facing any road or public or private service drive, greater than 100 feet in length, measured horizontally, shall incorporate wall plane projections or recesses having a depth of at least 4 percent of the length of the façade and extending at least 20 percent of the length of the façade. No uninterrupted length of any facade shall exceed 100 horizontal feet.

5. DELIVERY/LOADING DOORS AND DOCKS: No delivery, loading, dock or trash removal door shall be located on the main street facing façade of the building. Any such door or facility located on the side or rear wall of the building shall be screened in accordance with Chapter 21, Landscaping Code, of this Code and this Chapter 24, as amended. For sites that have road frontage on multiple sides, these facilities shall be located in the least obtrusive manner, preferably on a non-road facing side of the building, or the road frontage that has the least public visibility.

6. ROOFTOP MECHANICAL UNITS AND OTHER RELATED EQUIPMENT: Rooftop mechanical and other related equipment shall be substantially screened from view from public rights of way and other public places. Screening materials shall be of the same or comparable materials used on the building. Roof-mounted equipment screening shall be constructed as an encompassing monolithic unit; rather than several individual screens (i.e., multiple equipment screens or "hats," surrounding individual elements shall not be permitted). The height of the screening element shall equal or exceed the height of the structure's tallest piece of installed equipment.

7. CART STORAGE AND VENDING MACHINES: Overnight cart storage areas, vending machines and video and book return containers shall be placed in an accessory structure designed to compliment the principal building, or screened with walls and landscaping.

8. MULTIPLE BUILDING DEVELOPMENTS: Development with multiple buildings shall include predominant character in each building so the buildings within the development appear to be part of a cohesive, planned area, yet are not monotonous in design. Predominant characteristics may include the use of the same or similar architectural style, materials and color.

9. BUILDING ENTRANCES: Primary public entrances shall be clearly defined by recesses and projected or framed by elements such as awnings, arcades, porticos or other architectural features.

10. BUILDING COLORS: Colors may be used to blend buildings into an area and to unify elements of a development. Color should be drawn from the surrounding area and, if in a new development area, shall be selected to establish an attractive image and set a standard of quality for future developments and buildings within the area. Monotonous or monochromatic color palettes are prohibited. Accent colors used to call attention to a particular feature of portion of a building, or to form a particular pattern, shall be compatible with the predominant building base colors and may be incorporated using such elements as shutters, window

mullions, building trim and awnings. (Accent colors shall cover no more than 5 percent of a building façade).

11. FRANCHISE ARCHITECTURE: Prototypical or franchise architectural designs must be modified to meet these architectural standards. Changes to prototypical franchise styles to meet these standards may include, but not be limited to, modifications to roofs, windows, doors, building mass, materials, material colors, placement of architectural features and details, etc. Care should be taken to ensure that such modifications comply with Section 24.15-E2, Design Compatibility. Franchise architectural styles found to meet these standards will not require any modification.

12. ILLUMINATION: Illumination highlighting the entire façade of a building, or significant portion of the building, or back lighted translucent awnings intended to function as signage, shall not be permitted as part of the building design. This standard is not intended to preclude the use of lighting (including neon lighting) to accent limited portions of the building facade.

F. INDUSTRIAL ARCHITECTURAL STANDARDS/PUD:

1. PURPOSE AND INTENT: These standards are intended to apply to industrial buildings on sites adjacent to major roads (as defined in Section 24.15-F2) because of the visibility of such development and its impact on the image and character of the community. Industrial development that is not adjacent to a collector or local roads is not subject to these standards.

2. APPLICATION: Standards within this Section 24.15-F apply to industrial buildings located in the M Manufacturing District and areas within a planned development that are located on sites adjacent to a major or minor arterial road, as defined by the City Engineer or a state or federal highway.

   a. Sites adjacent to public or private service roads, where there is no developed or developable private land between the service road and the arterial road, shall be considered adjacent to such arterial roads or highways and shall be subject to these standards. This shall include sites on service roads separated from the arterial or highway road by public or private commuter facilities or any other public facilities within the rights of way.

   b. However, industrial designated areas developed pursuant to a planned unit development or special use permit may be subject to deviations from the standards prescribed in this Section 24.15.

   c. Section 24.15-A shall also apply to the standards of this Section 24.15-F.

3. ARTERIAL/HIGHWAY SITES:

a. For any building abutting a major or minor arterial road or highway, metal shall not comprise more than 25 percent of the exterior building finish material on walls (roof excluded) facing such a road. Where walls on sites with frontage on such roads do not face such roads, but are visible from such roads, such as side walls, these requirements shall extend to one-third of the depth of the wall measured from the wall facing such road.

b. Metal siding includes any forms of metal exterior finish material, including corrugated or standing seam metal siding. The Building Commissioner may permit such metals such as bronze, brass, copper and wrought iron, in excess of the 25 percent limitation if a determination is made that such materials are equal or superior to the primary building materials.

G. RESIDENTIAL ARCHITECTURAL STANDARDS:

1. INTENT AND PROCEDURE: These standards are intended to apply to all attached or detached residential buildings containing 1 or more dwelling units. Design reviews shall be conducted by the Building Commissioner or the designated plan reviewer for the City.

2. ARTICULATION OF WALLS: All building elevations shall have projections, recessed walls or a window per level.

3. ROOF: Roofs should not be the dominating element of the structure. There shall be a minimum of 2 ridges within the roof design. Architectural style shingles or materials of higher quality shall be used as a roofing material. Roof overhangs (eaves) shall project a minimum 6 inches beyond the face of the wall.

4. CHIMNEYS: All chimneys constructed on any residential dwelling unit shall have exterior finishes consisting exclusively of clay brick or stone from the grade level to the caps thereof.

H. RESIDENTIAL DESIGN MONOTONY:

1. SIMILAR DESIGN RESTRICTED: No dwellings of similar front elevation or façade shall be constructed or located within 750 feet of the other in a residential zoning district;

2. CRITERIA ESTABLISHED: The determination of whether a building is of sufficient dissimilar design shall be made by incorporating a minimum of 3 of the following criteria:

a. Number of stories;
b. Roof design;
c. Size and location of garage;
d. Location of porches;
e. Exterior finish consisting of clay fired brick or stone covering 25 percent of the aggregate total area of the exterior walls, exclusive of doors, windows and trim;
f. Exterior building material color;
g. Architectural style; and
h. Special architectural details (i.e., dormers, cupolas)

24. 16 ELEVATOR/CONVEYANCE INSPECTIONS

Owners of all buildings having any elevators and/or conveyances shall be required to provide access to the Building Commissioner or his designee for purposes of inspecting said elevator and/or conveyance. The City shall give notice of the inspection not less than 48 hours before the inspection. In the event access is denied the Building Commissioner is authorized to revoke the Certificate of Use and Occupancy for the building housing the elevator/conveyance. In the event the inspection reveals any material malfunction or deficiency in the operation of the elevator/conveyance, the owner shall immediately correct or repair it and restore it to a safe operating condition before it is placed in service.

24.17 PERMIT AND REINSPECTION, ADDED, PARTIAL INSPECTION AND REPLACEMENT FEES *Amended, 05-8-2, 05-2-2*

A. PERMIT FEES: The total permit fee shall be payable in full prior to the issuance of the permit or service to be performed. Permit fees are found in Exhibit A of this Chapter 24.

The payment of the fee for the construction, alteration, removal or demolition and for all work done in connection with or concurrently with the work contemplated by the building permit shall not relieve the applicant or holder of the permit from the payment of other fees that may be prescribed by law or ordinance for water connections, sewer connections, erection of signs and display structures and marquees or other appurtenant structures, both within and outside the jurisdiction of the Building Department.

B. REINSPECTION FEES: Reinspection fees shall be charged under the following circumstances:

1. When the permit holder has scheduled an inspection with the City and the work to be inspected has not been completed at the scheduled inspection time.

2. The permit holder has failed to correct items listed on previous inspection reports.

3. City inspectors are denied access to conduct the inspection.

4. City inspectors are prevented from conducting the scheduled inspection.

5. Permit card is not accessible to inspectors for signing.

All reinspection fees shall be paid prior to the final inspection or issuance of a Certificate of Use and Occupancy or issuance of a Certificate of Completion. Reinspection fees are found in Exhibit A of this Chapter 24.

C. ADDED/PARTIAL INSPECTION FEES: Added and partial inspections that are requested by the permit holder that are not covered under the allotted number of inspections within the original permit cost shall be charged a fee for each requested plumbing, electrical and structural inspection. The cumulative amount of all partial inspection fees for each permit shall be paid prior to a final inspection or the issuance of a Certificate of Use and Occupancy or Certificate of Completion. Added and partial inspection fees are found in Exhibit A of this Chapter 24.

D. REPLACEMENT FEES: A replacement fee shall be charged if the permit card, weatherproof bag or clip issued by the Building Department has been lost, stolen, misplaced or otherwise not in possession of the permit holder for the replacement of such materials. Replacement fees are found in Exhibit A of this Chapter 24.

24.18 PERMIT APPLICATION APPEALS

Any applicant that has submitted an application for a building permit that has been denied may appeal the decision to the Marengo Planning and Zoning Commission. Such appeal shall be in writing to the Administrator and must accompany a complete formal application for a hearing before the Planning and Zoning Commission with all applicable fees associated therewith. Hearings shall be scheduled for the next regularly scheduled Planning & Zoning Commission meeting on the third Monday of each month, but shall be subject to agenda limitations. In the event of a full agenda, the meeting shall be scheduled for no later than the following meeting. The Planning & Zoning Commission shall reach a decision within thirty (30) days from the date of the hearing.

24.19 VIOLATION, PENALTIES

A. Any construction that is started prior to the issuance of a building permit shall result in a double permit fee. In addition, a Stop Work order will be issued by the City and will not be removed until the required building permit has been issued.

B. Any person who violates any provision of this Chapter 24 or the Building Code or shall fail to comply with any of the requirements thereof or who shall excavate for, erect,

construct, alter, repair or remodel a building or structure in violation of an approved plan or directive of the Building Commissioner, for of a permit or certificate issued under the provision the Building Code, shall be guilty of a misdemeanor, punishable by a fine of not less that $150 nor more than $500, plus the City's cost of prosecution. Each day that a violation continues hall be deemed a separate offense.

C. Section R-106, *Violations and Penalties of the International Residential Code*, is amended to read as follows:

"Section R-106. It shall be unlawful for any person, firm or corporation whether as an owner, lessee, sublease or occupant to erect, construct, enlarge, alter, repair, improve, remove, convert, demolish, equip, use, occupy or maintain any one or two-family dwelling in the City's jurisdiction or cause or permit the same to be done, contrary to or in violation of any of the provision of this Chapter 24.

"It is hereby declared that any violations of this Chapter 24 constitute a public nuisance and in addition to any other remedies provided by this Code for its enforcement, the City may bring civil suit to enjoin the violation of any provision of this Code.

"If for any reason one or more sections, sentence, clause or parts of this Code are held invalid, such judgment shall not affect, impair or invalidate the remaining provisions.

"Any person, firm or corporation violating any of the provisions of this Code shall be guilty of a misdemeanor and each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provision of this Code is committed, continued or permitted and upon conviction of such a violation, such person shall be punishable by a fine of not less than $100 nor more than $500 or by imprisonment, or by both such fine and imprisonment as established by local applicable laws."

24.20 RIGHTS CONTINUED

Nothing in this Chapter 24 or in the Building Code hereby adopted, shall be constructed to affect any suit or proceeding impending in any court, or any rights acquitted, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance is hereby repealed as cited in this Chapter 24; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Chapter 24.

Exhibit A
Fee Schedule
Amended, 08-5-3, 06-6-4, 06-5-3, 05-8-2

		FEE
RESIDENTIAL (ER, R-1, R2, R3)	Basic fee	$1750
	Heating	$50 each
	Air conditioning	$50 each
	Electric	$175 each
	Plumbing	$200 each
	Potable water inspection	$50 each
	Sanitary sewer inspection	$50 each
	Construction water for buildings 5,000 square feet and under	$50
	Construction water for buildings 5001 square feet and greater	$75
	Plan review	$.15 per square foot
	Certificate of Occupancy	$50 each single family dwelling
		$30 each attached single family dwelling
WATER AND SEWER Capital Development Fees For ER, R1, R2, R3 Backflow preventers are required and must be included in plans submitted for review. Water and sewer connection fees are subject to Section 25.48, CPI Adjustment.	Water connection (3/4 - 1 inch tap)	
	Attached and detached per unit	$2192 per unit
	Duplex	$2549 plus $405 per unit
	More than two attached units	$2192 plus $405 per unit
	Water meter	225% of the direct charge to the City
	Sewer connection:	
	Single family (attached and detached) per unit	$2428 per unit
	If served by a lift station, add	$539 per unit
WATER AND SEWER Capital Development Fees For R 5 Water and sewer connection fees are subject to Section 25.48, CPI Adjustment. (Backflow preventers are required and MUST be included in plans submitted for review.)	Basic fee	$1950
	Heating	$50 per unit
	Air conditioning	$50 per unit
	Electric	$175 per unit
	Plumbing	$200 per unit
	Potable water inspection	$50 per unit
	Sanitary sewer inspection	$50 per unit
	Construction water, building up to 5,000 square feet	$50
	Construction water, building over 5,000 square feet	$75
	Plan review fee	$.25 per square foot
	Certificate of Occupancy	$30 per unit
	Water connection (3/4 - 1 inch):	
	Apartments up to two units	$2549
	Apartments over two units	$2549 plus $405 per unit
	Water meter	225% of the direct charge to City
	Sewer connection:	
	One bedroom apartment	$1686
	2 or 3 bedroom apartment	$2225 per unit
	If served by a lift station, add	$539 per unit
FLAT FEE PROJECTS	These fees are based on a set number of inspections required per project	

		FEE
	Fence	$50
	Deck/ramp	$75
	Shed	$60
	Electrical upgrade	$80
	Pool, hot tub, spa	$175
	Garage	
	Without electric	$175
	With electric	$225
	Signs	
	Without electric	$100
	With electric	$175
	Demolition of structure	$75
	Miscellaneous: porches, roof, siding, windows, doors, furnaces, hot water heaters, water softeners, etc.	$50
FEES FOR PROJECTS BASED ON SQUARE FOOTAGE For All Residential Zoning Districts	Permit fees shall vary in cost due to the addition of the following charges, if they apply for:	$.25 per square foot Minimum $25 for permit fee
	Plan review	$.15 per square foot
	Electric	$125
	Plumbing	$125
	Heating or air conditioning	$50 for each
DRIVEWAYS and OFF STREET PARKING / LOTS	Complete driveway	$75
	Driveway extension/parking pad	$35
	Parking lots:	
	1 – 1000 square feet	$125
	1001 – 7500 square feet	$175
	7501 – 20,000 square feet	$225
	20,001 square feet and greater	$275
STREET CUT, SIDEWALK CUT DEPOSIT Pursuant to Section 24.23 Excavation in the Right-of-Way. (A deposit shall be made to the City to insure restoration of the right-of-way.)	All areas of disturbed ground must be restored and approved prior to release of deposit.	
	Sidewalk cut	$1000
	Street cut	$1500
PD PLANNED DEVELOPMENT ZONING DISTRICT	This district may be either residential or commercial.	Fees shall be determined based on the zoning district of the property.
NEW CONSTRUCTION, ALTERATIONS, ADDITIONS, REMODELED STRUCTURES **B1, B2 and M Zoning Districts**	Structures up to 20,000 square feet	$.50 per square foot
	Structures 20,001 to 50,000 square feet	$9000
	Structures over 50,001 square feet	$12500 plus $.35 per square foot over 50,000 square feet thereafter
	HVAC	$250
	Electric	$500
	Plumbing	$300
	Potable Water inspection	$50
	Sanitary sewer inspection	$50
	Construction water for buildings	$50

		FEE
	under 5,000 square feet	
	Construction water for buildings 5001 square feet and greater	$75
	Plan review fee	$.15 per square foot
	Certificate of Occupancy	$100.00 per building/unit
WATER AND SEWER FUND **Capital Development Fees** Commercial/industrial backflow preventers and reduced pressure zone valves (RPZ) MUST be included in plans submitted.	Water connection:	
	Less than 1 inch	$2225
	Less than 1½ inches	$2933
	Less than 2 inches	$4653
	2 inches	$6777
	Water meter (larger than 2" and compound meters must be quoted as they are special order)	225% of direct charge to City
	Any connection larger than a 2-inch meter, the fee shall be based on:	$1146 plus a unit charge of $2.36 per gallon for all gallons over 350 gallons per day
	Sewer connection:	
	Less than 1 inch	$2428
	Less than 1½ inches	$3271
	Less than 2 inches	$5361
	2 inch	$7890
	Any connection larger than a 2-inch meter, the fee shall be based on:	$1146 plus a unit charge of $3.63 per gallon per day for all gallons over 350 gallons.
	All sizes greater than 2-inch must be quoted for water and sewer connections	
PRIVATE FIRE PREVENTION WATER LINE USERS	Any private fire prevention water line users will be charged a one time hook-up fee based on the diameter of the water supply line. Formula: supply divided by 2, multiplied by $1000.	
	2 inch	$1000
	4 inch	$2000
	6 inch	$3000
	8 inch	$4000
RE-INSPECTION FEES	Fees are based on the following • *Not correcting failed items listed on inspection report* • *No one home or at job site* • *Repeatedly failing the same items.* *Permit card not accessible to inspectors for signing.* For all partial inspections (prior to scheduling the final inspection for occupancy, the number of partial inspections shall be totaled and permit applicant shall remit to Building Department such amount)	$50 per re-inspection
ADDED / PARTIAL INSPECTIONS	For all partial inspections (prior to scheduling the final inspections for occupancy, the number of partial inspections shall be totaled and the permit applicant shall remit to the Building Department such amount).	
	HVAC and structural	$50 per partial or added inspection
	Commercial added inspections for:	

		FEE
	Electric	$160
	Plumbing	$100
COMMENCING CONSTRUCTION WITHOUT FIRST OBTAINING A BUILDING PERMIT	The cost of the permit shall be calculated per project	Permit cost plus 200%
PERMIT EXPIRATION Prior to the date of expiration a one-time extension (not to exceed the original permit length, with the exception of new construction, which shall be extended for a period of 3 months only) shall be granted; after such time a new permit must be obtained to complete the project.		Permit cost per type of project.
	Single, multiple family	12 months
	Commercial/industrial	12 months
	Additions, remodeling, commercial build-outs	6 months
	Garages	3 months
	All other projects	2 months
Watershed Development Permit Fee	Pursuant to Section 29.03 of this Code.	
Site Development Permit Fees	0-20 acres	$1200
	20 plus acres	$2000

CHAPTER 25
WATER AND WASTEWATER DEPARTMENT

25.01 Creation

25.02 Superintendent

25.03 Duties of Department

25.04 Definitions

25.05 Billing Duties

25.06 Manner of Billing, Water Use and Wastewater Facilities

25.07 Multiple Connections

25.08 Disposition of Revenues

25.09 Accounts

25.10 Filing Regulations

25.11 Billing Procedures

25.12 Termination of Service, Notice, Hearing

25.13 Reinstatement of Service

25.14 Powers and Authority of Inspectors

25.15 Regulations Applicable

25.16 Shutting Off Water

25.17 Emergency Limitations on Use of Water

25.18 Meters and Samplers Required

25.19 Access to Equipment

25.20 Damage to Equipment and Property

25.21 Use of Water Facilities Required

25.22 Private Water Supply

25.23 Tapping Water Supply

25.24 Water Service Pipe

25.25 Building Service Pipe

25.26 Separate Services Required

25.27 Discontinuing Water Service

25.28 Fire Hydrants

25.29 Water Service Charge

25.30 Extension of Public Sanitary Sewers or Water Mains

25.31 Wastes

25.32 Use of Sewers Required

25.33 Private Wastewater Disposal

25.34 Connections to the Wastewater Facilities

25.35 Building Sewers

25.36 Wastes Admissible to the Wastewater Facilities

25.37 Wastes Inadmissible to the Wastewater Facilities

25.38 Grease, Oil and Sand Interceptors

25.39 Pretreatment

25.40 User Charges

25.41 Debt Service and Other Costs

25.42 Wastewater Service Charge

25.43 Water, Sanitary Sewer and Storm Sewer Uses Outside of the Corporate Limits of the City

25.44 Water, Sanitary Sewer and Storm Sewer Uses for Automobile Service, Repair and Fuel Dispensing Properties

25.45 Limitations on Discharge of Wastewater

25.46 Surcharge for Illegal Connection or Uninspected Property

25.47 Well Setback Zone

25.48 CPI Adjustment

25.49 Penalties

25.01 CREATION

There is hereby established for the City a combined water and wastewater department hereinafter called the Department.

25.02 SUPERINTENDENT

The Public Works Coordinator shall be in charge of the Department and shall oversee the activities of that department.

25.03 DUTIES OF THE DEPARTMENT

The Department shall be in charge of all matters relating to the water facilities and the wastewater facilities including the connection thereto and the extension thereof.

25.04 DEFINITIONS

In addition to the definitions in Appendix A of this Code, terms used in this Chapter 25 are defined in Exhibit A at the end of this Chapter 25.

25.05 BILLING DUTIES

It is hereby made the duty of the utility billing clerk to render bills for service and for all rates and charges in connection therewith and to collect all moneys due thereon.

25.06 MANNER OF BILLING FOR THE USE OF THE WATER AND WASTEWATER FACILITIES

A. BILLINGS: A bill shall be rendered for the use of the water and wastewater facilities. Billings shall be made not less than quarterly.

Where charges are to be recomputed annually said charges shall become effective for all water purchased or wastewater treated during the period to which the rate applies.

B. PENALTY: A penalty of 10 percent shall be added to each bill not paid within 30 days after the rendition of the bills.

C. MULTIPLE METERS: Single users with multiple water meters or flow meters shall be rendered a single bill.

D. LIABILITY FOR SERVICE: 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 therefor to the City.

25.07 MULTIPLE CONNECTIONS

A multiple unit user is defined as any additional number of residential or commercial units located on the same premises and being served through a single water meter or sewer connection where there is no separate water meters for each such residential or commercial unit, such as an apartment building, mobile home court or commercial and residential units located within the same building. In all such cases, there shall be an additional debt service charge, as required in Sections 25.29 and 25.34 herein, for each additional unit provided with water service and/or sewer service and served by a single connection. The additional debt service charges for each unit shall be added to the quarterly billing.

25.08 DISPOSITION OF REVENUES

A. WATER AND SEWER CHARGES: All revenues and monies derived from the water and sewer charges shall be held by the Treasurer separate and apart from all other funds of the City.

B. TAPPING FEES: All revenues and monies derived from tapping fees shall be deposited in the Water and Wastewater Improvement Fund. Said fund shall be used solely for the improvement, extension or the betterment of the water and wastewater facilities.

C. METER FEES: Meter fees shall be deposited in the water and sewer operating fund.

25.09 ACCOUNTS

The Treasurer shall establish a proper system of accounts and shall keep proper books, records and accounts in which complete and correct entries shall be made of all transactions relative to the Department and at regular annual intervals shall cause to be made an audit by an independent auditing concern of the books to show the receipts and disbursements of the Department.

The Treasurer shall maintain such records as necessary to document compliance by the City with the Act for the user charge system.

25.10 FILING REGULATIONS

A copy of the provisions of this Chapter 25 relating to water and wastewater service charges shall be filed in the Office of the Clerk and shall be deemed notice to all owners of real estate of their liability for service supplied to any user of the service of the combined water and wastewater facilities of the City on their properties.

25.11 BILLING PROCEDURES

A. Water and sewer user services charges shall be billed every three months. Despite the joint liability of property owners, occupants and users, the bills for such service shall be mailed to the property owners. It shall be the responsibility of the property owner to make

prompt payment of the bill without regard to any agreements the property owner may have with his tenant regarding payment procedures. Although the City shall also have the right to seek collection from, and take action against users and occupants for the non-payment of said bills, the City shall follow a policy of, in any event, demanding direct and prompt payment from property owners and shall take such action as is legal and appropriate to enforce and compel payment by said property owners, including exercise of the City's legal right to terminate and shut off service.

Said bills shall be mailed to said property owners on or after the first day of the month succeeding the billing period for which the service is billed, and payment shall be due 30 days after the date of the billing. If payment of the entire amount of said bill for water and/or sewer charges is not received by the City on or before the 30th day after the billing date, then a late payment charge of 10 percent of the unpaid balance of the bill shall be added and become due and payable.

B. The property owners, the occupant thereof and the user of the water and/or sewer service shall be jointly and severally liable to pay for such service to such premises, and such service is furnished to the premises by the City only upon the condition that the property owner, occupant and user of such service are jointly and severally liable therefor to the City.

C. In the event the water and/or sewer charges, including any late payment charges then due, are not paid within 30 days after the date of billing, such charges and late payment charges shall be deemed to be delinquent, and the City shall have the following remedies, which, except as otherwise provided in this subsection, shall be cumulative and not mutually exclusive:

1. To terminate water service to any premises for which water and/or sewer charges are delinquent, upon notice to the property owner and occupant as provided in Section 25.12.

2. To file a Notice of Lien with the McHenry County Recorder of Deeds against any premises for which water and/or sewer charges are delinquent, in the amount of said delinquent charges, and to foreclose on said lien in the manner provided in Section 25.12.

3. To sue the owner, occupant or user of any premises for which water and/or sewer charges are delinquent in a civil action to recover monies due in the amount of said delinquent charges, plus court costs and reasonable attorneys' fees.

D. The City may require that bills be paid in cash in the event two checks are returned to the City due to insufficient funds within a 12-month period.

25.12 TERMINATION OF SERVICE, NOTICE, HEARING *Amended, 07-7-2*

A. DELINQUENT ACCOUNTS: In the event any sewer or water bill remains unpaid for 30 days after the charges have been billed, a penalty of 10 percent of the delinquency

amount shall be added to the charges. If after a period of 60 days from the original date of billing, any water and/or sewer charges plus the 10 percent penalty remain unpaid, or if an actual water meter has not been read for 12 consecutive months, the Water Department shall deliver personally, or mail notice, to the property owner, if known to the City, and any occupant being billed for services to the premises for which water and/or sewer charges remain unpaid, informing them of:

1. The amount of the default, including a $30 administrative fee, the period of service for which said charges are claimed to be due; or

2. The fact that an actual water meter reading has not been obtained in 12 consecutive months; and

3. Advising them that they have the right to request a hearing regarding the delinquency claimed or failed attempt to read the water meter before the General Administration Committee.

The notice shall provide that the occupants and the property owner may appear before the General Administration Committee at City Hall on a date not less than seven days from the date of the mailing of the notice for a hearing regarding the delinquent charges, any dispute with regard thereto or the failed attempt to read the water meter.

B. HEARING PROCESS: All requests for a hearing are to be made in writing at City Hall within 14 days of the mailing of the delinquency notice. All requests for a hearing should be delivered in person to City Hall during regular business hours (Monday-Friday, 8:00 a.m.-4:30 p.m.), at which time a date for the hearing will be scheduled. All hearing requests must cite a valid claim or dispute regarding the charges. Valid claims or disputes include but are not limited to the following: broken water meter, leak in water pipes, etc. Financial hardship or inability to pay is not a valid claim or dispute. The hearing shall be conducted informally, but may, with the mutual consent of the parties, be recorded by suitable sound reproduction equipment. Any and all written documents, memoranda or other tangible exhibits offered by the owner, occupant or user shall become part of the record of the hearing.

C. TERMINATION OF SERVICE: After the proceedings outlined in this Section 25.12 have been followed or in the event that the charges for service are not fully paid within 75 days after the charges have been billed, water service may be terminated by the City if the water and/or sewer charges set forth in the notice remain unpaid or if the City has not obtained an actual reading of the water meter.

D. LIENS: In the event the charges for service are not fully paid within 60 days after the charges have been billed, such charges shall be deemed and hereby declared to be delinquent, and therefore such delinquencies shall constitute liens upon the real estate. The Clerk is hereby authorized and directed to file sworn statements showing such delinquencies in the office of the McHenry County Recorder of Deeds. The filing of such statements shall be deemed notice for the payment of such charges for service.

E. OCCUPANCY: In the event that such charge remains unpaid after the posting of the notice of delinquency and services have been terminated the City may declare the building receiving said services "unfit for human occupancy."

25.13 REINSTATEMENT OF SERVICE *Amended, 07-7-2*

Upon payment to the City of the full delinquency amount, plus the 10 percent penalty, the administrative fee of $30 and a reinstatement of service fee of $100, the City shall reinstate the service or issue a permit for the service to be reinstated. If a permit is issued to reinstate the service, the owner of the premises or the occupant and user of the service, shall pay all costs necessary to reinstate the service, including inspection and supervision costs incurred by the City. In the event reinstatement does not take place during regular Water Department business hours (Monday-Friday 7:00 a.m. – 3:00 p.m.) the reinstatement of service fee will be increased to $150. Reinstatement of service shall not occur between the hours of 8:00 p.m. and 7:00 a.m. The City may require the balance due to be paid in cash.

25.14 POWERS AND AUTHORITY OF INSPECTORS

The Coordinator and other duly authorized employees or agents of the City, bearing City identification which contains their photograph, shall be permitted to enter all properties at reasonable times for the purpose of inspection, observation, measurement, sampling and testing in accordance with the provisions of this Chapter 25. They shall have no authority to inquire into any industrial process except as may have bearing on the use of water or the kind of discharge to the wastewater facilities.

The Coordinator and other duly authorized employees or agents of the City, bearing City identification which contains their photograph, 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 public water and wastewater facilities lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

25.15 REGULATIONS APPLICABLE

The regulations of this Chapter 25 govern every user of the City water and wastewater facilities and shall be part of the contract between the City and every such user. In making application for water or sewer service every user shall agree in writing to be bound thereby. It is the duty of the Coordinator to enforce these regulations.

25.16 SHUTTING OFF WATER

In case of making repairs or alterations or constructing new facilities, or for any other reason, the Coordinator reserves the right to shut off the water and keep it shut off as long as may be necessary to make such repairs, alterations or the construction of new facilities. Prior to shutting off the water, users shall be given adequate notice except in an emergency; and in such case, the

Coordinator shall provide notice as conditions permit. No claim shall be made against the City by reason of the above or by reason of the breakage or failure of any pump, or other portion of the water system.

25.17 EMERGENCY LIMITATIONS OF USE OF WATER

A. Whenever in the judgment of the Mayor public exigency may require it, he shall have the right and authority by proclamation, to limit in respect to time, or wholly suspend or prohibit for such length of time as such exigency shall in his judgment require, the use of water for any nonessential purpose, and no person shall use or draw water in violation of any such proclamation. The City shall take reasonable efforts to publicize the proclamation including the posting of a notice at City Hall, advising the media and all City personnel.

B. PENALTY: Any person, firm or corporation violating this Section 25.17 shall be fined not less than $25 nor more than $1,000 for each offense, plus the City's cost of prosecution including reasonable attorney fees. Each day that a violation continues to occur shall be considered a separate offense.

25.18 METERS AND SAMPLERS REQUIRED

A. WATER METERS: No person shall be allowed to receive water from the City for any purpose except fire protection without first having a proper water meter installed to measure the amount of water consumed.

Meters shall conform to specifications fixed by the Coordinator as to size, capacity and construction. All meters shall be installed under the direction and supervision of the Coordinator at a location approved by the Coordinator.

All meters to be initially installed in properties within the City shall be paid for along with all other applicable fees at the time the building permit is issued. Meter fees shall be established from time to time by the City Council. For meters 1½ inches and smaller, the meter fee shall be sufficient to include the cost of the meter, installation, maintenance and replacement thereof. For meters larger than 1½ inches, the meter fee shall be sufficient to include the cost of the meter, plus shipping and handling, and installation. Meter fees shall not be refunded. All meters shall be purchased by the City and provided to the permit holder when requested.

Meters 1½ inch in size and smaller will be furnished and installed by the City and shall be the property of the City. Meters that are the property of the City shall be maintained, repaired or replaced by the City at no cost to the user except as provided for herein.

Meters larger than 1½ inches will be installed by the City and thereafter will become the property of the user. Meters owned by users shall be maintained by the user at no cost to the City. Said user, however, shall be required to maintain the meter so that the accuracy remains within three percent, plus or minus, of original accuracy. The user shall file a meter calibration report with the Coordinator annually.

In the event a building contains more than one user, a meter is hereby required for each user unless the building contains only residential dwelling units and the use of a single meter for the building is approved by the Coordinator.

The cost of meters 1½ inches and smaller and the installation thereof shall be borne by the user. The cost shall be termed the meter fee and shall be paid at the time application is made for water service. Meter fees shall be established from time to time by the City Council and shall be sufficient to include the cost of the meter, installation, maintenance and replacement thereof. Meter fees shall not be refunded.

B. INSTALLATION: No accessories or equipment other than the equipment identified and on file with the Public Works Department, shall be installed within 12 inches of either side or in front of the water meter. The equipment and installation method required for the automated meter reading will be specified in a separate installation instruction packet available through the Public Works Department.

C. FLOW METERS: Any user except a domestic user may be required to install a flow meter in the inspection manhole (see 25.35-G) to accurately measure and record the rate of discharge of and the volume of wastewater discharged to a public sanitary sewer.

Any user, except a domestic user, may install a flow meter in the inspection manhole to accurately measure and record the rate of discharge of and the volume of wastewater discharged to a public sanitary sewer for billing purposes if approved by the Coordinator.

Flow meters shall be a permanent installation and shall include equipment to accurately indicate, record and total the flow and shall be approved by the Coordinator prior to installation. The equipment required to indicate, record and total the flow shall be located in a warm, dry, location and be accessible for reading. The equipment shall be recalibrated a minimum of once a year and a certificate of calibration filed with the Coordinator. The user shall submit flow records to the Coordinator monthly.

D. SAMPLERS: Each industrial user and such other users except domestic users as may be designated by the Coordinator shall be required to sample the wastewater. The frequency of sampling shall be determined by the Coordinator. The minimum frequency of sampling shall not be less than once a year.

Samples shall be tested for constituents determined by the Coordinator by a commercial laboratory approved by the Coordinator and a copy of the analysis sent to the Coordinator. The user shall pay all costs of sampling and analysis.

E. WATER METERS ON PRIVATE WATER SUPPLY: Whenever any portion of water pumped from a private water supply is discharged to the wastewater facilities of the City a meter shall be installed to measure the amount of water pumped from the private water supply. Wastewater bills shall be based on the amount of water pumped unless flow meters are approved as herein provided. Where flow meters are approved the meter requirement may be waived by the City Council.

All meters installed on private water supplies shall be purchased and owned by the user and shall conform to all of the requirements of Section 25.18-A except that the maintenance required for meters one inch and under shall not exceed the maintenance provided for City owned meters of the same size.

No person shall remove a private meter for the purpose of having it repaired without first contacting the Coordinator and having the meter read before it is removed and after it has been replaced. All meters shall be repaired through the City or by persons approved by the City. Whenever a meter is removed a replacement meter shall be installed to provide for continuous metering of the private water supply. If a replacement meter is not available the wastewater charges for the period for which no meter was in service shall be based on the average use for a previous comparable period as determined by the City.

No person shall alter the water supply piping from a private well to the meter after the installation of the meter has been approved by the Coordinator without having a permit from the City. No person shall tamper with the meter. Any person violating these provisions shall be subject to immediate termination in accordance with Section 25.12-C.

No person shall in any manner obstruct access to any meter.

At the discretion of the Coordinator, billing for users having a private well water supply shall be a fixed amount per billing period.

F. SERVICE TERMINATION: In the event a customer refuses to install or maintain any equipment required by the City, and the installation of all the required equipment is feasible and attainable as determined by the Coordinator, the City may shut off water and/or sewer service to the building. Fourteen days before disconnection the Coordinator will send the property owner notice, by certified mail, return receipt requested, that service will be discontinued and the building will be red-tagged as “unfit for human occupancy.” Service will be restored after the required equipment is installed or maintained, to the satisfaction of the Coordinator, and the City’s cost of disconnection and reconnection are paid by the customer. Under certain circumstances, such as no reasonable installation access from the meter to the telephone line, and at the discretion of the Coordinator, the City may waive the installation requirement.

25.19 ACCESS TO EQUIPMENT

No person shall in any manner obstruct access to any valve, hydrant, stopcock, manhole, flow measuring equipment or any other equipment necessary to the operation of the water or wastewater facilities which is located in any public street, alley or easement.

No person shall in any manner obstruct access to any meter or any flow measuring equipment located in any building.

25.20 DAMAGE TO EQUIPMENT AND PROPERTY

No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance, equipment or property of the water or wastewater facilities.

No unauthorized person shall repair, remove or replace any equipment, appurtenance or property of the water and wastewater facilities.

Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct and shall pay the cost of restoring the equipment.

25.21 USE OF WATER FACILITIES REQUIRED *Amended, Ord. 01-2-5*

A. Except as provided herein, the owner of all houses, buildings or properties situated within the City and outside of the radius referenced in Section 21.21A, abutting on any street, alley or right of way in which a public water main with available capacity is within 200 feet of the nearest property line of the property, shall be required to extend the public water main to and across the frontage of the property and make connection as herein provided within six months said water main being available. If such water main extension benefits other properties the City may enact a recapture ordinance and make best efforts to collect and return to the owner amounts received from benefitted properties. The only exception to this Section 25.21 is with respect to an owner of an existing house, building or property that is serviced by a private well as of the effective date of this provision, February 26, 2001. In this situation, the owner may continue to use said private well until such time the existing private well system fails or is in need of repair or replacement parts. At the time the existing private well system fails, needs repair or replacement parts, the private well shall immediately be abandoned and connection made to the City public water main.

B. NOTICE: At the time a public water main becomes available pursuant to Section 25.21-A herein, written notice shall be sent to the property owner by certified mail, return receipt requested, and by posting a copy of said notice on the premises, of the requirement to connect to the public water main.

C. FAILURE TO MAKE CONNECTION: In the event connection to the public water supply is not made as required in this Section 25.21, upon 30 days written notice to the owner and occupants, the City shall terminate occupancy and use of the premises pending compliance with this Section 25.21.

25.22 PRIVATE WATER SUPPLY

A. Whenever a public water main is not available under the provisions of Section 25.21 the building service pipe shall be connected to a private water supply complying with the provisions of this Section 25.22.

B. Whenever an industrial user requires water for industrial purposes and the Coordinator determines that the City water facilities have inadequate capacity to provide the pressure, volume or rate flow required by said industry, the user may be required to install a

private water supply complying with the provisions of this Section 25.22. Provided, however, that the private water supply is not used for any purpose except for industrial purposes and no cross connection is made to the public water supply.

C. A private water supply shall not be used for domestic purposes for any building except a single family residence.

D. Before commencement of construction of a private water supply, the owner shall first obtain a written permit signed by the Building Commissioner. The application for such permit shall be made on a form furnished by the City, which the applicant shall supplement by any plans, specifications and other information as deemed necessary by the Building Commissioner. A permit and inspection fee shall be paid to the City at the time the application is filed, and shall be in such amount as the City Council may from time to time determine. The owner shall also secure permits from all other agencies having jurisdiction and file copies with the Building Commissioner.

E. The owner shall operate and maintain the private water supply in a sanitary manner at all times, at no expense to the City.

F. Whenever a private water supply is provided the owner shall install a water meter as provided in Section 25.18-D.

25.23 TAPPING WATER MAINS

A. No person shall make a connection to the water facilities of the City without first making application to the Coordinator for the privilege of making said connection and to have a written permit approved by the Coordinator or Building Commissioner and to pay all applicable fees.

B. Persons desiring such connection to the water facilities of the City shall, in addition to making application, fully state all purposes for which water is required and answer all questions put to them by the Coordinator relating to the proposed water consumption. In the case of any fraudulent representation on the part of the user, the payment will be forfeited and the supply of water stopped.

C. No permit will be issued until the Permittee:

1. Pays the tapping fee as prescribed in this Section 25.23.

2. Pays the cost of the meter and installation thereof (meter fee).

3. Secures a street opening permit if required in conformance with the provisions of Chapter 6.

4. Agrees to pay all costs of the installation of said service.

5. Agrees to give the Coordinator a minimum of 24 hours notice prior to the start of the installation of the service and when the service shall be ready for inspection, except that no inspections will be made at times other than during regular City working hours.

6. Agrees that the materials used and the method of installation shall be in conformance with specifications established by the Coordinator.

7. Agrees to pay all costs of inspection and testing if inspection in excess of the inspection and testing normally provided by the City is deemed necessary by the Coordinator.

8. Agrees to conform to all rules governing plumbers and to the regulations of the Illinois State Plumbing Code.

9. Agrees to secure and protect the City from any liability or damage whatsoever for injury (including death) to any person or property and files with the Clerk liability insurance certificates. The amount of the insurance shall be established by the City Council.

D. FEES: Water tapping fees will be charged for connecting or tapping onto the water facilities. Such fees, which must be paid at the time of application for the service, are found in Exhibit A of Chapter 24 of this Code.

25.24 WATER SERVICE PIPE

The water service pipe extends from the City water main to and includes the curb stop cock which shall be located in a street or an easement as directed by the Coordinator.

The pipe, valves and fittings used for the service pipe shall be as specified by the Coordinator. The Coordinator may make the service pipe tap to the water main or the Coordinator may allow the user's contractor to make the connection under the supervision of the Coordinator.

The permittee shall pay all costs of installing the service including such material and services provided by the City. The permittee shall maintain the water service pipe.

25.25 BUILDING SERVICE PIPE

The building service pipe extends from the curb stopcock to the building and shall be installed by the user at his expense. The building service pipe shall be the same size and same material as the water service pipe and shall be inspected by the Coordinator.

Persons taking water must do so at their own expense, and must keep the building service pipe in good repair, protect it from frost or damage in any other manner and prevent all unnecessary waste of water. It shall be the duty of the user to maintain the building service pipe from the curb stop cock to the house. If the user fails to properly maintain the building service pipe the

Coordinator shall have the authority to enter onto the property and provide maintenance as required and bill for the cost of said maintenance on the next water bill or shut the water off until proper maintenance is completed.

25.26 SEPARATE SERVICES REQUIRED

A separate water service pipe is required for every building or residence. Where a building contains more than one commercial or industrial user or where the building contains a combination of commercial or industrial and residential uses there shall be separate services for each use if required by the Coordinator. A single meter is allowed in buildings with more than one residential user.

25.27 DISCONTINUING WATER SERVICE

Any person moving from or within the City shall give written notice to the City Water Billing Clerk prior to the expiration of the time for which payment has been made or becomes due and remaining unpaid; otherwise he shall be liable for the charge for the ensuing billing period.

Persons wishing to discontinue the use of water in homes used seasonally shall give written notice thereof to the Coordinator. Shutoff services shall be performed by the City only during regular business hours.

25.28 FIRE HYDRANTS *Amended, 08-4-1, 07-3-6, 05-3-1, 04-2-1*

A. USE: All hydrants constructed in the City for the purpose of extinguishing fires are hereby declared to be public hydrants. No persons other than members of the Marengo Fire Protection District and those authorized by the Coordinator shall open any such hydrant or attempt to draw water from same or in any manner interfere with or injure any of such hydrants.

B. OBSTRUCTION OF HYDRANTS: No person shall obstruct the use of any fire hydrant or place any material in front thereof. Any material forming such obstruction may be removed by the City or by the Marengo Fire Protection District. The cost of removal shall be borne by the owner thereof.

C. WRENCHES: No person shall use any water hydrant wrenches without the permission of the Coordinator.

D. TEMPORARY USE: Any person wishing to make a connection to a hydrant as a temporary source of water for construction or other purposes approved by the Coordinator shall make application to the Coordinator. The user shall make a deposit equal to the replacement cost of the meter which shall be returned less $10.00 per week or portion thereof for meter rental and any cost of maintenance and repair to the meter. Meters will be supplied as available. No temporary meters shall be installed between November 15 and April 1 or at any other time where there is danger of freezing. Temporary meters shall be installed on a weekly basis and payment for the use shall be weekly.

E. CHARGES: The charges for water that is taken directly from a fire hydrant shall be as follows:

	Effective 4/1/08	Effective 4/1/09	Effective 4/1/10	Effective 4/1/11
First 3,000 gallons of water:	$20.38	$21.40	$22.47	$23.59
plus a debt service charge of:	$ 6.31	$ 6.63	$ 6.96	$ 7.31
Per 1,000 gallons after first 3,000 gallons:	$ 4.46	$ 4.68	$ 4.91	$ 5.16
plus a debt service charge of	$ 6.31	$ 6.63	$ 6.96	$ 7.31
Plus an hourly salary of (1 hour minimum) during regular business hours:	$31.54	$33.12	$34.86	$36.60
Plus an hourly salary (1 hour minimum) after regular business hours:	$63.08	$66.24	$69.72	$73.20

25.29 WATER SERVICE CHARGE *Amended, 08-4-1, 07-3-6, 05-3-1, 04-2-1, 01-8-5*

A. METERED WATER SUPPLIES INSIDE THE CITY: The rates or charges for the use of and for the service supplied by the water facilities of the City inside the corporate limits are based on the amount of water consumed as follows:

	Effective 4/1/08	Effective 4/1/09	Effective 4/1/10	Effective 4/1/11
For each user of water service of the combined waterworks and sewerage system within the corporate limits, the usage charge per 1,000 gallons of water used per quarter shall be:	$3.11	$3.27	$3.43	$3.60
Debt service charge to pay part of the cost of bonds issued for system improvements per quarter for each single metered or multiple unit user per quarter shall be:	$4.17	$4.38	$4.60	$4.83

B. METERED WATER SUPPLIES OUTSIDE THE CITY: The rates or charges for the use of and for the service supplied by the water facilities of the City outside the corporate limits are based on the amount of water consumed as follows:

	Effective 4/1/08	Effective 4/1/09	Effective 4/1/10	Effective 4/1/11
For each user of water service of the combined waterworks and sewerage system outside the corporate limits, the usage charge per 1,000 gallons of water used per quarter shall be:	$ 4.69	$ 4.92	$ 5.17	$ 5.43

	Effective 4/1/08	Effective 4/1/09	Effective 4/1/10	Effective 4/1/11
Debt service charge to pay part of the cost of bonds issued for system improvements per quarter for each single metered or multiple unit user per quarter shall be:.	$ 6.31	$ 6.63	$ 6.96	$ 7.31

C. UNMETERED WATER SUPPLY FOR SPRINKLER, FIRE PROTECTION SERVICE: Whenever sprinkler or fire protection services are desired, application must be made for the privilege of installing such service. Complete plans for installation shall be attached to such petition. When said application is approved a contract shall be entered into with the City for connection from City mains to the property, which connection will be made by and the cost of same to be paid by the user.

City water will not be admitted into any sprinkler or fire protection service unless all pipes in connection with such system are left exposed for inspection and pressure testing.

A valve shall be installed with a rising stem, on each side of the check valve and each shall have the valve operating handle accessible for operation outside of the building.

No additional sprinkler heads shall be installed or new connections of any kind whatsoever shall be made to a sprinkler or fire protection system unless a permit for such connection has been granted by the City.

Where a reservoir is maintained on any premises in connection with sprinkler or fire protection system, or for any other special service, the water service shall be connected with such reservoir in such a manner as to exclude all danger of back siphonage. Such connections shall be made only upon approval of the Coordinator.

No connection of any kind whatsoever except for fire protection shall be taken from any fire or sprinkler service system.

All private fire prevention water line users in the City shall pay an annual fee, on May 1 of each year, for the management, maintenance and operation thereof based on the following formula:

$$\text{Diameter of water supply line} \times \frac{\$1{,}000}{2} \times .33 = \text{annual maintenance fee}$$

25.30 EXTENSION OF PUBLIC SANITARY SEWERS OR WATER MAINS

A. No person shall uncover, make any connection with or opening into, use, alter or disturb any public sanitary sewer or water main of the City for the purpose of extending same without first making application to the Coordinator for making said extension and to have the proposed extension approved by the City Council.

B. Persons desiring such extension of the water and sewer system shall file with the Coordinator four copies of the following documents:

1. Detailed plans and specifications prepared by a registered professional engineer registered in the State of Illinois.

2. IEPA permit application with such supporting documents as are required by the IEPA, completely filled out and ready for City signature.

3. Detailed estimate of cost of the extension.

C. After approval of the plans and specifications by the City Engineer and receipt of an IEPA permit the person or persons shall submit to the Coordinator the following documents prior to starting the extension:

1. Agreement and bond executed by the permittee wherein he agrees to make and install the improvements in accordance with the plans and specifications specifying a completion date not more than six months after the date of the agreement unless the City Council determines, on the basis of the recommendation of the City Engineer, that a longer time is necessary.

   The guarantee for completion of the improvements by the permittee shall be in the principal amount of 150 percent of the estimated cost as approved by the City Engineer; and secured by either:

   (a) A certificate of deposit with or an escrow account at a federally insured bank or savings and loan association subject to draw by the City to complete the improvements if it is not completed within the prescribed time limit.

   (b) A clean, non-declining, irrevocable letter of credit issued by a federally insured bank or savings and loan association. The letter shall be approved by the City and provide that funds may be drawn only by the City.

   The bond shall remain in effect for a period of one year after acceptance of the work by the City Engineer as a guarantee of good faith of the permittee to correct defects. At the discretion of the City Council the bond may be reduced during the maintenance period.

2. Copies of all permits, insurance and bonds required for street openings or stream crossings and any other permits required by an agency having jurisdiction.

3. Certificates of insurance protecting the City from any liability or damage whatsoever from injury, including death, to any person or property. The

amount of the insurance shall be as established by the City Council.

D. Person or persons extending water or sewer shall agree as follows:

1. To pay all costs of plan review by the City Engineer. Payment shall be made to the City prior to the City signing the IEPA permit applications.

2. To pay all costs of inspection including resident supervision if deemed necessary by the City Engineer. The estimated cost of inspection, approved by the City Engineer, shall be deposited with the Treasurer prior to the start of work and additional funds added during the work if required. The permittee, however, shall pay only the actual costs of such services based on standard engineering fees. At the completion of the work any unused portion of the amount deposited shall be returned. No interest shall be paid on deposited funds.

3. Materials and construction methods shall be in conformance with specifications established by the City Engineer.

4. The engineer designing the extension shall file as-built drawings at the completion of the work with the City.

E. The performance bond will not be released until the following documents are filed with the Clerk and approved by the City Council:

1. As-built drawings: one reproducible set and two sets of prints;

2. Release of all permits;

3. Copies of al tests required by the Coordinator or the City Engineer;

4. The guarantee period has expired.

F. No extension will be allowed to the sanitary sewer system if the City Council determines that the wastewater facilities have inadequate available capacity.

25.31 WASTES

A. It shall be unlawful for any person to place, deposit or permit to be deposited in an unsanitary manner upon public or private property within City, or in any area under the jurisdiction of the City, any human or animal excrement, garbage or other objectionable waste.

B. It shall be unlawful to discharge to any water course within the City, or in any area under the jurisdiction of the City, any untreated sanitary sewage, industrial wastes or polluted waters.

C. It shall be unlawful to construct or maintain any privy, privy vault or cesspool intended or used for the disposal of sewage.

25.32 USE OF SEWERS REQUIRED

The owner of all houses, buildings or properties situated within the City and abutting on any street, alley or right of way in which there is now located a public sewer, shall be required to make connection to the public sewer within 200 days after official notice that the public sewer is available. The owner shall pay all costs of connection, including recapture fees, if applicable.

The owner of all houses, buildings or properties situated within the City and abutting on any street, alley or right of way in which a public sewer is within 300 feet of the nearest property line of the property shall be required to extend the public sewer to and across the frontage of the property and made connection as herein provided. If such public sewer benefits other properties the City shall enact a recapture ordinance and make best efforts to collect and return to the owner amounts received from benefitted properties. All public sewer extensions shall be made in accordance with Section 25.30 herein.

25.33 PRIVATE WASTEWATER TREATMENT FACILITIES

A. No person shall construct a wastewater treatment facility within the City or in any area under the jurisdiction of the City for the purpose of treating wastewater and discharging same to a water course.

B. No person shall construct a wastewater treatment facility within the corporate limits of the City for the purpose of treating industrial wastes and discharging same to a water course unless the City Council determines that the wastewater treatment facilities have inadequate capacity, and issues a permit for the construction and operation of a wastewater treatment facility. No City permit shall become effective until:

1. An IEPA permit to construct and operate the facility has been received.

2. A NPDES permit has been received.

3. The City Engineer has approved the plans and specifications in writing.

4. The guarantee period has expired.

Persons operating a wastewater treatment facility shall file copies of all operating reports sent to the USEPA and IEPA with the Coordinator and such other reports as the Coordinator deems necessary.

C. No person shall construct a private wastewater treatment facility with subsurface disposal of the effluent if the population to be served exceeds 15 persons or the system is intended to serve more than one building.

D. Where a public sewer is not available under the provisions of Section 25.32 a private wastewater treatment facility employing subsurface absorption facilities may be installed, if the wastewater to be treated is domestic.

E. Before commencement of construction of a private wastewater treatment facility employing subsurface absorption facilities the owner shall first obtain a written permit signed by the Building Commissioner. The application for such permit shall be made on a form furnished by the City, which the applicant shall supplement by any plans, specifications and other information as deemed necessary by the Building Commissioner. A permit and inspection fee shall be paid to the City at the time the application is filed, and shall be in such amount as the City Council may from time to time determine. The permit shall not be issued until applicable county permits are on file.

F. A permit for a private wastewater treatment facility employing subsurface absorption facilities shall not become effective until the installation is completed to the satisfaction of the Building Commissioner. 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 Building Commissioner when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within 48 hours of the receipt of notice by the Building Commissioner, except that no inspections will be made at any time other than regular City working hours.

G. GRINDER PUMP SYSTEMS:

1. POLICY: The City has experienced situations where development is possible but gravity sewers and conventional sanitary sewer systems are not practical. Accordingly, it is the policy of the City to approve grinder pump systems on a discretionary case-by-case basis. In order to implement a grinder pump system, a developer or individual homeowner must prove to the City that a grinder pump system is the only viable option other than a conventional sanitary sewer system.

2. INSTALLATION: A permit for a private wastewater treatment facility employing a grinder pump system shall not be issued until the design and installation is completed to the satisfaction of the Building Commissioner. The Building Commissioner or his designee shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Building Commissioner when the grinder pump system is ready for final inspection, and before any underground portions are covered.

3. OPERATION AND MAINTENANCE: In addition, the Coordinator shall be entitled to inspect the grinder pump system if he has any reason to believe that the grinder pump system is not operating properly or pursuant to a routine inspection protocol developed by the Coordinator. Should the grinder pump system fall into disrepair or otherwise need maintenance as

determined by the City, and the owner refuses to repair, replace or otherwise fix the grinder pump system to the specifications of the City, the City may do so at its own expense and obtain reimbursement from the individual owner. In that regard, and as a condition of obtaining a City permit for a grinder pump system, the individual owner shall enter into a contractual agreement indemnifying the City for any costs the City may incur with regard to maintaining the grinder pump system, and further allow the City reasonable access to the grinder pump system for inspection purposes.

H. The type, capacities, location and layout of a private wastewater treatment facility employing subsurface absorption facilities shall comply with the most recent regulations and provisions of the McHenry Health Department. No permit shall be issued for any private wastewater treatment facility employing subsurface soil absorption facilities where the area of the lot is less than 22,800 square feet. No septic tank shall be permitted to discharge to any public sewer or water course.

I. At such time as a public sewer becomes available to the property served by a private wastewater treatment facility, a direct connection shall be made to the public sewer in compliance with this Chapter 25, and any septic tanks, cesspools and similar private facilities shall be abandoned in accordance with the City standards.

J. The owner shall operate and maintain the private wastewater treatment facility in a sanitary manner at all times and at no expense to the City.

25.34 CONNECTIONS TO THE WASTEWATER FACILITIES

A. APPLICATION: No person shall construct a new wastewater source and connect same to the wastewater facilities of the City without first making application to the Coordinator for the privilege of making said connection and to have a written permit approved by the Coordinator and to pay all fees.

B. PERMIT REQUIREMENTS: Persons desiring to construct a new waste source and connect same to the wastewater facilities of the City shall, in addition to making application, state the quantity, quality and rate of discharge of the wastewater to be discharged into the sewer. In the case of any fraudulent representation on the part of the user, the payment will be forfeited and the use of the sewer stopped.

No permit will be issued until the permittee:

1. Pays the connection fee as prescribed in this Section 25.34.

2. Secures a street opening permit if required in conformance with the provisions of Chapter 6.

3. Agrees to pay all costs of the installation including the connection to the public sewer, if required.

4. Agrees to give the Coordinator 24 hours notice prior to the start of any underground piping and when the underground piping will be ready for inspection, except that no inspections will be made at times other than during regular City working hours.

5. Agrees that the materials used and the method of installation shall be in conformance with specifications established by the City Engineer.

6. Agrees to pay all inspection costs if such inspection is deemed necessary by the Coordinator.

7. Agrees to conform to all rules governing plumbers and to the regulations of the Illinois State Plumbing Code.

8. Agrees to secure and protect the City from any liability or damage whatsoever for injury, including death, to any person or property and files with the Coordinator liability insurance certificates.

9. Secures an IEPA permit if the wastewater:

   (a) Is domestic and the volume to be discharged is more than 1,500 gallons per day (gpd).

   (b) Is industrial.

10. Secures a building permit if new waste source is new equipment to be installed within an existing building.

11. Agrees to conform to all applicable sections of this Code.

C. CONNECTION, USER FEES: The fees for constructing a new wastewater source and connecting same to the wastewater facilities of the City are found in Exhibit A of Chapter 24 of this Code. For uses involving extra strength wastewater:

1. For wastewater the strength of which exceeds normal domestic wastewater in any constituent, if allowed by the City Council, there shall be charged a surcharge computed at the time that connection is requested.

2. Where the volume and strength of the wastewater to be discharged to the public sanitary sewers is not known at the time of the connection, the fee shall be estimated and adjusted to reflect actual conditions during the billing period just prior to a full year of operation.

3. The volume and strength of the wastewater for fee purposes shall be the maximum daily discharge of constituents.

4. Where a connection is made based on the applicant's statement that the strength of the wastewater does not exceed normal domestic wastewater in any constituent, and at the end of the billing period just prior to a full year of operation it is determined that the wastewater does exceed domestic wastewater in strength, the City Council may accept or reject the wastes.

The tapping fee for any use not located within the corporate limits of the City shall be three times the applicable tapping fee listed in Exhibit A of Chapter 24 of this Code.

D. No connection will be allowed to the wastewater facilities if the City Council determines:

1. That the wastewater facilities have inadequate treatment or delivery capacity.

2. That the wastewater contains incompatible wastes in excess of that allowed by this Code.

3. That the wastewater contains inadmissible substances.

4. That the strength, volume or rate of discharge of a compatible waste from a single source or class of users alters substantially the operation of the wastewater facilities.

25.35 BUILDING SEWERS

A. SEPARATE SEWERS REQUIRED: A separate and independent building sewer shall be provided for each dwelling unit of a building (i.e., single family dwelling, townhouse, duplex, apartment), except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, courtyard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building.

B. OLD SEWERS: Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Coordinator, to meet all requirements of a new building sewer.

C. LOCATION: Whenever possible the building sewer shall be brought to the building at an elevation below the basement floor. No building sewer shall be laid parallel to or within three feet of any bearing wall. No building sewers shall be installed in any place where they may be subject to freezing temperatures unless adequate provisions are made to protect them from frost. Changes in direction shall be made only with properly curbed pipe and fittings, or a manhole, as determined by the Coordinator.

D. LIFT STATION: In all buildings in which any building drain is too low to permit

gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by approved artificial means and discharged to the building sewer.

E. PERMIT REQUIRED: No addition to or alteration of any building sewer shall be made or caused to be made by any person without a permit from the Coordinator and then only through a State of Illinois licensed plumber. No permit shall authorize anything not explicitly stated in the application.

F. MAINTENANCE OF BUILDING SEWER: Persons connected to the sanitary sewer system through a building sewer shall maintain said building sewer in good repair, protect it from damage in any manner and prevent the entrance of uncontaminated waters. If the user fails to properly maintain the building sewer the Coordinator shall have the authority to enter onto the property to maintain the sewer and add the cost of said maintenance on the next sewer use bill or terminate the service until proper maintenance is completed.

G. INSPECTION MANHOLE: All industrial users and such other users, except domestic users, as may be determined by the Coordinator, shall install an inspection manhole on the building sewer. Said manhole shall be located conveniently in the public right-of-way or easement. The manhole shall be a minimum of 48 inches in diameter and shall be equipped with such measuring and sampling equipment as may be required by the Coordinator.

H. CLEAN OUT: The clean out pipe for a residential property shall be 10 feet from the building.

25.36 WASTES ADMISSIBLE TO THE WASTEWATER FACILITIES

The following wastes are admissible to the wastewater facilities of the City:

1. Any compatible pollutant except that the strength, volume and rate of flow of the waste may be regulated.

2. Any incompatible pollutant which is identified in the NPDES permit received by the City except that the total from all sources may not exceed the amount allowed under the NPDES permit.

3. Any incompatible pollutant for which an effluent standard has been established by the IEPA or promulgated by authority of the Act provided that:

    a. The aggregate total from all sources shall not exceed the total allowable to the wastewater treatment facilities based on the average dry weather flow. It is assumed that there will be no removal of the incompatible waste in the treatment facilities.

    b. The concentration of the incompatible waste discharged from any source shall not exceed two times the concentration allowed in the wastewater treatment facility effluent.

c. The concentration of the incompatible waste in the wastewater treatment facility shall not exceed the maximum allowed by the IEPA.

d. The concentration of the incompatible waste will not adversely affect the stream standards established for the Kishwaukee River.

4. Cooling water or other uncontaminated industrial process water.

5. The City may from time to time establish maximum concentrations of various pollutants in the wastewater treatment facility effluent.

25.37 WASTES INADMISSIBLE TO THE WASTEWATER FACILITIES

The following wastes shall not be introduced into the wastewater facilities of the City:

1. Wastes which interfere with the operation of the wastewater facilities.

2. Any cyanide or cyanogen compound unless an IEPA permit has been received by the City.

3. Mercury or any of its compounds in excess of 0.0005 mg/l as Hg at any time.

4. Storm water, surface water, ground water, roof runoff and subsurface drainage.

5. Uncontaminated cooling water or unpolluted industrial process waters.

6. Wastes which may create a fire or explosion hazard in the wastewater facilities.

7. Wastes which will cause corrosive structural damage to the wastewater facilities.

8. Wastes with pH lower than 6.0 or higher than 9.0.

9. Solid or viscous wastes in amounts which would cause obstructions to flow in sewers or other interference with the proper operation of the wastewater facilities.

10. Wastes at a flow rate and/or pollutant discharge rate which is excessive over relatively short time periods so that there is a treatment process upset and subsequent loss of treatment efficiency. Provided, however, that concentration of any given constituent or in quantity of flow shall not exceed five times the average 24 hour concentration or flows during normal operation for any period exceeding 15 minutes.

11. Any incompatible waste except as admissible in Section 25.36.

12. Any compatible waste, the strength of which exceeds normal domestic wastewater in any constituent except as permitted by the City Council.

13. Any waste containing more than 100 mg/l of fats, oils or grease.

14. Any garbage that has not been property shredded. The discharge of garbage into the wastewater facilities by any user except a domestic user shall be subject to review by the City Council and may be rejected if it determines there is inadequate treatment capacity available.

15. Any liquid having a temperature higher than 150 degrees Fahrenheit.

16. Any wastes containing phenols or other taste or odor producing substances in such concentrations exceeding limits established by the City Council.

17. Any wastes which will cause discoloration such as, but not limited to, dye wastes or printing inks.

18. Any wastes which alone or in combination with other wastes will cause the violation of any effluent or stream standards established by the IEPA or by authority of the Act.

25.38 GREASE, OIL AND SAND INTERCEPTORS *Amended, 05-11-4*

A. INSTALLATION: In order to help prevent sewer blockages and image to the Wastewater Treatment Plant caused by fats, oils and grease, a grease interceptor (trap) shall be installed at any establishment which disposes of fats, oil or grease (FOG). Grease traps shall be installed at any new, altered or existing establishment that disposes of FOG. Each grease trap shall be properly maintained at no cost to the City.

B. SIZE AND MAINTENANCE: A grease trap installed on the same floor as the fixture shall have a minimum one-half the liquid holding capacity of the fixture. A grease trap located on a floor below the fixture shall have at least 60 percent of the liquid holding capacity of the fixture. Where two or more sinks or receptacles are connected to an interceptor, the liquid holding capacity shall be based on the combined volume of the fixtures served. To determine the liquid holding capacity in gallons of a plumbing fixture, multiply the length by the width by the height in inches and divide by 231. Each grease trap shall be located so that it may be readily cleaned and inspected. Should the trap be located outside of the establishment, proper maintenance and cleaning will be necessary. Water-cooled traps are not permitted.

C. INSPECTION: The City shall inspect facilities with a grease trap a minimum of once per year. Additional inspections may take place if it is deemed necessary by the City, such as in the case of sewer blockages, to ascertain whether the purpose of this Section is being met and all requirements are complied with. Occupants of the premises containing a grease trap shall allow the City, or its representative, ready access upon presentation of credentials at reasonable times to all parts of said premises for the purpose of inspection, sampling, examination and photocopying of records to be kept as required herein. During the inspections the following shall be verified:

1. The maintenance and frequency of fats, oils and grease removal is done in an appropriate and timely manner. The trap must be cleaned and grease removed on a schedule (not more than 90 days) that will prevent grease from passing through the trap and into the public sewer system.

2. The trap is in sound operating condition, or in need of replacement.

3. No grease additives are being used in compliance with Section 25.27, Wastes Inadmissible to the Wastewater Facilities, of this Code.

4. Each facility shall maintain a record of grease trap cleaning and maintenance. This shall include the date of cleaning, as well as the signature of a supervisor of the facility. In the case grease trap cleaning is done by an outside agency, receipts of such service from that agency shall be kept on file.

D. PERMITS: Each facility that maintains a grease trap shall have a City permit, which shall be renewed annually at a fee of $75.00. Permits shall be issued and fees collected by the City of Marengo Water Department. Within 30 days after the effective date of this Section (December 26, 2005) those establishments with a grease trap must obtain a City permit. All non-profit establishments, private and public schools, churches, public and governmental facilities, fraternal organizations and bonafide tax exempt entities pursuant to IRS 501C3, shall have their fee waived. However, those establishments and organizations are required to possess a permit and are subject to inspections.

25.39 PRETREATMENT

A. Any user discharging or proposing to discharge any wastewater into the wastewater facilities of the City which contain substances or possess the characteristics enumerated in Section 25.37 herein and/or which are in violation of the standards established by the IEPA or USEPA shall provide pretreatment of the wastewater to an acceptable condition for discharge to the wastewater facilities. All required permits shall be filed with the Coordinator prior to the start of constructing pretreatment facilities.

B. Any user discharging or proposing to discharge a compatible waste, the strength of which exceeds normal domestic waste in any constituent, shall install a pretreatment facility if required by the Coordinator. If pretreatment is required it shall apply uniformly to all users within the industry number.

C. Any user proposing to construct a pretreatment facility shall have the plans and specifications approved in writing by the City Engineer and an IEPA permit prior to receiving a permit by the City.

D. Any user proposing to operate a pretreatment facility shall comply with all requirements of the IEPA and shall submit such operating data as may be required by the City.

25.40 USER CHARGE

A. POLICY: It is hereby declared that the policy of the City is:

1. The City shall adhere to the requirements of Title 40, Protection of the Environment, Chapter 1, Environmental Protection Agency, Subchapter B, Grants, Part 35, State and Local Assistance, Final Grant Regulations, effective February 11, 1974 and all subsequent enactments and regulations issued pursuant to the Federal Water Pollution Control Act of 1972.

2. No funds for the operation and maintenance of the wastewater facilities shall be derived from the use of an ad valorem tax.

3. No charge will be made for any inadmissible waste.

4. Where the removal of any constituent is incidental to the treatment process no charge will be made for that constituent.

5. All wastes, the strength of which does not exceed normal domestic waste in any constituent, shall, for billing purposes, be considered to be normal domestic wastes. User charges for normal domestic wastes shall be based on flow alone.

6. Charges for extra strength wastes shall be expressed in dollars per pound of constituent in excess of normal domestic wastewater.

B. COST OF OPERATION AND MAINTENANCE: The cost of operation and maintenance shall be computed as follows:

1. Estimate projected annual revenue required to operate and maintain the wastewater facilities for the next fiscal year.

2. Proportion the estimated costs to wastewater facility categories by volume, BOD and SS.

3. Estimate wastewater volume to be billed. Said volume shall be a total of:

   (a) Water meter readings;

   (b) Estimated use for users not using the City water facilities; and

   (c) Flow meter readings.

C. SUMMARY OF USERS: Annually concurrently with the determination of the cost of operation and maintenance the City shall make a summary of all users. Said summary shall include a summary of all domestic users with a breakdown as to whether City or private

water supply is used, a summary of commercial users listing all such users discharging industrial wastes and/or subject to a surcharge and a summary of all industry listing all such users discharging industrial wastes and/or subject to a surcharge. Where a user discharges industrial wastes and/or is subject to a surcharge an estimate of the volume and strength of said wastewater shall be made.

D. SURCHARGE: A surcharge will be levied to all users whose wastes exceed the concentration for BOD or SS in normal domestic wastewater. The surcharge shall be expressed as dollars per pound of each constituent (BOD or SS).

Per billing cycle the number of pounds of each constituent from each user subject to a surcharge shall be computed as follows:

BOD (pounds) = (Average analysis per billing cycle in mg/l - 200) x total flow (MG) x 8.34

SS (pounds) = (Average analysis per billing cycle in mg/l - 200) x total flow (MG) x 8.34

Total flow for the billing cycle shall be either water meter or flow meter readings an shall be expressed in million gallons (MG).

The surcharge shall be the pounds of each constituent per billing period times the unit cost for each constituent.

Annually the City shall list all users expected to be billed a surcharge for the coming year and the total amount excepted to be received from surcharges.

E. USER CHARGE: Annually and such other times as the City Council shall deem necessary the user charge shall be determined by dividing the estimated amount of revenue required for the operation and maintenance for the next fiscal year less the estimated amount of revenue to be received from surcharges by the estimated volume of wastewater to be billed to all users for the next fiscal year expressed on 1,000 gallon units. The resultant charge shall be expressed in dollars per 1,000 gallons.

25.41 DEBT SERVICE AND OTHER COSTS

Annually and at such other times as the City Council deems necessary, the rates for debt service and other cost shall be computed as follows:

1. The debt service charge shall be computed by dividing the annual debt service by the estimated amount of wastewater to be billed for the next fiscal year, expressed in 1,000 gallon units. The resultant charge shall be expressed in dollars per thousand gallons.

2. When deemed necessary the City Council may declare a rate to provide funds for such other costs as may be applicable to the wastewater facilities. Such a rate shall be based on

volume of wastewater billed only and shall be applicable to all users.

25.42 WASTEWATER SERVICE CHARGE *Amended, 08-4-1, 07-3-6, 05-3-1, 04-2-1, 01-8-5*

There shall be and there are hereby established rates or charges for the use of and for the service supplied by the wastewater facilities of the City based on the amount of wastewater discharged into the wastewater facilities plus a surcharge for the wastewater, the strength of which exceeds normal domestic wastewater. The rate shall be re-computed annually and shall provide adequate funds for the operation and maintenance of the facilities, hereinafter referred to as the user charge, the cost of any bond debt of such facilities and such other costs as may be deemed necessary by the City Council.

The rates are as follows:

	Effective 4/1/08	Effective 4/1/09	Effective 4/1/10	Effective 4/1/11
For users **within** the City with metered City water:				
per 1,000 gallons of water used per quarter:	$ 2.85	$ 2.99	$ 3.14	$ 3.30
Debt service charge per quarter:	$20.84	$21.88	$22.97	$24.12
For non-metered users **within** the City*				
Basic user charge	$56.18	$58.99	$61.94	$65.04
Debt service charge per quarter:	$20.84	$21.88	$22.97	$24.12
For users **outside** the corporate limits of the City, the rate, if service is allowed under this category, shall be based on the amount of water consumed, as shown by water meters.*				
Per 1,000 gallons of water used per quarter	$ 4.28	$ 4.49	$ 4.71	$ 4.95
Debt service charge per quarter	$31.25	$32.81	$34.45	$36.17
Non-metered users **outside** the City:				
Flat rate charge	$56.18	$58.99	$61.94	$65.04
Debt service charge per quarter	$31.25	$32.81	$34.45	$36.17
*In the event usage of the wastewater facilities is determined to exceed 20,000 gallons per quarter, the City may require the installation of metering devices on the water supply or sewer main to measure the amount of service provided.				

25.43 WATER, SANITARY SEWER AND STORM SEWER USES OUTSIDE OF THE CORPORATE LIMITS OF THE CITY

No permit shall be issued for the tapping into or use of any water main or sanitary sewer or storm sewer facility under the jurisdiction of the City for any location outside of the corporate limits of the City until the person or user executes a perpetual, binding agreement to comply with and be governed by all applicable sections of Chapters 25, 26, 27 and 28 of this Code.

25.44 WATER, SANITARY SEWER AND STORM SEWER USES FOR AUTOMOBILE SERVICE, REPAIR AND FUEL DISPENSING PROPERTIES

A. DISCHARGE MONITORING: Inspection manholes in sanitary sewers as required by Section 25.35-G shall be capable of being equipped with continuous 24-hour composite sampling equipment meeting the requirements of Section 25.18-C. When property use involves automotive repair or handling, sale and dispensing of petroleum products and/or automotive fluids, all sanitary sewers serving non-domestic uses shall include such monitoring throughout the year in a manner secured and coordinated by the Coordinator. Additionally, any property involved in the repair or servicing of automobiles, trucks or engine-powered equipment shall install a triple basin oil separator in the sanitary line servicing the repair area of the building. This system shall be cleaned, serviced and inspected at least twice per year.

B. STORMWATER HANDLING AND DETENTION: Stormwater handling shall be in accordance with this Code and when the property use is associated with automotive repair or handling, sale or dispensing of petroleum products and/or automotive fluids, there shall be a separate drainage system constructed to collect all fluids from the areas associated with pump islands and under pump canopies. This separate drainage system shall collect these fluids and hold them in a separate sealed tank for testing and removal by approved special waste handling methods. Stormwater conductors or downspouts that drain the canopy roof shall be discharged via hard piping directly to the on-site storm sewer system. Downspouts shall not be allowed to discharge across the surface of the fueling area and/or parking lot. All fuel dispensing equipment, storage tanks, secondary containment structures, monitoring wells, leak detection equipment, piping and venting shall be installed in accordance with the standards listed below:

1. *Guidance Manual for LUST Cleanups in Illinois*, September 1989; and *Leaking Underground Storage Tank Manual*, September 1991; both published by the IEPA, 2200 Churchill Road, P.O. Box 19276, Springfield, IL 62794-9276.

2. *Recommended Practices for Installation of Underground Liquid Storage Systems, PEI/RP100*, 1994; published by Petroleum Equipment Institute, P.O. Box 2380, Tulsa, OK 74101.

3. *Flammable and Combustible Liquid Code*, NFPA/30, 1993; *Automotive and Marine Services Station Code*, NFPA/30A, 1993; *National Electric Code*, NFPA/70, 1993; and *Underground Leakage of Flammable and Combustible Liquids*, NFPA/329, 1992; all published by National Fire Protection Association, 1 Batterymarch Park, P.O. Box 9101, Quincy, MA 02269-9904.

4. *Underground Storage Tanks; Technical Requirements and State Program Approval*; *Final Rules*, 40 CFR Parts 280 and 281, Part II, Federal Register, Friday September 23, 1988; and *Musts for UST's: A Summary of the New Regulations for Underground Storage Tank Systems, and Hazardous Waste Management Standards*, Federal Register, July 14, 1986, both published by USEPA, Office of Underground Storage Tanks, 401 M Street, S.W., Washington, DC 20460.

5. *Rules of the Illinois State Fire Marshall*, Part 170 & 180, Title 41, Chapter 1, State of Illinois, Office of the Fire Marshall, 1035 Stevenson Parkway, Springfield, IL 62703.

C. JURISDICTION:

1. These requirements shall be met by any property use associated with automotive repair or the handling, sale or dispensing of petroleum products and/or automotive fluids, where any water main, wastewater or stormwater facility is under the jurisdiction of the City, regardless of whether or not such property lies within the corporate limits of the City.

2. The requirements of this Subsection 25.45-C shall not be applied to existing property uses except that whenever a permit shall be required for new construction or reconstruction of a property use associated with automotive repair or the handling, sale or dispensing of petroleum products and/or automotive fluids involving placement, replacement, reconfiguration, removal or modification of any fueling area, compliance with the provisions of this Section 25.45 shall be required.

25.45 LIMITATIONS ON DISCHARGE OF WASTEWATER

In case of making repairs or alterations or constructing new facilities or for any other reason, the Mayor and City Council reserves the right to limit the discharge of wastewater to the wastewater facilities for as long as may be necessary by giving such reasonable notice thereof as shall be practical to the user. No claim shall be made against the City by reason of the above or by reason of the breakage or failure of any portion of the wastewater facilities.

25.46 SURCHARGE FOR ILLEGAL CONNECTIONS OR UNINSPECTED PROPERTY

A. SEWER SURCHARGE: The Building Commissioner is authorized and directed to inspect any and all facilities, including businesses, residences and any other permanent structures with City sewer service for purposes of determining compliance with federal grant application standards, which are specifically incorporated herein, or illegal connections whereby excessive storm runoff water is diverted into the sanitary sewer. If the Building Commissioner is unable to acquire access to any business, residence or other structure within the City, or finds a violation of the federal grant application standards or an illegal connection, the Building Commissioner shall notify the Utility Billing Clerk who shall levy a surcharge of $80 per quarter on any water or sewer bills for said premises. Said surcharge shall be a provisional charge for 90 days after it is first billed. If, within said 90-day period, the owner brings the business, residence or other structure into compliance and is inspected by the City or a licensed civil engineer, at the owner's expense, the surcharge will be removed. If there is not compliance within 90 days the $80 surcharge will be levied each quarter until compliance.

B. WAIVER OF SEWER SURCHARGE: The sewer surcharge shall be removed

from charges for water use only that meets the following criteria:

1. The water is conducted from the main to the ultimate user through a separate water line installed at the expense of the user, including a separate hookup fee;

2. All such water is measured through a separate meter;

3. Substantially all of the water is utilized to maintain public grounds or private grounds having a contiguous area not less than one acre which support natural vegetation and which are maintained; and

4. The user has obtained a permit from the City Council for waiver of the sewer surcharge.

25.47 WELL SETBACK ZONE *Amended, 05-11-4*

A. The use or attempt to use a potable water supply, groundwater from an area within a 2,500-foot radius of 536 N. State Street, 600 N. State Street and 602 N. State Street, by the installation or drilling of wells or by any other method is hereby prohibited, except at points of withdrawal by the City. The continued use of wells within this radius shall not be prohibited so long as they are in operation on the effective date of this Section 25.47 (August 25, 2000). Only the installation of new wells within said radius from the effective date of this Section 25.47 forward shall be required to be in compliance.

B. Pursuant to the authority conferred by 415ILCS 5/14.1 *et seq.*, and except as provided herein, no person shall place a new potential primary source, new potential secondary source or new potential route within the minimum setback zone of Well No. 8, 107 Lynn Drive, IEPA #1110650; Well No.7, Greenlee and N. Lynn Drive, IEPA #00849; and Well No. 6, Greenlee and Prospect, IEPA #20193.

C. Pursuant to the authority conferred by 415 ILCS 5.14.1 *et seq.*, and except as provided herein, no person shall place a new potential primary source within the maximum setback zone of Well No. 8, 107 Lynn Drive, IEPA #1110650; Well No. 7, Greenlee and N. Lynn Drive, IEPA #00849; and Well No. 6, Greenlee and Prospect, IEPA #20193.

D. WAIVER, EXCEPTIONS AND CERTIFICATIONS OF MINIMAL HAZARD: Waivers, exceptions and certifications of minimal hazard shall be pursuant to 415 ILCS 5/14.2

25.48 CPI ADJUSTMENT *06-5-3*

All potable water and sanitary sewer connection fees shall be subject to a “CPI Adjustment” which shall be calculated on the first day of January in each year, starting in 2007. Annually, the fees shall be adjusted by the December-December Percent change as published by the United States Department of Labor’s Bureau of Labor Statistics, All Items Consumer Price Index (“CPI”) for Urban Consumers (1982-84 = 100) for the Chicago Consolidated Metropolitan

Statistical Area, Illinois. If any index is calculated from a base different from the base period 1982-84 = 100, such index shall be converted to a base period of 1982-84 = 100 by use of a conversion factor supplied by said Bureau of Labor Statistics. If the CPI is discontinued or replaced, such other governmental Cost of Living Index or computation which replaces the CPI shall be used in order to obtain substantially the same result as would be obtained if the CPI had not been discontinued or replaced.

25.49 PENALTIES *Amended, 05-11-4*

A. Any facility responsible for violating Section 25.38 herein for sewer blockage shall be responsible for the cost of damages done to affected properties plus any and all related costs for remediation, restitution and litigation. Violation of Section 25.48 shall result in a fine of not less than $100, nor more than $1,000 per day plus all cost related to remediation, restitution and prosecution, including but not limited to filing fees, witness fees and attorneys' fee and will be subject to disconnection of water service. Each day in which a violation occurs or continues, shall be deemed a separate and distinct offense.

B. Unless another penalty is specifically provided by this Chapter 25 for the violation of any particular section hereof, any person violating any provision of this Chapter or any rule or regulation adopted or issued in pursuance hereof, or any lawful order made by a City official hereunder, shall, upon conviction, be subject to a fine of not less than $50, nor more than $1,000, plus all cost related to remediation, restitution and prosecution, including but no limited to filing fees, witness fees and attorneys' fees.

EXHIBIT A
CHAPTER 25 DEFINITIONS

Act: The Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) as amended by the Federal Water Pollution Control Act Amendments of 1972 (P.L. 92-500) and P.L. 93-243. All rules and regulations promulgated under authority of the act are made part of this Chapter 25 by reference.

Average Dry Weather Flow: The average daily flow for the lowest three month period in the previous calendar year.

Average Wet Weather Flow: The average daily flow for the highest month in the previous calendar year.

Building Drain: That part of the lowest piping of a drainage system which receives the discharge from the soil, wastes and other drainage pipes inside the walls of a building and conveys it to the building sewer or other approved point of discharge, beginning five feet outside the inner face of the building wall.

Building Sewer: The extension of the building drain to the public sewer or other place of disposal.

BOD: (Biochemical Oxygen Demand) The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees C., expressed in milligrams per liter.

Combined Sewer: A sewer intended to receive both wastewater and storm or surface water.

Compatible Pollutant: Biochemical oxygen demand, suspended solids, fecal coliform bacteria, compounds, plus additional pollutants identified in the NPDES permit issued to the City.

Coordinator: Coordinator of Public Works or designee.

Department: The combined water and wastewater department of the City.

Domestic Wastes, Domestic Wastewater or Sanitary Wastes: Wastewater derived principally from dwellings but also includes all wastewater derived from plumbing fixtures located in commercial or industrial users.

Domestic or Residential User: Any user of the wastewater facilities not classed as an industrial user.

Dwelling or Residential Dwelling Unit: A unit designed for occupancy by one family. It may be a house designed for the exclusive use of one family or it may be a portion of a building designed and intended to be used by one family.

Estimated Flow From Domestic Users: The estimated wastewater flow from single family dwellings where private water systems are used. For the purpose of Chapter 25 the contribution per dwelling unit shall be 350 gallons per day.

Easement: An acquired legal right for a specific use of land owned by others.

Garbage: Solid wastes from the preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.

IEPA: (Illinois Environmental Protection Agency) All rules and regulations established by the IEPA are made a part of this Chapter 25 by reference.

Incidental removal or incidental to: The removal of a constituent for which no capital or operating or maintenance costs are expended.

Incompatible Pollutant: Any pollutant which is not a compatible pollutant.

Industrial User: Any non-governmental user of the wastewater treatment facilities identified in the S.I.C. Manual under the following divisions:

A. Division A: Agriculture, Forestry and Fishing.

B. Division B: Mining.

C. Division D: Manufacturing.

D. Division E: Transportation, Communications, Electric, Gas and Sanitary Services.

E. Division I: Services.

The user in the divisions listed may be excluded if it is determined by the City that it will introduce primary segregated domestic wastes or wastes from plumbing fixtures.

Industrial Wastes or Industrial Wastewater: The liquid wastes from industrial processes, as distinct from domestic or sanitary wastes.

Liability: Whenever reference is made to “secure and protect the City from any liability or damage” it shall include all authorized employees and agents of the City as well as the elected and appointed officials.

Inspection Manhole: A 48-inch diameter or larger manhole, installed on a user’s property which is continuously accessible to the Department for inspection or sampling.

Major Contributing Industry: An industrial user of the wastewater treatment facilities of the City that:

A. Has a flow of 50,000 gallons or more per average work day.

B. Has a flow greater than 10 percent of the average dry weather flow.

C. Has in its waste a toxic pollutant in toxic amounts as defined in standards issued under Section 307(a) of the Act.

D. If found by the permit issuance authority, in connection with the issuance of an 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.

Maximum Wet Weather Flow: The average daily flow for the maximum week in the month used to determine the average wet weather flow.

New Wastewater Source: Any source constructed after the adoption of Chapter 25. For the purposes of Chapter 25 additions to a dwelling unit shall not be considered a new source.

Normal Domestic Wastewater: For the purposes of Chapter 25 normal domestic wastewater shall contain the following constituents at the strengths indicated:

BOD:	200 mg/l
SS:	240 mg/l

NPDES: (National Pollutant Discharge Elimination System) A permit or equivalent document or requirements issued by the Administrator or, where appropriate, by the IEPA, after enactment of the Federal Water Pollution Control Amendments of 1972, to regulate the discharge of pollutants pursuant to Section 402 of the Act.

Person: 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, or taxing body.

pH: The logarithm (base 10) of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

P: Phosphorus or phosphorus compounds.

Plumbing Fixture: Any device or equipment normally located in a dwelling unit from which wastewater is discharged.

Potable water: Any water used for human or domestic consumption, including, but not limited to, water used for drinking, bathing, swimming, washing dishes or preparing foods.

Pretreatment: The treatment of wastewater from sources before introduction into the wastewater facilities.

Properly Shredded Garbage: 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 in any dimension.

Public Sewer: A common sewer owned by the City.

Replacement: Expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary to maintain the capacity and performance during the service life of the treatment facilities for which such facilities were designed and constructed. The term "operation and maintenance" includes replacement.

Sanitary Sewer: A sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions, together with minor quantities of ground, storm and surface waters that are not admitted intentionally.

Service Life: The period of time during which a component of the facilities will be capable of performing a function.

S.I.C. Manual: The Standard Industrial Classification Manual, 1972, Executive Office of the President, Office Management and Budget.

Substantial Removal: In general means the removal of at least 80 percent.

SS: (denoting suspended solids) Solids that either float on the surface of, or are in suspension of water, sewage or other liquids; and which are removable by laboratory filtering.

Unit of Flow: A unit of flow for billing purposes shall be 1,000 gallons.

USEPA: The United State Environmental Protection Agency.

User: Any person or persons making connection to water and/or wastewater facilities of the City. Where a single meter serves multiple users or residential units, each use or residential unit is considered a user for the purpose of computing fees and charges, except for administrative fees, which shall be paid based on the number of meters.

Wastewater: The spent water of the community. From the standpoint of source, 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 storm water that may be present.

Wastewater Facilities: The structures, equipment and processes required to collect, carry away and treat domestic and industrial wastes, and dispose of the effluent.

Water and Wastewater Service Charge: A charge for the use of and the service supplied by

the water and wastewater facilities of the City. The service charge shall consist of the user charge, the cost of any bond debt of such facilities and such other costs as may be deemed necessary by the City.

Wastewater source or waste source: Any installation, process or equipment from which there is or may be a discharge of pollutants.

Wastewater Treatment Facilities: An arrangement of devices and structures for treating wastewater, industrial wastes and sludge.

Water Course:

A. A natural or artificial channel for passage of water.

B. A running stream of water.

C. A natural stream fed from permanent or natural sources, including rivers, creeks, runs and rivulets. There must be a stream, usually flowing in a particular direction (though it need not flow continuously) in a definite channel having a bed or banks and usually discharging into some other stream or body of water.

Water Facilities: The structures, equipment and processes required to collect, pump, treat and distribute water to the users.

CHAPTER 26
CROSS-CONNECTION CONTROL RULES AND REGULATIONS

26.01 Cross-Connection Control General Policy
26.02 Definitions
26.03 Water System
26.04 Cross-Connection Prohibited
26.05 Survey and Investigations
26.06 Where Protection is Required

26.01 CROSS-CONNECTION CONTROL GENERAL POLICY

A. The purpose of these rules and regulations is:

1. To protect the public water supply system from contaminant or pollution by isolating within the customer's water system contaminants or pollutants which could backflow through the service connection into the public water supply system.

2. To promote the elimination or control of existing cross-connections, actual or potential, between the public or consumer's potable water system and non-potable water systems, plumbing fixtures and sources or systems containing substance of unknown or questionable safety.

3. To provide for the maintenance of a continuing program of cross-connection control which will prevent the contamination or pollution of the public and consumer's potable water systems.

B. APPLICATION: These rule and regulations shall apply to all premises served by the public potable water supply system of the City.

C. POLICY: The owner or official custodian shall be responsible for protection of the public water supply system from contamination due to backflow or back-siphonage of contaminants through the customer's water service connection. If, in the judgment of the Public Works Coordinator or his authorized representative, an approved backflow prevention device is necessary for the safety of the public water supply device, the Public Works Coordinator shall give notice to the consumer to install such approved backflow prevention device at each service connection to the premises. The consumer shall immediately install such approved device or devices at his own expense. Failure, refusal or inability on the part of the consumer to install such device or devices immediately shall constitute grounds for discontinuing water service to the premises until such device or devices have been installed. The consumer shall retain records of installation, maintenance, testing and repair as required in Section 26.05-D-4 for a period of at least five years. The Public Works Coordinator may require the consumer to submit a cross-connection inspection report to the Water Department 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 IEPA.

26.02 DEFINITIONS

In addition to the definitions found in Appendix A of this Code, the definitions contained in this Chapter 26 are defined as follows:

Approved: 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: 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: The flow of water or other liquids, mixtures or substances into the distribution pipes of a potable water system from any source other than the intended source of the potable water supply.

Backflow Prevention Device: 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 IEPA.

CCDI: The Cross-Connection Control Device Inspector approved by the City and the IEPA.

Consumer or Customer: 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: Any water system located on the customer's premises. A building plumbing system is considered to be a customer's water system.

Contamination: An impairment of the quality of the water by entrance of any substance to a degree which could create a health hazard.

Coordinator: The Public Works Coordinator or the authorized representative.

Cross-Connection: 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: An assembly composed of single, independently acting check valves approved under ASSE Standard 1015. A double check valve assembly must include tight shutoff valves located at each end of the assembly and suitable connections for testing the water-tightness of each check valve.

Fixed Property Air Gap: The unobstructed vertical distance through the free atmosphere between the water discharge point and the flood level rim of the receptacle.

Health Hazard: Any condition, device or practice in a water system or its operation resulting from a real or potential damage 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: 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. Adm. Code 890.

Non-Potable Water: Water not safe for drinking, personal or culinary use as determined by the requirements of 35 Ill. Adm. Code 604.

Plumbing: 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 feet beyond the foundation walls.

Pollution: 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: Water which meets the requirements of 35 Ill. Adm. Code 604 for drinking, culinary and domestic purposes.

Potential Cross-Connection: 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): Any fluid or solution which may be chemically, biologically or otherwise contaminated or polluted in a form or concentration such as would constitute a health, pollutional or system hazard if introduced into the public or a consumer's potable water system. This includes but is not limited to:

1. Polluted or contaminated waters;

2. Process waters;

3. Used waters originating from the public water supply system which may have deteriorated in sanitary quality;

4. Cooling waters;

5. Questionable or contaminated natural waters taken from wells, lakes, streams or irrigation systems;

6. Chemicals in solution or suspension; and

7. Oils, gases, acids, alkalis and other liquid and gaseous fluids used in industrial or other processes, or for fire fighting purposes.

Public Water Supply: 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: 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 valve at less than the supply pressure. The unit must include tightly closing shutoff valves located at each end of the device, and each device shall be fitted with properly located test cocks.

Service Connection: The opening, including all fittings and appurtenances, at the water main through which water is supplied to the user.

Survey: 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 the customer's piping system. The survey must be in written form, and should not be an actual plumbing inspection.

System Hazard: 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: 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: The owner or official custodian of a public water system.

26.03 WATER SYSTEM

A. The water system shall be considered as made up of two parts: The public water supply 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 Public Works Coordinator up to the point where the consumer's water system begins.

1. 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.

2. 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.

C. 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.

26.04 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. PROHIBITIONS:

1. No physical connection shall be permitted between the potable portion of a supply and any other water supply not of equal or better bacteriological and chemical quality as determined by inspection and analysis by the Agency.

2. There shall be no arrangement or connection by which an unsafe substance may enter a supply.

26.05 SURVEY AND INVESTIGATIONS

A. The consumer's premises shall be open at all reasonable times to the CCCDI for the inspection of the presence or absence of cross-connections within the consumer's premises, and testing, repair and maintenance of cross-connection control devices within the consumer's premises.

B. On request by the Public Works Coordinator, 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 Public Works Coordinator for the verification of information submitted by the consumer to the public water supply custodian regarding cross-connection inspection results.

C. It shall be the responsibility of the water consumer to arrange periodic surveys of water use practices on his premises to determine whether there are actual or potential cross-connections to his water system through which contaminants or pollutants could backflow into his or the public potable water system. All cross-connection control or other plumbing inspections must be conducted in accordance with 225 ILCS 320/3(1).

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 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 Water Department shall be available for inspection by Agency personnel in accordance with 415 ILCS 5/4(e).

(c) Each device shall have a tag attached listing the date of most recent rest, name of CCCDI and type and date of repairs.

(d) A maintenance log shall be maintained and include:

I. Date of each test;

II. Name and approval number of person performing the test;

III. Test results;

IV. Repairs or servicing required;

V. Repairs and date completed; and

VI. Service performed and date completed.

26.06 **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 regulation, 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 Public Works Coordinator, 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 Public Works Coordinator and the source is approved by the Agency.

2. Premises on which any substance is handled which can created an actual premises having sources or systems containing process fluids or waters originating from the public water supply system which are no longer under the sanitary control of the Public Works Coordinator.

CHAPTER 29
McHENRY COUNTY STORMWATER MANAGEMENT ORDINANCE

29.01 Adoption of the McHenry County Stormwater Management Ordinance
29.02 McHenry County Stormwater Management Ordinance Amendments
29.03 Permit Fees
29.04 Flood Insurance Rate Maps, Floodway Map and Flood Insurance Study
Exhibit A Amendments

29.01 ADOPTION OF THE McHENRY COUNTY STORMWATER MANAGEMENT ORDINANCE *Amended, 08-8-2*

The provisions of the McHenry County Stormwater Management Ordinance, originally passed and approved by the McHenry County Board on January 20, 2004, and subsequently amended n April 15, 2008, are hereby adopted for the City of Marengo and shall be known as Chapter 29 in the Marengo City Code.

29.02 McHENRY COUNTY STORMWATER MANAGEMENT ORDINANCE AMENDMENTS *Amended, 08-8-2*

That certain amendments, deletions and additions to the McHenry County Stormwater Management Ordinance, as identified on attached Exhibit A and adopted by reference, are hereby approved for the City of Marengo, with an effective date of August 22, 2008.

29.03 PERMIT FEES

The following fees shall be paid to the City of Marengo prior to the issuance of any permit required by this Ordinance:

<u>Minor Development and single lot developments</u>

Review Fee, includes one resubmittal	$150.00
Resubmittals beyond the first resubmittal	$50 / submittal
Outside Consulting Review Services	Charged on a time and material basis

A deposit fee pursuant to Chapter 20 of the Marengo Municipal Code may be required.

<u>All Other Development (intermediate, major, special flood hazard area, and wetlands)</u>

Review Fee, includes one resubmittal	$500.00
Resubmittals beyond the first resubmittal	$200 / submittal
Outside Consulting Review Services	Charged on a time and material basis

A deposit fee pursuant to Chapter 20 of the Marengo Municipal Code may be required.

29.04 FLOOD INSURANCE RATE MAPS, FLOODWAY MAP AND FLOOD INSURANCE STUDY *06-11-3*

The following is a list of the currently effective Flood Insurance Rate Maps ("FIRM"), floodway and Flood Insurance Study ("FIS") data to be used in the enforcement of this Chapter. This list shall be interpreted to include any such amendments to such studies and maps as may be prepared from time to time.

Community Number	**Date of Current Effective Map**	**McHenry County FIRM Panel Number**	**McHenry County FIS Effective Date**
170482	11/16/06	17111C 0163J	11/16/06
170482	11/16/06	17111C 0164J	11/16/06
170482	11/16/06	17111C 0275J	11/16/06
170482	11/16/06	17111C 0276J	11/16/06
170482	11/16/06	17111C 0277J	11/16/06

Exhibit A

AMENDMENTS TO McHENRY COUNTY STORMWATER MANAGEMENT ORDINANCE

Additions to the text of the McHenry County Stormwater Management Ordinance are indicated by underlining.

~~Deletions of the text of the McHenry County Stormwater Management Ordinance are indicated by striking the portion to be deleted.~~

****

ARTICLE IV: GENERAL PROVISIONS AND JURISDICTION:

B. Exempted Development, Paragraph 5:

5. A development is not subject to the provisions of this Ordinance if the following approvals were issued prior to ~~June 1, 2004~~ January 1, 2005 provided that the development is completed within 5 years of the approval:

a. An approved building permit.

~~b. Any of the following approvals that result in no increase in the impervious surface area or the development includes an approved drainage study that is consistent with stormwater and Floodplain ordinances in effect at the time of the approval by the appropriate municipality:~~

~~(1) An approved preliminary or tentative plat; or~~
~~(2) An annexation agreement; or~~
~~(3) Replat of an individual or commercial subdivision;~~

b. An approved preliminary plat, if the approved drainage study is consistent with stormwater and floodplain ordinances in effect at the time of the approval by the appropriate municipality or if the approved development will result in no increase in the impervious area.

E. Fees and Application Review Times

1. A review, permit, variance, appeals and site inspection fee schedule in accordance with the provision of this ordinance shall be established by separate resolution of the MCSC.

2. ~~A fee schedule may be developed and implemented by certified communities.~~ Application for Permit: A Watershed Development Permit application is required to be filled out in full from forms supplied by the Building Department for each

phase of development prior to any land clearing, land disturbing or equipment moving. Such application will be reviewed by the Building Commissioner and the Public Works Director under the approved engineering plans and a pre-construction meeting for the development; and only approved after the Building Commissioner and Public Works Director have conducted an erosion control inspection of the development and concluded that all erosion control measures will be installed pursuant to the approved engineering.

3. The permit fee for a Watershed Development Permit shall be:

$1,500.00 for 1-10 acres
Plus $75.00 per acre thereafter

Permit applications shall be reviewed within 15 business days of receipt to determine if the application package is complete. A completed application package shall be approved or denied within 45 business days of the latest item submitted.

F. Permit Terms, Conditions and Extensions

3. Expiration of Permit: Every Watershed Development Permit shall expire and become null and void if the work authorized by such permit has not commenced within 180 days or is not completed within two years. If the permittee presents satisfactory evidence that unusual difficulties prevented work from being commenced or completed within the specified time limits, City staff may grant a reasonable extension of time provided written application is made before the expiration date of the permit. The enforcement officer may require modifications of the erosion control plan to prevent any increase in erosion or offsite sediment runoff resulting from any extension.

~~If the permitted work is not completed within the term of the permit, the permittee may request, in writing, an extension of time on the permit. The Enforcement officer may extend the permit for an additional six months. The enforcement officer may amend or add special conditions to the permit at the time of the extension. Permit extension requests may not be made prior to 90 days of the permit expiration date.~~

ARTICLE V: PERFORMANCE STANDARDS:

C. Buffer Areas, Paragraph 4:

e. Require that the buffer area be physically delineated and identified on the site to reduce the likelihood of encroachment of future alteration of the buffer area. This may be accomplished using fencing, permanent signage or lot markers, walking paths, or other methods approved by the Enforcement Officer.

C. Buffer Areas, Paragraph 5:

c. Mowing of buffer areas will only be allowed if timed to control the seed production of undesirable species, the growth of invasive, woody species, or to replicate the benefits of controlled burn management. The cut surface of any vegetation located within a buffer area can be no less than eight (8) inches in height above the ground surface, unless a site specific buffer management plan is approved by the Enforcement Officer. Vegetation within an approved buffer area shall be exempt from maximum height restrictions otherwise enforced by the Certified Community. Vegetation within an approved buffer shall not be exempt from restrictions and other ordinance regulations requiring the control and elimination of noxious or nuisance weeds and vegetation.

C. Buffer Areas, Paragraph 8:

8. In the event the implementation of the buffer requirements of this Ordinance preclude an otherwise legally buildable parcel, created and platted prior to the effective date of this Ordinance, from being developed, the Enforcement Officer may allow the minimal amount of variance from the buffer requirements in order to restore the parcel to a buildable condition. The Enforcement Officer may require a "fee-in-lieu-of" payment or other arrangement to mitigate the environmental impacts of the loss of buffer area. The City Council must be informed of the Enforcement Officer's recommendations for variances from the buffer requirements.

F. Stormwater Management, Paragraph 3, Release Rates and Discharges:

b. If the MCSC or the Certified Community adopts a basin plan that includes more restrictive release rates than the rates indicated above, those release rates in the adopted basin plan shall prevail.

F. Stormwater Management, Paragraph 3, Release Rates and Discharges:

i. In designing an outlet, the developer shall evaluate the effect of backwater on the outlet structure from the downstream drainage system.

F. Stormwater Management, Paragraph 4, Detention Facilities:

a. Detention will ~~only~~ be required for projects that involve the creation of 20,000 square feet of new impervious area. Detention may be required by the Enforcement Officer for projects that involve the creation of 10,000 square feet to 20,000 square feet of impervious surface based on specific site, watershed, and storm sewer conditions.

F. Stormwater Management, Paragraph 4, Detention Facilities, q:

(4) The basin must be at least 200 feet away from any water supply wells or building foundations.

F. Stormwater Management, Paragraph 4, Detention Facilities:

r. The developer shall design any proposed dry detention basin to remove stormwater pollutants, to be safe, to be aesthetically pleasing and, to the extent feasible, to be available for multiple uses, including recreational use.

(1) The basin shall be designed so that at least 80 percent of its bottom shall not have standing water for longer than 72 hours for any runoff event up to and including the 100-year 24-hour event.

(2) The basin design will include velocity dissipation measures to minimize erosion at inlets and outlets and to minimize the resuspension of pollutants.

(3) Unless the basin is designed to be a manmade artificial wetland, the slope across the bottom of the basin to the outlet shall be at least 1 percent.

(4) Dry retention basins that do not meet the requirements for an infiltration basin must be designed as an artificial wetland and planted with water tolerant varieties of grasses.

s. The maximum stormwater ponding depth in any parking area shall not exceed 6 inches.

F. Stormwater Management, Paragraph 7, Storm Sewers and Swales:

i. Inlets shall not be more than 600 feet apart. Inlets places at intersections shall not be placed any closer to the intersection than the curb radius return. They shall be placed in such a manner that drainage will not travel through the intersection.

F. Stormwater Management:

10. Culvert Street and Driveway Crossings

Sizing of culvert crossing shall consider entrance and exit losses as well as tailwater conditions on the culvert. The developer will size culverts under streets classified as collectors or arterials to pass the 50-year peak flow without encroaching on the road. The developer will size culverts for minor or local streets to pass the 25-year peak flow. Business and industrial access streets are classified as collector streets. In no event shall any of the following pipes or culverts be designed with a width that is less than the following: driveway culvert, 15 inches; and roadway culvert, 18 inches.

I. Long Term Maintenance

When required by the Enforcement Officer, the applicant shall provide restrictive covenants pertaining to the maintenance, repair, management, and inspection of all wetlands, water bodies, flood plains, buffers, and stormwater management facilities for the development project. Once the Certified Community has approved the covenants, the applicant shall record the document prior to the sale of individual lots on the property and shall deliver a recorded copy to the Enforcement Officer. Once recorded, those portions of the covenants pertaining to wetlands, water bodies, flood plains, buffers, and stormwater management facilities cannot be modified, amended, supplemented, repealed or terminated by the property owner, applicant, or homeowner's or business owner's association without the prior written consent of the Enforcement Officer, which may be withheld at the soil discretion of the Certified Community.

The developer shall execute a maintenance agreement acceptable to the Certified Community which will guarantee that future owners of the property on which the facility resides will maintain the facility in perpetuity, which will provide for the Certified Community to enter the premises and undertake maintenance and repairs in the event the facility is not properly maintained by the owners, and which will provide the Certified Community with a right of entry for purpose of inspection and maintenance. The agreement shall provide that the Certified Community's right to undertake maintenance and repair shall be subject to the Certified Community providing the property owner(s) with written notice of the problem and nature of the correction required and the passage of a 30 day period in which the property owner has not corrected the problem. The agreement will provide that if the Certified Community complies with the notice provision, the costs of repair and maintenance shall constitute a lien on the property.

ARTICLE VI. APPLICATION REQUIREMENTS:

B. Application Requirements for Intermediate Developments:

17. The location and depth of any water supply well located within 50 feet of the proposed excavation and/or filling.

18. Location of any sewerage disposal system or underground utility line located within 50 feet of the proposed excavation and/or filling. The location of any gas transmission pipe line operated at a maximum service pressure in excess of 200 p.s.i.g. located within 100 feet of the proposed excavation, grading, or filling.

19. The location, type and current status of any previously permitted excavation, grading, or fill operations on the site.

ARTICLE VII. VARIANCES AND APPEALS:

A. VARIANCES:

The ~~Enforcement Officer~~ City Council upon application, after public hearing before Planning and Zoning Commission, the process and standards that follow, may grant variances to the provisions of this Ordinance as will not cause detriment to the public good, safety or welfare nor be contrary to the spirit, purpose and intent of this Ordinance where, by reason of unique and exceptional physical circumstances or condition of a particular property, the literal enforcement of the provisions of this Ordinance would result in an unreasonable hardship.

~~3. A public notice will be issued to adjacent property owners via posted sign on parcel or local newspaper inviting public comment on all proposed variances to any performance standard. In a Certified Community a copy of the variance request and the public notice will be sent to MCSC.~~

3. At the applicant's expense, notice of the public hearing shall be given in the following manner:

   a. By publishing notice of the time and place of such hearing in a newspaper of general circulation in the City of Marengo no less than 15 days nor more than 30 days from the hearing date. Said notice shall contain both the legal description and common address or location for which the petition or application is requested, as well as a brief statement describing the nature of the petition or application; and

   b. By sending a copy of the notice by certified mail, return receipt requested, to all property owners adjacent to the subject property and to MCSC.

   c. By posting a sign on the subject parcel adjacent to and visible from the public right of way giving notice that a public hearing for the subject property is pending.

ARTICLE VII. VARIANCES AND APPEALS

Paragraph A, add:

12. The applicant will be held responsible for all costs associated with the variance request, including a $200 application fee.

B. APPEALS:

1. Any person aggrieved by a decision of a certified community's enforcement officer may request review thereof by the City Council ~~Community's board of elected officials or the appropriate body~~.

2. Any person aggrieved by a decision, requirement, ruling or interpretation of this Ordinance by the MCSS chief engineer, may appeal it to the MCSC by written notice filed with the MCSC chief engineer within 10 days of the determination.

3. The applicant or any person or agency which receives notice of the filing of the application may appeal the decision of City staff as provided in Article IV-A in Exhibit A of Chapter 29 to the City Council within 45 days after denial of the permit or 45 days after the commencement of work. Upon receipt of an appeal the City Council shall schedule and hold a public hearing, after giving 15 days notice thereof. The City Council shall render a decision within 30 days after the hearing. Factors to consider in the review shall include, but need not be limited to, the effects of the proposed development activities on the surface water flow to tributary and downstream lands; any comprehensive watershed management plans or the use of any retention facilities; possible saturation of fill and unsupported cuts by water, both natural and domestic; runoff surface waters that produce erosion and silting of drainage ways; natural and type of soil or rock which when disturbed by the proposed development activities, may create earth movement and produce slopes that cannot be landscaped; and excessive and unnecessary scarring of the natural landscape through grading or removal of vegetation.

ARTICLE IX. VIOLATION AND PENALTY:

Paragraph A, add:

6. Shall be effective immediately, and shall remain in effect until the next regularly scheduled meeting of the City County at which the conditions of Article IX. E can be met.

B. Failure to comply with any of the requirements of this Ordinance shall constitute a violation, and any person convicted thereof shall be fined not more than $750.00 dollars for each offense. Each day the violation continues shall be considered a separate offense. In addition to any other penalty authorized by the Ordinance, any person, partnership or corporation convicted of violating any of the provisions of this Ordinance shall be required to restore the site to the condition existing prior to commission of the violation, or to bear the expense of such restoration.

E. No site development permit shall be permanently suspended or revoked until a hearing is held by the City Council. Written notice of such hearing shall be served on the permittee, either personally or by registered mail, and shall state:

1. The grounds for the complaint or reasons for suspension or revocation, in clear and concise language; and

2. The time when and place where such hearing will be held. Such notice shall be served on the permittee at least five days prior to the date set for the hearing. At such hearing, the permittee shall be given an opportunity to be heard and may call witnesses and present evidence on his behalf. At the conclusion of the hearing, the City Council shall determine whether the permit shall be suspended or revoked.

ARTICLE XIII. AMENDMENTS:

No amendment of this Ordinance may be passed without a public hearing first being held before the Committee upon notice published.

Unless otherwise provided herein, publication of any notice of other instrument under this ordinance shall be made by publishing such notice or other instrument once in a newspaper published within the community having jurisdiction over the matter to which the publication relates (or, if no newspaper is published within the community, then a newspaper published in eh County and having a general circulation within the community), such publication being not less than 15 nor more than 30 days before the hearing or other event to which the publication relates.

The Certified Community, shall upon notice from the County, review such Amendments and upon finding that such Amendments further the objective of providing a consistent level of flood protection throughout the community and are more restrictive than the current regulations, adopt such County Amendment without further notice or public hearing.

The Certified Community may from time to time make local Amendments to the McHenry County Stormwater Management Ordinance as determined to be appropriate and necessary to better achieve the goals and objectives of the Ordinance and to protect the health and welfare of the community. Such amendments shall require the approval of the MCSC or the MCSC chief engineer prior to passage and approval by the Certified Community and such amendments that apply only to the Certified Community may be made without further public hearing and without further public notice.

ARTICLE XIV: EFFECTIVE DATE:

The new effective date of this amendment to the McHenry County Stormwater Management Ordinance shall be August 22, 2008. The effective date of ~~this~~ the McHenry County Stormwater Management Ordinance was ~~shall be~~ January 20, 2004, and t~~T~~he effective date for the McHenry County Stormwater Management Ordinance first became applicable to the City of Marengo was ~~shall be~~ January 1, 2005.

Exhibit A

AMENDMENTS TO McHENRY COUNTY STORMWATER MANAGEMENT ORDINANCE

Additions to the text of the McHenry County Stormwater Management Ordinance are indicated by underlining.

~~Deletions of the text of the McHenry County Stormwater Management Ordinance are indicated by striking the portion to be deleted.~~

****

ARTICLE IV: GENERAL PROVISIONS AND JURISDICTION:

B. Exempted Development, Paragraph 5:

5. A development is not subject to the provisions of this Ordinance if the following approvals were issued prior to ~~June 1, 2004~~ January 1, 2005 provided that the development is completed within 5 years of the approval:

a. An approved building permit.

~~b. Any of the following approvals that result in no increase in the impervious surface area or the development includes an approved drainage study that is consistent with stormwater and Floodplain ordinances in effect at the time of the approval by the appropriate municipality:~~

~~(1) An approved preliminary or tentative plat; or~~
~~(2) An annexation agreement; or~~
~~(3) Replat of an individual or commercial subdivision;~~

b. An approved preliminary plat, if the approved drainage study is consistent with stormwater and floodplain ordinances in effect at the time of the approval by the appropriate municipality or if the approved development will result in no increase in the impervious area.

E. Fees and Application Review Times

1. A review, permit, variance, appeals and site inspection fee schedule in accordance with the provision of this ordinance shall be established by separate resolution of the MCSC.

2. ~~A fee schedule may be developed and implemented by certified communities.~~ Application for Permit: A Watershed Development Permit application is required to be filled out in full from forms supplied by the Building Department for each

phase of development prior to any land clearing, land disturbing or equipment moving. Such application will be reviewed by the Building Commissioner and the Public Works Director under the approved engineering plans and a pre-construction meeting for the development; and only approved after the Building Commissioner and Public Works Director have conducted an erosion control inspection of the development and concluded that all erosion control measures will be installed pursuant to the approved engineering.

3. The permit fee for a Watershed Development Permit shall be:

$1,500.00 for 1-10 acres
Plus $75.00 per acre thereafter

Permit applications shall be reviewed within 15 business days of receipt to determine if the application package is complete. A completed application package shall be approved or denied within 45 business days of the latest item submitted.

F. Permit Terms, Conditions and Extensions

3. Expiration of Permit: Every Watershed Development Permit shall expire and become null and void if the work authorized by such permit has not commenced within 180 days or is not completed within two years. If the permittee presents satisfactory evidence that unusual difficulties prevented work from being commenced or completed within the specified time limits, City staff may grant a reasonable extension of time provided written application is made before the expiration date of the permit. The enforcement officer may require modifications of the erosion control plan to prevent any increase in erosion or offsite sediment runoff resulting from any extension.

~~If the permitted work is not completed within the term of the permit, the permittee may request, in writing, an extension of time on the permit. The Enforcement officer may extend the permit for an additional six months. The enforcement officer may amend or add special conditions to the permit at the time of the extension. Permit extension requests may not be made prior to 90 days of the permit expiration date.~~

ARTICLE V: PERFORMANCE STANDARDS:

C. Buffer Areas, Paragraph 4:

e. Require that the buffer area be physically delineated and identified on the site to reduce the likelihood of encroachment of future alteration of the buffer area. This may be accomplished using fencing, permanent signage or lot markers, walking paths, or other methods approved by the Enforcement Officer.

C. Buffer Areas, Paragraph 5:

c. Mowing of buffer areas will only be allowed if timed to control the seed production of undesirable species, the growth of invasive, woody species, or to replicate the benefits of controlled burn management. The cut surface of any vegetation located within a buffer area can be no less than eight (8) inches in height above the ground surface, unless a site specific buffer management plan is approved by the Enforcement Officer. Vegetation within an approved buffer area shall be exempt from maximum height restrictions otherwise enforced by the Certified Community. Vegetation within an approved buffer shall not be exempt from restrictions and other ordinance regulations requiring the control and elimination of noxious or nuisance weeds and vegetation.

C. Buffer Areas, Paragraph 8:

8. In the event the implementation of the buffer requirements of this Ordinance preclude an otherwise legally buildable parcel, created and platted prior to the effective date of this Ordinance, from being developed, the Enforcement Officer may allow the minimal amount of variance from the buffer requirements in order to restore the parcel to a buildable condition. The Enforcement Officer may require a "fee-in-lieu-of" payment or other arrangement to mitigate the environmental impacts of the loss of buffer area. The City Council must be informed of the Enforcement Officer's recommendations for variances from the buffer requirements.

E. Soil Erosion and Sediment Control, Paragraph 1:

e. Temporary and permanent stabilization measures shall be initiated as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased. But, in no case shall these measures be installed more than ~~14~~ 7 days after the construction in the area temporarily or permanently ceases.

f. Development should be related to the topography and soils of the site so as to create the least potential for erosion. Areas of steep slopes where high cuts and fills may be required should be avoided wherever possible, and natural contours should be followed as closely as possible.

g. Natural vegetation should be retained and protected wherever possible. Areas immediately adjacent to natural watercourses, lakes, ponds and wetlands should be left undisturbed wherever possible.

h. Special precautions should be taken to prevent damages resultant from any necessary development activity within or adjacent to any stream, lake, pond or wetland. Preventative measures should reflect the sensitivity of these areas to erosion and sedimentation.

i. The smallest practical area of land should be exposed for the shortest practical time during development.

j. In the design of erosion control facilities and practices, aesthetics and the requirements of continuing maintenance should be considered.

k. Provision should be made to accommodate the increased run-off caused by changed soil and surface conditions during and after development. Drainage ways should be designed so that their final gradients and the resultant velocities and rates of discharge will not create additional erosion onsite or downstream.

l. Those areas being converted from agricultural development to other land uses should be covered with an appropriate protective cover prior to development.

m. All waste generated as a result of site development activity should be properly disposed of and should be prevented from being carried off the site by either wind or water.

n. All construction sites should provide measures to prevent sediment from being tracked onto public or private roadways.

E. Soil Erosion and Sediment Control, Paragraph 2:

h. For major development, intermediate developments and other locations required by the Enforcement Officer, a stabilized construction entrance shall be located at any point where traffic will be entering or leaving a construction site, consistent with the current standards set forth in the Illinois Urban Manual. The stabilized construction entrance shall be periodically maintained to remove mud and debris and shall consist of:

(1) Asphalt or concrete with the quality and subgrade materials to withstand the construction traffic;

(2) An acceptable non erosive durable surfacing material; or

(3) An appropriate geotextile fabric covered with at least six inches of clean stone that is at least two inches in diameter.

E. Soil Erosion and Sediment Control, Paragraph 2:

j. Stormwater conveyance channels, including ditches, swales and diversions, and the outlets of all channels and pipes shall be designed and constructed to withstand the expected flow velocity from the 10-year frequency storm without erosion. All constructed or modified channels shall be stabilized within 48 hours, consistent with the following standards:

(1) For grades up to four percent, seeding in combination with mulch, erosion blanket or an equivalent control measure shall be applied. Sod or erosion blanket or mat shall be applied to the bottom of the channel.

(2) For grades of four to eight percent, sod or an equivalent control measure shall be applied in the channel.

(3) For grades greater than eight percent, rock, riprap or an equivalent control measure shall be applied, or the grade shall be effectively reduced using drop structures.

k. Disturbed areas shall be stabilized with temporary or permanent measures within seven calendar days following the end of active disturbance or redisturbance, consistent with the following criteria:

(1) Appropriate temporary or permanent stabilization measures shall include seeding, mulching, sodding and/or non-vegetative measures.

(2) Areas having slopes greater than 12 percent shall be stabilized with sod, mat or blanket in combination with seeding or equivalent.

l. Land disturbance within stream channels shall be avoided where possible. If disturbance activities are unavoidable, the following requirements shall be met:

(1) Construction vehicles shall be kept out of the stream channel to the maximum extent practicable. Where construction crossings are necessary, temporary crossings shall be constructed of non-erosive material, such as rip rap or gravel.

(2) The time and area of disturbance of stream channels shall be kept to a minimum. The stream channel, including bed and banks shall be restabilized within 48 hours after channel disturbance is completed, interrupted or stopped.

(3) Whenever channel relocation is necessary, the new channel shall be constructed in the dry and fully stabilized before flow is diverted.

m. Soil storage piles containing more than 10 cubic yards of material shall not be located with a down slope drainage length of less than 25 feet to a roadway or drainage channel. Filter barriers, including straw bales, filter fence or equivalent, shall be installed immediately on the down slope side of the piles.

n. If dewatering devices are used, discharge locations shall be protected from erosion. All pumped discharges shall be routed through appropriately designed sediment traps or basins, or equivalent.

F. Stormwater Management, Paragraph 3, Release Rates and Discharges:

b. If the MCSC or the Certified Community adopts a basin plan that includes more restrictive release rates than the rates indicated above, those release rates in the adopted basin plan shall prevail.

F. Stormwater Management, Paragraph 3, Release Rates and Discharges:

i. In designing an outlet, the developer shall evaluate the effect of backwater on the the outlet structure from the downstream drainage system.

F. Stormwater Management, Paragraph 4, Detention Facilities:

a. Detention will ~~only~~ be required for projects that involve the creation of 20,000 square feet of new impervious area. Detention may be required by the Enforcement Officer for projects that involve the creation of 10,000 square feet to 20,000 square feet of impervious surface based on specific site, watershed, and storm sewer conditions.

F. Stormwater Management, Paragraph 4, Detention Facilities, q:

(4) The basin must be at least 100 feet away from any water supply wells or building foundations.

F. Stormwater Management, Paragraph 4, Detention Facilities:

r. The developer shall design any proposed dry detention basin to remove stormwater pollutants, to be safe, to be aesthetically pleasing and, to the extent feasible, to be available for multiple uses, including recreational use.

(1) The basin shall be designed so that at least 80 percent of its bottom shall not have standing water for longer than 72 hours for any runoff event up to and including the 100-year 24-hour event.

(2) The basin design will include velocity dissipation measures to minimize erosion at inlets and outlets and to minimize the resuspension of pollutants.

(3) Unless the basin is designed to be a manmade artificial wetland, the slope across the bottom of the basin to the outlet shall be at least 1 percent.

(4) Dry retention basins that do not meet the requirements for an infiltration basin must be designed as an artificial wetland and planted with water tolerant varieties of grasses.

s. The maximum stormwater ponding depth in any parking area shall not exceed 6 inches.

F. Stormwater Management, Paragraph 7, Storm Sewers and Swales:

i. Inlets shall not be more than 600 feet apart. Inlets places at intersections shall not be placed any closer to the intersection than the curb radius return. They shall be placed in such a manner that drainage will not travel through the intersection.

F. Stormwater Management:

10. Culvert Street and Driveway Crossings

Sizing of culvert crossing shall consider entrance and exit losses as well as tailwater conditions on the culvert. The developer will size culverts under streets classified as collectors or arterials to pass the 50-year peak flow without encroaching on the road. The developer will size culverts for minor or local streets to pass the 25-year peak flow. Business and industrial access streets are classified as collector streets. In no event shall any of the following pipes or culverts be designed with a width that is less than the following: driveway culvert, 15 inches; and roadway culvert, 18 inches.

I. Long Term Maintenance

When required by the Enforcement Officer, the applicant shall provide restrictive covenants pertaining to the maintenance, repair, management, and inspection of all wetlands, water bodies, flood plains, buffers, and stormwater management facilities for the development project. Once the Certified Community has approved the covenants, the applicant shall record the document prior to the sale of individual lots on the property and shall deliver a recorded copy to the Enforcement Officer. Once recorded, those portions of the covenants pertaining to wetlands, water bodies, flood plains, buffers, and stormwater management facilities cannot be modified, amended, supplemented, repealed or terminated by the property owner, applicant, or homeowner's or business owner's association without the prior written consent of the Enforcement Officer, which may be withheld at the soil discretion of the Certified Community.

The developer shall execute a maintenance agreement acceptable to the Certified Community which will guarantee that future owners of the property on which the facility resides will maintain the facility in perpetuity, which will provide for the Certified Community to enter the premises and undertake maintenance and repairs in the event the facility is not properly maintained by the owners, and which will provide the Certified Community with a right of entry for purpose of inspection and maintenance. The agreement shall provide that the Certified Community's right to undertake maintenance and repair shall be subject to the Certified Community providing the property owner(s) with written notice of the problem and nature of the correction required and the passage of a 30 day period in which the prop-

erty owner has not corrected the problem. The agreement will provide that if the Certified Community complies with the notice provision, the costs of repair and maintenance shall constitute a lien on the property.

ARTICLE VI. APPLICATION REQUIREMENTS:

B. Application Requirements for Intermediate Developments:

16. The location and depth of any water supply well located within fifty (50) feet of the proposed excavation and/or filling.

17. Location of any sewerage disposal system or underground utility line located within fifty (50) feet of the proposed excavation and/or filling. The location of any gas transmission pipe line operated at a maximum service pressure in excess of two hundred (200) p.s.i.g. located within one hundred (100) feet of the proposed excavation, grading, or filling.

18. The location, type and current status of any previously permitted excavation, grading, or fill operations on the site.

ARTICLE VII. VARIANCES AND APPEALS:

A. VARIANCES:

The ~~Enforcement Officer~~ City Council upon application, after public hearing before Planning and Zoning Commission, the process and standards that follow, may grant variances to the provisions of this Ordinance as will not cause detriment to the public good, safety or welfare nor be contrary to the spirit, purpose and intent of this Ordinance where, by reason of unique and exceptional physical circumstances or condition of a particular property, the literal enforcement of the provisions of this Ordinance would result in an unreasonable hardship.

3. At the applicant's expense, notice of the public hearing shall be given in the following manner:

a. By publishing notice of the time and place of such hearing in a newspaper of general circulation in the City of Marengo, Illinois, no less than 15 days nor more than 30 days from the hearing date. Said notice shall contain both the legal description and common address or location for which the petition or application is requested, as well as a brief statement describing the nature of the petition or application; and

b. By sending a copy of the notice by certified mail, return receipt requested, to all property owners adjacent to the subject property and to MCSC.

c. By posting a sign on t he subject parcel adjacent to and visible from the public right of way giving notice that a public hearing for the subject property is pending.

Paragraph A, add:

13. The applicant will be held responsible for all costs associated with the variance request, including a $200 application fee.

B. APPEALS:

1. Any person aggrieved by a decision of a certified community's enforcement officer may request review thereof by the City Council ~~Community's board of elected officials or the appropriate body~~.

2. Any person aggrieved by a decision, requirement, ruling or interpretation of this Ordinance by the MCSS chief engineer, may appeal it to the MCSC by written notice filed with the MCSC chief engineer within 10 days of the determination.

3. The applicant or any person or agency which receives notice of the filing of the application may appeal the decision of City staff as provided in Article IV-A in Exhibit A of Chapter 29 to the City Council within 45 days after denial of the permit or 45 days after the commencement of work. Upon receipt of an appeal the City Council shall schedule and hold a public hearing, after giving 15 days notice thereof. The City Council shall render a decision within 30 days after the hearing. Factors to consider in the review shall include, but need not be limited to, the effects of the proposed development activities on the surface water flow to tributary and downstream lands; any comprehensive watershed management plans or the use of any retention facilities; possible saturation of fill and unsupported cuts by water, both natural and domestic; runoff surface waters that produce erosion and silting of drainage ways; natural and type of soil or rock which when disturbed by the proposed development activities, may create earth movement and produce slopes that cannot be landscaped; and excessive and unnecessary scarring of the natural landscape through grading or removal of vegetation.

ARTICLE IX. VIOLATION AND PENALTY:

Paragraph A, add:

6. Shall be effective immediately, and shall remain in effect until the next regularly scheduled meeting of the City County at which the conditions of Article IX. E can be met.

B. Failure to comply with any of the requirements of this Ordinance shall constitute a violation, and any person convicted thereof shall be fined not more than seven hundred fifty ($750.00) dollars for each offense. Each day the violation continues shall be considered a

separate offense. In addition to any other penalty authorized by the Ordinance, any person, partnership or corporation convicted of violating any of the provisions of this Ordinance shall be required to restore the site to the condition existing prior to commission of the violation, or to bear the expense of such restoration.

E. No site development permit shall be permanently suspended or revoked until a hearing is held by the City Council. Written notice of such hearing shall be served on the permittee, either personally or by registered mail, and shall state:

1. The grounds for the complaint or reasons for suspension or revocation, in clear and concise language; and

2. The time when and place where such hearing will be held. Such notice shall be served on the permittee at least five days prior to the date set for the hearing. At such hearing, the permittee shall be given an opportunity to be heard and may call witnesses and present evidence on his behalf. At the conclusion of the hearing, the City Council shall determine whether the permit shall be suspended or revoked.

ARTICLE XIII. AMENDMENTS:

No amendment of this Ordinance may be passed without a public hearing first being held before the Committee upon notice published.

Unless otherwise provided herein, publication of any notice of other instrument under this ordinance shall be made by publishing such notice or other instrument once in a newspaper published within the community having jurisdiction over the matter to which the publication relates (or, if no newspaper is published within the community, then a newspaper published in eh County and having a general circulation within the community), such publication being not less than 15 nor more than 30 days before the hearing or other event to which the publication relates.

The Certified Community, shall upon notice from the County, review such Amendments and upon finding that such Amendments further the objective of providing a consistent level of flood protection throughout the community and are more restrictive than the current regulations, adopt such County Amendment without further notice or public hearing.

The Certified Community may from time to time make local Amendments to the McHenry County Stormwater Management Ordinance as determined to be appropriate and necessary to better achieve the goals and objectives of the Ordinance and to protect the health and welfare of the community. Such amendments shall require the approval of the MCSC or the MCSC chief engineer prior to passage and approval by the Certified Community and such amendments that apply only to the Certified Community may be made without further public hearing and without further public notice.

ARTICLE XIV: EFFECTIVE DATE:

The effective date of ~~this~~ the McHenry County Stormwater Management Ordinance shall be January 20, 2004. The effective date for the McHenry County Stormwater Management Ordinance applicable to the City of Marengo shall be January 1, 2005.

CHAPTER 30
GROUNDWATER PROTECTION

30.01 Title
30.02 Purpose and Intent
30.03 Authority and Applicability
30.04 Extent and Designations
30.05 Definitions
30.06 Permits
30.07 Regulations Which Apply Within the Minimum Setback Zone (Zone 1) of the GPPA
30.08 Regulations Which Apply Within the Maximum Setback Zone (Zone 2) of the GPPA
30.09 Regulations Which Apply Within the Five-Year Capture Zone (Zone 3) of the GPPA
30.10 Unauthorized Releases
30.11 Penalties
30.12 Enforcement
30.13 Notice of Violation
30.14 Appeals
30.15 Severability
30.16 Inconsistent Ordinances Repealed
30.17 Saving Clause

Exhibit A Best Management Practices for the Construction Industry
Exhibit B Chemical Substance Management Plan
Exhibit C Map of Groundwater Protection Planning Area

30.01 TITLE

This Chapter 30 ("Chapter") shall be known and may be cited and referred to as the Groundwater Protection Ordinance for the City.

30.02 PURPOSE AND INTENT

A. In the interest of securing and promoting 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 the present and future generations, and to protect and 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 Groundwater Protection Planning Area (GPPA). This Chapter establishes regulations for activities within the GPPAs for: inspection and monitoring standards for new and existing chemical substance facilities; uniform standards for release reporting; emergency response; substance management planning; permit procedures; and enforcement.

B. It is the intent of this Chapter to provide a method:

1. To protect the groundwater resources of the City and the surrounding area.

2. To provide a means of regulating management activities within the groundwater protection areas.

3. To protect the City's drinking water supply within the GPPA from potential impacts by facilities that store, handle, treat, use or produce substances that pose a hazard to groundwater quality.

4. To manage activities that store, handle or produce chemical substances for the protection of present and future groundwater sources within the GPPA.

30.03 AUTHORITY AND APPLICABILITY *Amended, 05-3-2*

A. This Chapter is passed pursuant to authority conferred upon municipalities by the following sections in the Illinois Municipal Code (Chapter 65 of the Illinois Compiled Statutes): 5/11-12-4 et seq., 5/11-13-1 et seq., 5/11-60-2 et seq; and, 50 ILCS 805/1 et seq., Chapter 451, 415 ILCS 5/1 through 5n.5 and 415 ILCS 30/1 et seq.

B. The Groundwater Protection Committee ("Committee") is designated as the Groundwater Protection Technical Advisory Committee ("GPTAC"). Committee members shall be appointed by the Mayor with the advice and consent of the City Council. (The words Committee and GPTAC are interchangeable in this Chapter.) Committee members shall serve until their successor is appointed. The Mayor may consider appointing committee members from the Water and Sewer Department and Building Department of the City, the Administrator, the Marengo Fire Protection District and other consultants. The purposes and duties of the GPTAC are to:

1. Administer and implement the provisions of this Chapter and other appropriate sections of this Code.

2. Provide technical support and recommendations to the Water and Sewer Department concerning the technical definition and criteria of any groundwater protection area as described in Section 30.04 herein.

3. Advise the Building Department when the GPTAC determines that performance standards should be amended.

4. Provide technical support and recommendations to the City Council concerning any application made to it.

5. Advise the Building Department when the GPTAC determined that this Chapter 30 or any regulation or rule promulgated pursuant to the chapter should be amended.

6. Hold public meetings on appeals.

C. It shall be the responsibility of the Committee to make a determination of the applicability of this Chapter as it pertains to property within the City.

D. All facilities within a groundwater protection area must comply with this Chapter prior to the issuance of any underlying permits. Existing facilities which are not applying for an underlying permit should have come into compliance by May 21, 1999, which was one year from the effective date the ordinance establishing these provisions was passed.

E. The following are exempt from the permit requirements of this Chapter:

1. De Minimus Usage of Chemical Substances. Facilities that use, store or handle chemical substances in 250-pound aggregate quantities or less, or if in liquid form, 30 gallons or less aggregate quantities during any calendar year.

2. Single family residences provided that no home business is operated on the premises.

F. The following are exempt from this Chapter:

1. Department of Transportation licensed fuel tanks and fluid reservoirs attached to a private or commercial motor vehicle and used directly in the operation of that vehicle.

2. The activities of construction, repairing or maintaining any facility or improvement on lands within Zones 1, 2 or 3, provided that all contractors, subcontractor, laborers, material men and their employees when using, handling, storing or producing chemical substances in Zones 1, 2 or 3 use those applicable *Best Management Practices* set forth in Exhibit A, attached hereto and incorporated herein.

3. Activities specifically regulated under 35 Ill.Adm. Code 601.615, 616 and 617 (regulations for existing and new activities within setback zones and regulated recharge areas); 8 Ill.Adm. Code 255 and 256 (regulations for secondary containment for agricultural pesticide and fertilizer facilities); and 8 Ill.Adm. Code 257 (cooperative groundwater protection program for agricultural chemical facilities within appropriate setback zones).

4. If the owner of a new potential primary source, new potential secondary source or new potential route is granted an exception by the City Council (other than land filling or land treating) pursuant to the Act, such owner shall not be subject to this Chapter to the same extent that such owner is not subject to the Act.

5. If 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 pursuant to the Act, such owner shall not be subject to this ordinance to the same extent that such owner is not subject to the Act.

G. Any action by the Agency or City Council referred to in this Chapter 30.03 shall not be final and binding on the City under this ordinance until the City has received notice of such proposed action and has had reasonable opportunity to present evidence concerning its interest.

30.04 EXTENT AND DESIGNATIONS

A. The provisions of this Chapter shall apply to all properties located within the Minimum Setback Zone (Zone 1) established under Section 14.2 of the Environmental Protection Act (415 ILCS 5/14.2), City of Marengo Ordinances number 90-5-1 and 96-2-5 and this Chapter, the Maximum Setback Zone (Zone 2) established under Section 14.3 of the Environmental Protection Act (415 ILCS 5/14.3), City of Marengo Ordinances number 90-5-1 and 96-2-5 and this Chapter, the 5-year recharge zone (Zone 3) which is hereby established as all real property parcels located wholly or partially within the limits of the recharge area drawn on the official map entitled *City of Marengo Groundwater Protection Planning Map* (Exhibit C) which was compiled pursuant to Section 17.1 of the Environmental Protection Act (415 ILCS 5/17.1) and is hereby adopted by reference as part of this Chapter as if the maps were fully described herein, and such other areas as the City may hereafter establish as Minimum and Maximum Setback Zones and/or Wellhead Protection Areas pursuant to these authorities.

B. In determining the location of properties within the zones depicted on the map(s), the following rules shall apply:

1. Properties located wholly within one zone reflected on the applicable map(s), shall be governed by the restrictions applicable to that Zone.

2. Properties having parts lying within more than one zone reflected on the applicable map(s) shall be governed by the restrictions applicable to the zone in which each part of the property is located.

3. Where a travel-time contour which delineates the boundary between two zones passes through a building, the entire building shall be considered to be in that zone which is most restrictive as of the adoption date of this Chapter.

30.05 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 Chapter shall be the same as those used in the Illinois Environmental Protection Act and the Illinois Groundwater Protection Act (415 ILCS 5/14 et seq.), as amended from time to time. In addition to the definitions found in Appendix A, terms used in this Chapter, whether capitalized or not, have the following meaning:

Act: the Illinois Environmental Protection Act (415 ILCS 5/1 et seq.).

Agency: the Illinois Environmental Protection Agency.

Aquifer: saturated (with groundwater) soils and geologic materials which are sufficiently permeable to readily yield economically useful quantities of water to readily yield economically useful quantities of water to wells, springs or streams under ordinary hydraulic gradients.

Board: The Illinois Pollution Control Board.

Containment Device: A device that is designed to contain an unauthorized release, retain it for cleanup, and prevent released materials from penetrating into the ground.

Chemical Substance: Any "Extremely Hazardous Substance" listed in Appendix A of 40 C.F.R. Part 355, "Any Hazardous Substance" listed in 40 C.F.R. Section 302.4, and any petroleum including crude oil or any fraction thereof.

Chemical Substance Source of Groundwater Contamination: A unit at a facility or site that stores or accumulates more than 250 pounds aggregate quantities or less, or if in liquid form 30 gallons or less aggregate quantities during any calendar year.

Facility: The building and all real property contiguous thereto, and the equipment at a single location used for the conduct of business (430 ILCS 45/3).

Groundwater: Underground water which occurs within the saturated zone and geologic materials where the fluid pressure in the pore space is equal to or greater than atomospheric pressure.

Groundwater Protection Planning Area: (GPPA) The portion of an aquifer within the five-year capture zone of a well or well field.

Groundwater Protection Permit: An authorization by the City for a person to store, handle, use or produce a chemical substance sources within a GPPA. A Groundwater Protection Permit can include either a Development, Operating or Closure Permit pursuant to this Chapter.

Groundwater Protection Technical Advisory Committee: (GPTAC) A committee appointed by the Mayor which reviews materials to determine compliance with this Chapter. Committee members may include representatives from the Water Department, Wastewater Department, Building and Zoning Department,

Marengo Fire Protection District, City Council members, City Administrator and/or other professionals as deemed necessary.

Groundwater Protection Overlay Zones: Zones of the GPPA designated to provide differential levels of protection. Each GPPA is subdivided into three Groundwater Protection Overlay Zones as described below and as illustrated in the attached exhibits.

1. Zone 1: Minimum Setback Zone, the geographic area located between a well or a well field providing potable water supply and a radial area of 400 feet (as shown in Exhibit C) or within 200 feet of a non-community or private potable water supply well.

2. Zone 2: Maximum Setback Zone, the geographic area located between a well or a well field providing potable water to a community water supply and a regular or irregularly shaped area not to exceed 1,000 feet from the wellhead, but excluding the minimum setback zone.

3. Zone 3: Five-Year Capture Zone, the geographic area located between a well or a well field providing potable water to a community water supply and the delineated five-year zone of capture, but excluding Zones 1 and 2.

New Chemical Substance Source of Groundwater Contamination: Means:

1. A Chemical Substance Source which is not in existence or for which construction has not commenced at its location as of the effective date of this regulation.

2. A Chemical Substance Source which expands laterally beyond the currently permitted boundary or, if the chemical substance source is not permitted, the boundary in existence as of the effective date of this Chapter (February 22, 2001).

3. A Chemical Substance Source which is part of a facility that undergoes major reconstruction. Such reconstruction shall be deemed to have taken place where the fixed capital cost of the new components, constructed within a two- year period, exceed 50 percent of the fixed capital cost of a comparable entirely new facility.

New Potential Primary Source: Means:

1. A potential primary source which is not in existence or for which construction has not commenced at its location, on the effective date of passage of this Chapter (February 22, 2001); or

2. A potential primary source which expands laterally beyond the currently permitted boundary, or if the primary source is not permitted, the boundary, or if the primary source is not permitted, the boundary in existence; or

3. A potential primary source which is part of a facility that undergoes major reconstruction. Such reconstruction shall be deemed to have taken place where the fixed capital cost of the new components constructed within a two-year period exceed percent of the fixed capital cost of a comparable entirely new facility. Construction shall be deemed commenced when all necessary federal, state and local approvals have been obtained, and work at the site has been initiated and proceeds in a reasonably continuous manner to completion.

New Potential Route: Means:

1. A potential which is not in existence or for which construction has not commenced at its

location; or

2. A potential route which expands laterally beyond the currently permitted boundary or, if the potential route is not permitted, the boundary in existence. Construction shall be deemed commenced when all necessary federal, state, and local proceeds in a reasonably continuous manner to completion.

New Potential Secondary Source: Means:

1. A potential secondary source which is not in existence or for which construction has not commenced at its location; or

2. A potential secondary source which expands laterally beyond the currently permitted boundary of, if the secondary source is not permitted, the boundary in existence, other than an expansion for handling of livestock waste or for treating domestic waste waters; or

3. A potential secondary source which is a part of a facility that undergoes major reconstruction. Such reconstruction shall be deemed to have taken place where the fixed capital cost of the new components constructed within a two- year period exceed 50 percent of the fixed capital cost of a comparable entirely new facility. Construction shall be deemed commenced when all necessary federal, state, and local approval have been obtained, and work at the site has been initiated and proceeds in a reasonably continuous manner to completion.

Operator: Any person who in control of, or having responsibility for daily operation of a facility.

Owner: Any person who owns a site, facility or unit, or part of a site, facility or unit, or who owns the land on which the site, facility or unit is located.

Person: Any person, individual, public or private corporation, firm, association, joint venture, trust, partnership, municipality, governmental agency, political subdivision, public officer, owner, lessee, tenant or any other entity whatsoever or any combination of such, jointly or severally.

Potable Water: Water that is satisfactory for drinking, culinary and domestic purposes meeting currently accepted water supply practices and principals.

Potential Primary Source: Any unit at a facility or site not currently subject to a removal or remedial action which:

1. Is utilized for the treatment, storage or disposal of any hazardous or special waste not generated at the site; or

2. Is utilized for the disposal of municipal waste not generated at the site, other than landscape waste and construction and demolition debris; or

3. Is utilized for the land filling, land treating, surface impounding or piling of any hazardous or special waste that is generated on the site or at other sites owned, controlled or operated by the same person; or

4. Stores or accumulates at any time more than 75,000 pounds above ground, or more than 7,500 pounds below ground of any hazardous substances.

Potential Route: Abandoned and improperly plugged wells of all kinds, drainage wells, all injection wells, including closed loop heat pump wells, and any excavation for the discovery, development or

production of stone, sand or gravel.

Potential Secondary Source: Any unit at a facility or a site not currently subject to a removal or remedial action, other than a potential primary source which:

1. Is utilized for the land filling, land treating or surface impounding of waste that is generated on the site or at other sites owned, controlled or operated by the same person, other than livestock and landscape waste, and construction and demolition debris; or

2. Stores or accumulates at any time more than 25,000 pounds but not more than 75,000 pounds above ground or more than 2,500 pounds but not more than 7,500 pounds below ground of any hazardous substances; or

3. Stores or accumulates at any time more than 25,000 gallons above ground, or more than 500 gallons below ground of petroleum including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance; or

4. Stores or accumulates pesticides, fertilizers or road oils for purposes of commercial application, or for distribution to retail sales outlets; or

5. Stores or accumulates at any one time more than 50,000 pounds of any deicing agent; or

6. Is utilized for handling livestock waste or for treating domestic waste waters other than private sewage disposal systems as defined in the Private Sewage Disposal Licensing Act. (225 ILCS 225/1 et seq.)

Recharge Area: The area through which precipitation and surface water can enter an aquifer.

Saturated Zone: The zone in which the voids in the rock or soil are filled with water at a pressure greater than atmospheric pressure.

Setback Zone: A geographic area designated pursuant to the Act and this Chapter containing a potable water supply well or a potential source or potential route having a continuous boundary, and within which certain prohibitions or regulations are applicable in order to protect groundwater.

Site: Any location, place, tract of land or facilities, including but not limited to buildings and improvements used for purposes subject to regulations or control by the Act or regulations thereunder.

Unauthorized Release: Any spilling leaking, emitting, discharging, escaping, leaching or disposing of a chemical substance sources in a quantity greater than one gallon from a facility into a containment device into the air, into groundwater, surface water, surface soils or subsurface soils. Unauthorized release does not include intentional withdrawals of chemical substances for the purposes of legitimate sale, use or disposal and discharges permitted under federal, state or local law.

Underlying Permit: This includes the building permits, septic permits, erosion, sediment and storm water control permits, entry access permit and well permits required by the City.

Unit: Any device, mechanism, equipment or area (exclusive of land utilized only for agricultural production).

Well: Any excavation that is drilled, cored, bored, driven, dug, fitted or otherwise constructed when the intended use of such excavation is for the location, diversion, artificial recharge or acquisition of groundwater.

Well Field: An area which contains one or more wells for obtaining a potable water supply.

30.06 PERMITS *Amended, 05-3-2*

A. GENERAL CONDITIONS

1. No person, persons, corporation or other legal entities shall install or operate a facility in a GPPA without first obtaining a Groundwater Protection Permit from the Building Commissioner. Prior to issuance, the Committee shall approve the application.

2. The review for all permits shall be on the types of substances that will be stored, handled, treated, used or produced and the potential for these substances to degrade groundwater quality.

3. For new facilities, all permits required pursuant to this Chapter must be issued prior to or concurrent with the issuance of permits for construction activities or underlying permits.

4. Existing facilities shall submit an application for a permit within one year of the passage of this Chapter or within one year of the facility's being included in a GPPA. The application must include a proposed schedule of compliance.

5. A permit shall not be issued for a facility unless adequate plans, specifications, test data, and/or other appropriate information has been submitted by the owner and/or operator showing that the proposed design and construction of the facility does not impact the long term, short term or cumulative quality of the aquifer.

6. The facility owner shall apply to the City for permit renewal at least 90 days prior to the expiration of the permit.

7. If an inspection of the facility reveals noncompliance, then the City must verify by a follow-up inspection that all required corrections have been implemented before renewing the permit.

8. For new activities located in Zone 1, Zone 2, or Zone 3 and regulated by the above requirements, the applicant for a Site Plan Review has the burden of proof that the proposed activity will not adversely affect groundwater. All applications shall be prepared and considered pursuant to the City's existing Site Plan Review Ordinance and shall include written information and plan (map) information. In addition, certain management activities may require Site Plan Reviews with additional information as required by this Chapter, the GPTAC, and/or the City Council.

B. DEVELOPMENT PERMITS

1. The application for Development Permits pursuant to this Chapter shall be made on a form provided by the City and shall be accompanied by a fee of $500. The extension application fee shall be $100.

2. Applications for Development Permits shall be submitted at least 90 days before the expected start of construction.

3. Development Permits expire one year from the date of issuance unless construction has started, the owner/operator of the facility or their authorized agent shall request an extension of Development Permit. If the construction period is expected to exceed one year, a request for extension shall be filed with the City at least 90 days prior to the permit expiration date.

4. The Development Permit application shall include in addition to the other requirements set forth in the Zoning Regulations and Subdivision and Other Land Use Regulations, the following information:

   a. Name(s), addresses, and phone number(s) of all owner(s) and/or operators of the property and/or facility. If occupant is not owner, copies of all leases pertaining to the facility must be provided.

   b. Property address, legal description and permanent identification (PIN) number for the facility.

   c. Description of proposed use, type of use or activity, commercial (trades and services), industrial (manufacturing and processing), product produced and Standard Industrial Code (S.I.C.) if applicable.

   d. A description of the containment devices designed to comply with the requirements of this Chapter and the procedures for inspection and maintenance of containment devices.

   e. A copy of engineering plans prepared by an Illinois registered professional engineer showing the following:

      I. Location of all public water supply wells within 1,000 feet of the development.

      II. Location of all private drinking water supply wells, streams and other watercourses tributary to any Class A stream within 1,000 feet of the development.

      III. The location of the facility and its property boundaries and the location(s), size(s), and length(s) of all existing structures including buildings, above and underground utilities.

      IV. A map, at scale no greater than 1 inch = 200 feet indicating geographic North and the location of the property and all proposed improvements thereon and their geographic relationship by the depiction of the City's corporate boundaries and the Groundwater Protection Planning Areas.

      V. A site plan and building floor plan showing hazardous materials loading, storage, handling and process areas, floor drains, process vents, sewage disposal, and waste storage or disposal areas; including the location where substances regulated by this Chapter are stored, handled, treated, used, or produced, and the locations of each containment device.

      VI. Floodplain/stormwater delineation.

C. OPERATING PERMITS

1. The Operation Permit application shall be filed with the City when construction is complete. An Operating Permit is required for all projects which require a Development Permit. The approved Operating Permit shall be obtained before the project is placed in service or any chemical substances are permitted to be delivered to, or generated on the site.

2. The application for Operating Permits pursuant to this Chapter shall be made on a form provided by the City and shall be accompanied by such other documents, certifications and other materials as the Building and Zoning Department shall require, and a fee of $100. An Operating Permit issued by the City shall be effective for one year. The City shall not issue a permit to operate a facility until the City has determined that the facility complies with the provisions of these regulations.

3. The application for Operating Permits shall be submitted at least 15 days before putting the facility in operation.

4. The Operating Permit application shall include:

   a. A report certified by an Illinois register profession engineer which will demonstrate that the Development Permit requirements and conditions have been met in all respects.

   b. The owner and/or operator certification that a Chemical Substance Management Plan is available upon inspection. (Contents of a Chemical Substance Management Plan may be found in Exhibit B of this Chapter).

5. Operating Permits may be transferred to a new facility owner/operator if the new facility owner/operator does not change any conditions of the permit, if the transfer is registered with the City within 30 days of the change in ownership, and any necessary modifications are made to the information in the initial permit application due to the change in ownership.

6. Within 30 days of receiving an inspection report with permit deficiencies for the City, the Operating Permit holder shall file with the City a plan to implement any required modifications to the facility or to the monitoring plan needed to achieve compliance with the intent of this Chapter of the permit conditions. This plan shall also implement all of the recommendations set out by the City. The City shall determine the time period for implementing the City's recommendations correcting any deficiencies.

D. CLOSURE PERMITS

1. No person shall close or cause to be closed a facility regulated pursuant to this Chapter without first obtaining a Closure Permit from the City. The City shall not issue a permit to temporarily or permanently close a facility unless adequate plans and specifications and other appropriate information have been submitted by the applicant showing that the proposed closure meets the intent and provisions of this Chapter.

2. The application for a Closure Permit shall be submitted at least 90 days before

closure.

3. The application for a Closure Permit pursuant to this Chapter shall be made on a form provided by the City and shall be accompanied by a fee of $200.

4. Closure Permits shall be required for all facilities that cease to store, handle, treat, use, or produce chemical substances for a period of more than 365 days or when the owner has no intent withing the next year to store, handle, treat, use, or produce chemical substances. During the period of time between cessation of chemical substance storage, handling, treatment, use, or production, and actual completion of facility closure, the applicable containment and monitoring requirements of this Chapter shall continue to apply.

5. Prior to closure, the facility owner shall submit to the City a plan describing how the owner intends to comply with closure requirements. Owners proposing to close a facility shall comply with the following requirements:

   Chemical substances shall be removed from the facility, including residential liquids, solids, or sludges to levels specified in the approved closure plan. Any residues generated from the closure activities shall be disposed of in compliance with the Act.

6. The owner of a facility being closed shall demonstrate to the satisfaction of City that closure has been completed in accordance with the approved plan submitted pursuant to Section 30.06-D4 herein.

7. Facility closure will be accepted as complete by the City upon implementation of the Closure Permit conditions and compliance with all provisions of this Chapter.

E. SPECIAL PROVISIONS FOR ALL PERMITS

1. Right of Inspection: The permitee shall allow any agent duly authorized by the City upon presentation of credentials, and in accordance with the constitutional limitations to:

   a. Enter at reasonable times, the permitee's premises where the permitted facility is located or where any activity is to be conducted pursuant to a permit.

   b. Have access to and copy at reasonable times any records required to be kept under the terms and conditions of permit.

   c. Inspect at reasonable times including during any hours of operation:

      I. Equipment constructed or operated under the permit.

      II. Equipment or monitoring methodology.

      III. Equipment required to be kept, used, operated, calibrated and maintained under the permit

2. Permit Limitations: All permits issued under this Chapter shall not be valid until

applications for all other permits required at this facility have been made and received.

3. Revisions and Alterations: Any proposed deviation from plans and specifications previous approved by the City shall require approval by the City before such changes are made. Examples of changes are those which affect the location, capacity, hydraulic conditions, operating units or functioning of containment or monitoring devices.

F. PERMIT APPLICATIONS AND REVIEW PROCESS

1. Filing of applications and final action by the City.

a. The filing date is the date when the City receives the application.

b. The City shall take final action by granting or denying development, closure, or renewal permits within 90 days of the filing of the application. The City shall take final action by granting or denying operating permits within 30 days of filing the application. Applicants may waive the time limitations by advising the City in writing.

2. Permit Application Review.

a. When a permit application is submitted to the Committee, the Committee shall reject the application or issue a permit within 30 days after submital. In the event the application is rejected, the reasons shall be put in writing.

b. Permit applications shall not be considered accepted until all required documentation has been filed with the Committee. The City shall have available to the public, in written form, what documentation shall accompany an application.

30.07 REGULATIONS WHICH APPLY WITHIN THE MINIMUM SETBACK ZONE (ZONE 1) OF THE GPPA

A. PROHIBITED USES AND ACTIVITIES

1. Except as provided in Section 30.06, no person shall place a new potential primary source, new potential secondary source or new potential route within the minimum setback zone(s) of any existing or permitted community water supply well in the City.

2. Except as provided in Section 30.06, no person shall alter or change an existing potential primary source, potential secondary source or potential route where the alteration or change would result in a potential source or route that would be prohibited under this Chapter if it were a new potential source or route within the minimum setback zones.

B. REVIEW AND APPROVAL OF PROPOSED ACTIVITIES

1. All proposals for new chemical substance sources within the minimum setback zone (Zone 1) must be reviewed by the City for compliance with this Chapter,

including the issuance of a Groundwater Protection Permit pursuant to this Chapter prior to issuance of any underlying permit.

2. No Groundwater Protection Permit shall be issued unless a finding is made by the City that the proposal will not impact the long term, short term or cumulative quality of aquifer. The find shall be based on the present or past land use activities conducted at the chemical substance source, chemical substances stored, handled, treated, used or produced and the potential for the activities or chemical substances to degrade groundwater quality.

30.08 REGULATIONS WHICH APPLY WITHIN THE MAXIMUM SETBACK ZONE (ZONE 2) OF THE GPPA

A. PROHIBITED USES AND ACTIVITIES

1. Except as provided in Section 30.06, no person shall place a new potential primary source within the maximum setback zone(s) of any existing or permitted community water supply well in the City.

2. Except as provided in Section 30.06, no person shall alter or change an existing potential primary source where the alteration or change would result in a potential source or route that would be prohibited under this Chapter if it were a new potential source or route within the maximum setback zones.

B. REVIEW AND APPROVAL OF PROPOSED ACTIVITIES

1. All proposals for new chemical substance sources which use, store, handle, treat or produce a chemical substance within the maximum setback zone (Zone 2) must be reviewed by the City for compliance with this Chapter, including obtaining a Groundwater Protection Permit pursuant to this Chapter prior to issuance of any underlying permit.

2. No Groundwater Protection Permit shall be issued unless a finding is made by the City that the proposal will not impact the long term, short term or cumulative quality of the aquifer. The finding shall be based on the present or past land use activities conducted at the facility, chemical substances stored, handled, treated, used or produced, and the potential for the activities or chemical substances to degrade groundwater quality.

30.09 REGULATION WHICH APPLY WITHIN THE FIVE-YEAR CAPTURE ZONE (ZONE 3) OF THE GPPA

A. All proposals for new chemical substance sources within the 5-year capture zone (Zone 3) must be reviewed by the City for compliance with this Chapter, including obtaining a Groundwater Protection Permit pursuant to this Chapter prior to issuance of any underlying permit.

B. No Groundwater Protection Permit shall be issued unless a finding is made by the City that the proposal will not impact the long term, short term or cumulative quality of the aquifer. The finding shall be based on the present or past land use activities conducted at the chemical substance source, chemical substances stored, handled, treated, used or produced, and the potential for the activities or chemical substances to degrade groundwater quality.

30.10 UNAUTHORIZED RELEASES

A. GENERAL PROVISIONS. Any unplanned release is unauthorized and must be either reported to the Marengo Fire Protection District or recorded in the owner's inspection and maintenance log according to the provisions of this Section 30.10. An unauthorized release is an "unauthorized release requiring recording" if the release is completely captured by the containment device. If the containment device fails to contain the entire release, the release is an "unauthorized release requiring reporting." Reporting a release to the Marengo Fire Protection District does not exempt or preempt any other reporting requirements under federal, state or local laws.

B. UNAUTHORIZED RELEASES REQUIRING RECORDING. Unauthorized releases requiring recording shall be reported in the facility's operating report.

C. UNAUTHORIZED RELEASES REQUIRING REPORTING

1. Unauthorized releases requiring reporting shall be verbally reported to the Marengo Fire Protection District immediately.

2. A written report shall be submitted promptly thereafter containing the following information that is known at the time of filing the report:

   a. List of type, quantity and concentration of chemical substance(s) released.

   b. The results of all investigations completed at that time to determine the extent of soil or groundwater or surface water contamination because of the release.

   c. Method of cleanup implemented to date, proposed cleanup actions and approximate cost of actions taken to date.

   d. Method and location of disposal of the released chemical substance sources and any contaminated soils, groundwater or surface water.

   e. Proposed method of repair or replacement of the containment device.

   f. Chemical substance source owner's name and telephone numbers.

3. Until cleanup is complete, the owner shall submit reports containing the reporting required by Section 30.10-C herein to the City, every month or at a more frequent interval specified by the inspector.

4. The City shall either find that the containment standards of this Chapter can continue to be achieved or shall recommend the revocation of the permit until appropriate modifications are made to allow compliance with the standards.

5. The chemical substance source owner and/or operator jointly and severally shall be responsible for any costs incurred by the City or its authorized agents in the conduct of such remedial actions, including but not limited to all consultant, engineering and attorney fees.

30.11 PENALTIES

A. A violation of any of the provisions of this Chapter shall constitute a misdemeanor and a nuisance. It shall be a separate offense for each and every day or portion thereof during which any

violation of any of the provisions of this Chapter is committed, continued or permitted.

B. Any owner or operator who violates any provisions of this Chapter shall be subject, upon conviction in court, to a fine not to exceed $500 per day, per chemical substance source.

C. In addition to any fines and penalties set forth above, the owner or operator shall reimburse the City for all reasonable costs incurred as a result of responding to, containing, cleaning up or monitoring the cleaning up and disposal of any spilled or leaked chemical substance sources including but not limited to consultant, engineering and legal fees.

30.12 ENFORCEMENT *Amended, 05-3-2*

A. The Committee shall be the administering agency and shall have the power and authority to administer and enforce the provisions of this Chapter. The City shall have the right to conduct inspections of chemical substance sources at reasonable times to determine compliance with this Chapter.

B. The City may revoke any permit issued pursuant to this Chapter after notice to the permitee and after affording the permitee an opportunity to meet either in person or by telephone if it finds that the permit holder:

1. Has failed or refused to comply with any provision of this Chapter.

2. Has submitted false or inaccurate information in a permit application.

3. Has refused lawful inspection.

4. Has an unauthorized release and the Groundwater Protection Technical Advisory Committee finds that the containment standards of this Chapter cannot continue to be achieved.

30.13 NOTICE OF VIOLATION

Whenever it is determined that there is a violation of this Chapter, the notice of violation issued shall:

1. Be in writing and delivered to the owner or operator by certified/registered mail.

2. Be dated and signed by the authorized City agent making the inspection.

3. Specify the violation or violations.

4. Specify the length of time to correct the violation after receiving the notice of violation.

30.14 APPEALS *Amended, 05-3-2*

Any decision made by the GTPAC or Building Department pursuant to this Chapter may be appealed to the City Council. Appeals to the City Council take place by filing an appeal in writing with the City within 15 days after receipt of a decision in writing by the GTPAC. A hearing with the Marengo City Council will be held within 60 days of submission of the appeal or petition.

30.15 SEVERABILITY

If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this Chapter, or any

part thereof, or application thereof to any person is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction. Such a decision shall not affect the validity of effectiveness of the of the remaining portions of this Chapter or any part thereof. It is hereby declared to be the legislative intent of the City Council that this Chapter would have been adopted had such unconstitutional or invalid provision, clause, sentence, paragraph, section or part thereof not then been included.

30.16 INCONSISTENT ORDINANCES REPEALED

All other ordinances, or parts of ordinances, in conflict herewith are repealed.

30.17 SAVING CLAUSE

Nothing in this Chapter hereby adopted shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in this Chapter.

EXHIBIT A
BEST MANAGEMENT PRACTICES FOR THE CONSTRUCTION INDUSTRY

1. The general contractor, or if none the property owner, shall be responsible for assuring that each contractor or subcontractor evaluates each site before construction is initiated to determine if any site conditions may pose particular problems for the handling of any chemical substances. For instance, handling chemical substance(s) in the proximity of a Groundwater Protection Overlay Zone or water bodies may be improper.

2. If any chemical substances are stored on the construction site during the construction process, they shall be stored in a location and manner which will minimize any possible risk of release to the environment. Any storage of 55 gallons (208 liters), or 440 pounds (200 kilograms), or more containing chemical substances shall have constructed below it an impervious containment system constructed of materials of sufficient thickness, density and composition that will prevent the discharge to the land, groundwater or surface water of any pollutant which may emanate from said storage container or containers. Each containment system shall be able to contain 110 percent of the contents of all storage containers above the containment system.

3. Each contractor shall familiarize him/herself with the manufacturer's safety data sheet supplied with each material containing a chemical substance sources and shall be familiar with procedures required to contain and clean up any releases of the chemical substance. Any tools or equipment necessary to accomplish same shall be available in case of a release.

4. Upon completion of construction, all unused and waste chemical substances and containment systems shall be removed from the construction site by the responsible contractor, and shall be disposed of in a proper manner as prescribed by law.

EXHIBIT B
CHEMICAL SUBSTANCE MANAGEMENT PLAN

A Chemical Substance Management Plan shall be required as a condition of each Operating Permit. If a Spill Prevention Control Plan (SPCC), Best Practices Management Plan or similar contingency plan has been prepared in accordance with Illinois or United States Environmental Protection Agency requirements; a Chemical Substance Management Plan (CSMP) is not required as long as all of the chemical substances and requirements of a CSMP are included in the spill prevention control plan. The Chemical Substance Management Plan shall include:

1. The names and volumes of all chemical substances which are to be stored, handled, treated, used or produced at the facility being permitted quantities greater than the minimum amounts specified by this Chapter 30.

2. Location of adjacent (within 400 feet of the property line) public or private drinking water supply wells.

3. A brief description of the manner in which the on site chemical substances are stored and used.

4. A potential release assessment and the response procedures to be followed at the chemical substance source for notifying the local emergency response agencies.

5. Any management measures that are employed to reduce the potential for releases.

EXHIBIT C
MAP OF GROUNDWATER PROTECTION PLANNING AREA

CHAPTER 30
GROUNDWATER PROTECTION

30.01 Title
30.02 Purpose and Intent
30.03 Authority and Applicability
30.04 Extent and Designations
30.05 Definitions
30.06 Permits
30.07 Regulations Which Apply Within the Minimum Setback Zone (Zone 1) of the GPPA
30.08 Regulations Which Apply Within the Maximum Setback Zone (Zone 2) of the GPPA
30.09 Regulations Which Apply Within the Five-Year Capture Zone (Zone 3) of the GPPA
30.10 Unauthorized Releases
30.11 Penalties
30.12 Enforcement
30.13 Notice of Violation
30.14 Appeals
30.15 Severability
30.16 Inconsistent Ordinances Repealed
30.17 Saving Clause

Exhibit A Best Management Practices for the Construction Industry
Exhibit B Chemical Substance Management Plan
Exhibit C Wellhead Protection Planning Map for Marengo (110650)

30.01 TITLE

This Chapter 30 ("Chapter") shall be known and may be cited and referred to as the Groundwater Protection Ordinance for the City.

30.02 PURPOSE AND INTENT

A. In the interest of securing and promoting 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 the present and future generations, and to protect and 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 Groundwater Protection Planning Area (GPPA). This Chapter establishes regulations for activities within the GPPAs for: inspection and monitoring standards for new and existing chemical substance facilities; uniform standards for release reporting; emergency response; substance management planning; permit procedures; and enforcement.

B. It is the intent of this Chapter to provide a method:

1. To protect the groundwater resources of the City and the surrounding area.

2. To provide a means of regulating management activities within the groundwater protection areas.

3. To protect the City's drinking water supply within the GPPA from potential impacts by facilities that store, handle, treat, use or produce substances that pose a hazard to groundwater quality.

4. To manage activities that store, handle or produce chemical substances for the protection of present and future groundwater sources within the GPPA.

30.03 AUTHORITY AND APPLICABILITY *Amended, 05-3-2*

A. This Chapter is passed pursuant to authority conferred upon municipalities by the following sections in the Illinois Municipal Code (Chapter 65 of the Illinois Compiled Statutes): 5/11-12-4 *et seq*., 5/11-13-1 *et seq.*, 5/11-60-2 *et seq*; and, 50 ILCS 805/1 *et seq.*, Chapter 451, 415 ILCS 5/1 through 5n.5 and 415 ILCS 30/1 *et seq*.

B. The Groundwater Protection Committee ("Committee") is designated as the Groundwater Protection Technical Advisory Committee ("GPTAC"). Committee members shall be appointed by the Mayor with the advice and consent of the City Council. (The words Committee and GPTAC are interchangeable in this Chapter.) Committee members shall serve until their successor is appointed. The Mayor may consider appointing committee members from the Water and Sewer Department and Building Department of the City, the Administrator, the Marengo Fire Protection District and other consultants. The purposes and duties of the GPTAC are to:

1. Administer and implement the provisions of this Chapter and other appropriate sections of this Code.

2. Provide technical support and recommendations to the Water and Sewer Department concerning the technical definition and criteria of any groundwater protection area as described in Section 30.04 herein.

3. Advise the Building Department when the GPTAC determines that performance standards should be amended.

4. Provide technical support and recommendations to the City Council concerning any application made to it.

5. Advise the Building Department when the GPTAC determined that this Chapter 30 or any regulation or rule promulgated pursuant to the chapter should be amended.

6. Hold public meetings on appeals.

C. It shall be the responsibility of the Committee to make a determination of the applicability of this Chapter as it pertains to property within the City.

D. All facilities within a groundwater protection area must comply with this Chapter prior to the issuance of any underlying permits. Existing facilities which are not applying for an underlying permit should have come into compliance by May 21, 1999, which was one year from the effective date the ordinance establishing these provisions was passed.

E. The following are exempt from the permit requirements of this Chapter:

1. De Minimus Usage of Chemical Substances. Facilities that use, store or handle chemical substances in 250-pound aggregate quantities or less, or if in liquid form, 30 gallons or less aggregate quantities during any calendar year.

2. Single family residences provided that no home business is operated on the premises.

F. The following are exempt from this Chapter:

1. Department of Transportation licensed fuel tanks and fluid reservoirs attached to a private or commercial motor vehicle and used directly in the operation of that vehicle.

2. The activities of construction, repairing or maintaining any facility or improvement on lands within Zones 1, 2 or 3, provided that all contractors, subcontractor, laborers, material men and their employees when using, handling, storing or producing chemical substances in Zones 1, 2 or 3 use those applicable *Best Management Practices* set forth in Exhibit A, attached hereto and incorporated herein.

3. Activities specifically regulated under 35 Ill.Adm. Code 601.615, 616 and 617 (regulations for existing and new activities within setback zones and regulated recharge areas); 8 Ill.Adm. Code 255 and 256 (regulations for secondary containment for agricultural pesticide and fertilizer facilities); and 8 Ill.Adm. Code 257 (cooperative groundwater protection program for agricultural chemical facilities within appropriate setback zones).

4. If the owner of a new potential primary source, new potential secondary source or new potential route is granted an exception by the City Council (other than land filling or land treating) pursuant to the Act, such owner shall not be subject to this Chapter to the same extent that such owner is not subject to the Act.

5. If 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 pursuant to the Act, such owner shall not be subject to this ordinance to the same extent that such owner is not subject to the Act.

G. Any action by the Agency or City Council referred to in this Chapter 30.03 shall not be final and binding on the City under this ordinance until the City has received notice of such proposed action and has had reasonable opportunity to present evidence concerning its interest.

30.04 EXTENT AND DESIGNATIONS *Amended, 08-2-1*

A. The provisions of this Chapter shall apply to all properties located within the Minimum Setback Zone (Zone 1) established under Section 14.2 of the Environmental Protection Act (415 ILCS 5/14.2), City of Marengo Ordinances number 90-5-1 and 96-2-5 and this Chapter, the Maximum Setback Zone (Zone 2) established under Section 14.3 of the Environmental Protection Act (415 ILCS 5/14.3), City of Marengo Ordinances number 90-5-1 and 96-2-5 and this Chapter, the 5-year recharge zone (Zone 3) which is hereby established as all real property parcels located wholly or partially within the limits of the recharge area drawn on the official map entitled *Wellhead Protection Planning Map for Marengo (110650)* (Exhibit C) which was compiled pursuant to Section 17.1 of the Environmental Protection Act (415 ILCS 5/17.1) and is hereby adopted by reference as part of this Chapter as if the maps were fully described herein, and such other areas as the City may hereafter establish as Minimum and Maximum Setback Zones and/or Wellhead Protection Areas pursuant to these authorities.

B. In determining the location of properties within the zones depicted on the map(s), the following rules shall apply:

1. Properties located wholly within one zone reflected on the applicable map(s), shall be governed by the restrictions applicable to that Zone.

2. Properties having parts lying within more than one zone reflected on the applicable map(s) shall be governed by the restrictions applicable to the zone in which each part of the property is located.

3. Where a travel-time contour which delineates the boundary between two zones passes through a building, the entire building shall be considered to be in that zone which is most restrictive as of the adoption date of this Chapter.

30.05 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 Chapter shall be the same as those used in the Illinois Environmental Protection Act and the Illinois Groundwater Protection Act (415 ILCS 5/14 *et*

seq.), as amended from time to time. In addition to the definitions found in Appendix A, terms used in this Chapter, whether capitalized or not, have the following meaning:

Act: the Illinois Environmental Protection Act (415 ILCS 5/1 *et seq.*).

Agency: the Illinois Environmental Protection Agency.

Aquifer: saturated (with groundwater) soils and geologic materials which are sufficiently permeable to readily yield economically useful quantities of water to readily yield economically useful quantities of water to wells, springs or streams under ordinary hydraulic gradients.

Board: The Illinois Pollution Control Board.

Containment Device: A device that is designed to contain an unauthorized release, retain it for cleanup, and prevent released materials from penetrating into the ground.

Chemical Substance: Any "Extremely Hazardous Substance" listed in Appendix A of 40 C.F.R. Part 355, "Any Hazardous Substance" listed in 40 C.F.R. Section 302.4, and any petroleum including crude oil or any fraction thereof.

Chemical Substance Source of Groundwater Contamination: A unit at a facility or site that stores or accumulates more than 250 pounds aggregate quantities or less, or if in liquid form 30 gallons or less aggregate quantities during any calendar year.

Facility: The building and all real property contiguous thereto, and the equipment at a single location used for the conduct of business (430 ILCS 45/3).

Groundwater: Underground water which occurs within the saturated zone and geologic materials where the fluid pressure in the pore space is equal to or greater than atomospheric pressure.

Groundwater Protection Planning Area: (GPPA) The portion of an aquifer within the five-year capture zone of a well or well field.

Groundwater Protection Permit: An authorization by the City for a person to store, handle, use or produce a chemical substance sources within a GPPA. A Groundwater Protection Permit can include either a Development, Operating or Closure Permit pursuant to this Chapter.

Groundwater Protection Technical Advisory Committee: (GPTAC) A committee appointed by the Mayor which reviews materials to determine compliance with this Chapter. Committee members may include representatives from the Water Department, Wastewater Department, Building and Zoning Department, Marengo Fire Protection District, City Council members, City Administrator and/or other professionals as deemed necessary.

Groundwater Protection Overlay Zones: Zones of the GPPA designated to provide differential

levels of protection. Each GPPA is subdivided into three Groundwater Protection Overlay Zones as described below and as illustrated in the attached exhibits.

1. Zone 1: Minimum Setback Zone, the geographic area located between a well or a well field providing potable water supply and a radial area of 400 feet (as shown in Exhibit C) or within 200 feet of a non-community or private potable water supply well.

2. Zone 2: Maximum Setback Zone, the geographic area located between a well or a well field providing potable water to a community water supply and a regular or irregularly shaped area not to exceed 1,000 feet from the wellhead, but excluding the minimum setback zone.

3. Zone 3: Five-Year Capture Zone, the geographic area located between a well or a well field providing potable water to a community water supply and the delineated five-year zone of capture, but excluding Zones 1 and 2.

New Chemical Substance Source of Groundwater Contamination: Means:

1. A Chemical Substance Source which is not in existence or for which construction has not commenced at its location as of the effective date of this regulation.

2. A Chemical Substance Source which expands laterally beyond the currently permitted boundary or, if the chemical substance source is not permitted, the boundary in existence as of the effective date of this Chapter (February 22, 2001).

3. A Chemical Substance Source which is part of a facility that undergoes major reconstruction. Such reconstruction shall be deemed to have taken place where the fixed capital cost of the new components, constructed within a two- year period, exceed 50 percent of the fixed capital cost of a comparable entirely new facility.

New Potential Primary Source: Means:

1. A potential primary source which is not in existence or for which construction has not commenced at its location, on the effective date of passage of this Chapter (February 22, 2001); or

2. A potential primary source which expands laterally beyond the currently permitted boundary, or if the primary source is not permitted, the boundary, or if the primary source is not permitted, the boundary in existence; or

3. A potential primary source which is part of a facility that undergoes major reconstruction. Such reconstruction shall be deemed to have taken place where the fixed capital cost of the new components constructed within a two-year period exceed percent of the fixed capital cost of a comparable entirely new facility. Construction shall be deemed commenced when all necessary federal, state and local approvals have been obtained, and work at the site has

been initiated and proceeds in a reasonably continuous manner to completion.

New Potential Route: Means:

1. A potential which is not in existence or for which construction has not commenced at its location; or

2. A potential route which expands laterally beyond the currently permitted boundary or, if the potential route is not permitted, the boundary in existence. Construction shall be deemed commenced when all necessary federal, state, and local proceeds in a reasonably continuous manner to completion.

New Potential Secondary Source: Means:

1. A potential secondary source which is not in existence or for which construction has not commenced at its location; or

2. A potential secondary source which expands laterally beyond the currently permitted boundary of, if the secondary source is not permitted, the boundary in existence, other than an expansion for handling of livestock waste or for treating domestic waste waters; or

3. A potential secondary source which is a part of a facility that undergoes major reconstruction. Such reconstruction shall be deemed to have taken place where the fixed capital cost of the new components constructed within a two- year period exceed 50 percent of the fixed capital cost of a comparable entirely new facility. Construction shall be deemed commenced when all necessary federal, state, and local approval have been obtained, and work at the site has been initiated and proceeds in a reasonably continuous manner to completion.

Operator: Any person who in control of, or having responsibility for daily operation of a facility.

Owner: Any person who owns a site, facility or unit, or part of a site, facility or unit, or who owns the land on which the site, facility or unit is located.

Person: Any person, individual, public or private corporation, firm, association, joint venture, trust, partnership, municipality, governmental agency, political subdivision, public officer, owner, lessee, tenant or any other entity whatsoever or any combination of such, jointly or severally.

Potable Water: Water that is satisfactory for drinking, culinary and domestic purposes meeting currently accepted water supply practices and principals.

Potential Primary Source: Any unit at a facility or site not currently subject to a removal or remedial action which:

1. Is utilized for the treatment, storage or disposal of any hazardous or special waste not generated at the site; or

2. Is utilized for the disposal of municipal waste not generated at the site, other than landscape waste and construction and demolition debris; or

3. Is utilized for the land filling, land treating, surface impounding or piling of any hazardous or special waste that is generated on the site or at other sites owned, controlled or operated by the same person; or

4. Stores or accumulates at any time more than 75,000 pounds above ground, or more than 7,500 pounds below ground of any hazardous substances.

Potential Route: Abandoned and improperly plugged wells of all kinds, drainage wells, all injection wells, including closed loop heat pump wells, and any excavation for the discovery, development or production of stone, sand or gravel.

Potential Secondary Source: Any unit at a facility or a site not currently subject to a removal or remedial action, other than a potential primary source which:

1. Is utilized for the land filling, land treating or surface impounding of waste that is generated on the site or at other sites owned, controlled or operated by the same person, other than livestock and landscape waste, and construction and demolition debris; or

2. Stores or accumulates at any time more than 25,000 pounds but not more than 75,000 pounds above ground or more than 2,500 pounds but not more than 7,500 pounds below ground of any hazardous substances; or

3. Stores or accumulates at any time more than 25,000 gallons above ground, or more than 500 gallons below ground of petroleum including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance; or

4. Stores or accumulates pesticides, fertilizers or road oils for purposes of commercial application, or for distribution to retail sales outlets; or

5. Stores or accumulates at any one time more than 50,000 pounds of any deicing agent; or

6. Is utilized for handling livestock waste or for treating domestic waste waters other than private sewage disposal systems as defined in the Private Sewage Disposal Licensing Act. (225 ILCS 225/1 *et seq*.)

Recharge Area: The area through which precipitation and surface water can enter an aquifer.

Saturated Zone: The zone in which the voids in the rock or soil are filled with water at a pressure

greater than atmospheric pressure.

Setback Zone: A geographic area designated pursuant to the Act and this Chapter containing a potable water supply well or a potential source or potential route having a continuous boundary, and within which certain prohibitions or regulations are applicable in order to protect groundwater.

Site: Any location, place, tract of land or facilities, including but not limited to buildings and improvements used for purposes subject to regulations or control by the Act or regulations thereunder.

Unauthorized Release: Any spilling leaking, emitting, discharging, escaping, leaching or disposing of a chemical substance sources in a quantity greater than one gallon from a facility into a containment device into the air, into groundwater, surface water, surface soils or subsurface soils. Unauthorized release does not include intentional withdrawals of chemical substances for the purposes of legitimate sale, use or disposal and discharges permitted under federal, state or local law.

Underlying Permit: This includes the building permits, septic permits, erosion, sediment and storm water control permits, entry access permit and well permits required by the City.

Unit: Any device, mechanism, equipment or area (exclusive of land utilized only for agricultural production).

Well: Any excavation that is drilled, cored, bored, driven, dug, fitted or otherwise constructed when the intended use of such excavation is for the location, diversion, artificial recharge or acquisition of groundwater.

Well Field: An area which contains one or more wells for obtaining a potable water supply.

30.06 PERMITS *Amended, 05-3-2*

A. GENERAL CONDITIONS

1. No person, persons, corporation or other legal entities shall install or operate a facility in a GPPA without first obtaining a Groundwater Protection Permit from the Building Commissioner. Prior to issuance, the Committee shall approve the application.

2. The review for all permits shall be on the types of substances that will be stored, handled, treated, used or produced and the potential for these substances to degrade groundwater quality.

3. For new facilities, all permits required pursuant to this Chapter must be issued prior to or concurrent with the issuance of permits for construction

activities or underlying permits.

4. Existing facilities shall submit an application for a permit within one year of the passage of this Chapter or within one year of the facility's being included in a GPPA. The application must include a proposed schedule of compliance.

5. A permit shall not be issued for a facility unless adequate plans, specifications, test data, and/or other appropriate information has been submitted by the owner and/or operator showing that the proposed design and construction of the facility does not impact the long term, short term or cumulative quality of the aquifer.

6. The facility owner shall apply to the City for permit renewal at least 90 days prior to the expiration of the permit.

7. If an inspection of the facility reveals noncompliance, then the City must verify by a follow-up inspection that all required corrections have been implemented before renewing the permit.

8. For new activities located in Zone 1, Zone 2, or Zone 3 and regulated by the above requirements, the applicant for a Site Plan Review has the burden of proof that the proposed activity will not adversely affect groundwater. All applications shall be prepared and considered pursuant to the City's existing Site Plan Review Ordinance and shall include written information and plan (map) information. In addition, certain management activities may require Site Plan Reviews with additional information as required by this Chapter, the GPTAC, and/or the City Council.

B. DEVELOPMENT PERMITS

1. The application for Development Permits pursuant to this Chapter shall be made on a form provided by the City and shall be accompanied by a fee of $500. The extension application fee shall be $100.

2. Applications for Development Permits shall be submitted at least 90 days before the expected start of construction.

3. Development Permits expire one year from the date of issuance unless construction has started, the owner/operator of the facility or their authorized agent shall request an extension of Development Permit. If the construction period is expected to exceed one year, a request for extension shall be filed with the City at least 90 days prior to the permit expiration date.

4. The Development Permit application shall include in addition to the other requirements set forth in the Zoning Regulations and Subdivision and Other

Land Use Regulations, the following information:

a. Name(s), addresses, and phone number(s) of all owner(s) and/or operators of the property and/or facility. If occupant is not owner, copies of all leases pertaining to the facility must be provided.

b. Property address, legal description and permanent identification (PIN) number for the facility.

c. Description of proposed use, type of use or activity, commercial (trades and services), industrial (manufacturing and processing), product produced and Standard Industrial Code (S.I.C.) if applicable.

d. A description of the containment devices designed to comply with the requirements of this Chapter and the procedures for inspection and maintenance of containment devices.

e. A copy of engineering plans prepared by an Illinois registered professional engineer showing the following:

I. Location of all public water supply wells within 1,000 feet of the development.

II. Location of all private drinking water supply wells, streams and other watercourses tributary to any Class A stream within 1,000 feet of the development.

III. The location of the facility and its property boundaries and the location(s), size(s), and length(s) of all existing structures including buildings, above and underground utilities.

IV. A map, at scale no greater than 1 inch = 200 feet indicating geographic North and the location of the property and all proposed improvements thereon and their geographic relationship by the depiction of the City's corporate boundaries and the Groundwater Protection Planning Areas.

V. A site plan and building floor plan showing hazardous materials loading, storage, handling and process areas, floor drains, process vents, sewage disposal, and waste storage or disposal areas; including the location where substances regulated by this Chapter are stored, handled, treated, used, or produced, and the locations of each containment device.

VI. Floodplain/stormwater delineation.

C. OPERATING PERMITS

1. The Operation Permit application shall be filed with the City when construction is complete. An Operating Permit is required for all projects which require a Development Permit. The approved Operating Permit shall be obtained before the project is placed in service or any chemical substances are permitted to be delivered to, or generated on the site.

2. The application for Operating Permits pursuant to this Chapter shall be made on a form provided by the City and shall be accompanied by such other documents, certifications and other materials as the Building and Zoning Department shall require, and a fee of $100. An Operating Permit issued by the City shall be effective for one year. The City shall not issue a permit to operate a facility until the City has determined that the facility complies with the provisions of these regulations.

3. The application for Operating Permits shall be submitted at least 15 days before putting the facility in operation.

4. The Operating Permit application shall include:

   a. A report certified by an Illinois register profession engineer which will demonstrate that the Development Permit requirements and conditions have been met in all respects.

   b. The owner and/or operator certification that a Chemical Substance Management Plan is available upon inspection. (Contents of a Chemical Substance Management Plan may be found in Exhibit B of this Chapter).

5. Operating Permits may be transferred to a new facility owner/operator if the new facility owner/operator does not change any conditions of the permit, if the transfer is registered with the City within 30 days of the change in ownership, and any necessary modifications are made to the information in the initial permit application due to the change in ownership.

6. Within 30 days of receiving an inspection report with permit deficiencies for the City, the Operating Permit holder shall file with the City a plan to implement any required modifications to the facility or to the monitoring plan needed to achieve compliance with the intent of this Chapter of the permit conditions. This plan shall also implement all of the recommendations set out by the City. The City shall determine the time period for implementing the

City's recommendations correcting any deficiencies.

D. CLOSURE PERMITS

1. No person shall close or cause to be closed a facility regulated pursuant to this Chapter without first obtaining a Closure Permit from the City. The City shall not issue a permit to temporarily or permanently close a facility unless adequate plans and specifications and other appropriate information have been submitted by the applicant showing that the proposed closure meets the intent and provisions of this Chapter.

2. The application for a Closure Permit shall be submitted at least 90 days before closure.

3. The application for a Closure Permit pursuant to this Chapter shall be made on a form provided by the City and shall be accompanied by a fee of $200.

4. Closure Permits shall be required for all facilities that cease to store, handle, treat, use, or produce chemical substances for a period of more than 365 days or when the owner has no intent within the next year to store, handle, treat, use, or produce chemical substances. During the period of time between cessation of chemical substance storage, handling, treatment, use, or production, and actual completion of facility closure, the applicable containment and monitoring requirements of this Chapter shall continue to apply.

5. Prior to closure, the facility owner shall submit to the City a plan describing how the owner intends to comply with closure requirements. Owners proposing to close a facility shall comply with the following requirements:

   Chemical substances shall be removed from the facility, including residential liquids, solids, or sludges to levels specified in the approved closure plan. Any residues generated from the closure activities shall be disposed of in compliance with the Act.

6. The owner of a facility being closed shall demonstrate to the satisfaction of City that closure has been completed in accordance with the approved plan submitted pursuant to Section 30.06-D4 herein.

7. Facility closure will be accepted as complete by the City upon implementation of the Closure Permit conditions and compliance with all provisions of this Chapter.

E. SPECIAL PROVISIONS FOR ALL PERMITS

1. Right of Inspection: The permitee shall allow any agent duly authorized by the City upon presentation of credentials, and in accordance with the constitutional limitations to:

   a. Enter at reasonable times, the permitee's premises where the permitted facility is located or where any activity is to be conducted pursuant to a permit.

   b. Have access to and copy at reasonable times any records required to be kept under the terms and conditions of permit.

   c. Inspect at reasonable times including during any hours of operation:

      I. Equipment constructed or operated under the permit.

      II. Equipment or monitoring methodology.

      III. Equipment required to be kept, used, operated, calibrated and maintained under the permit

2. Permit Limitations: All permits issued under this Chapter shall not be valid until applications for all other permits required at this facility have been made and received.

3. Revisions and Alterations: Any proposed deviation from plans and specifications previous approved by the City shall require approval by the City before such changes are made. Examples of changes are those which affect the location, capacity, hydraulic conditions, operating units or functioning of containment or monitoring devices.

F. PERMIT APPLICATIONS AND REVIEW PROCESS

1. Filing of applications and final action by the City.

   a. The filing date is the date when the City receives the application.

   b. The City shall take final action by granting or denying development, closure, or renewal permits within 90 days of the filing of the application. The City shall take final action by granting or denying operating permits within 30 days of filing the application. Applicants may waive the time limitations by advising the City in writing.

2. Permit Application Review.

a. When a permit application is submitted to the Committee, the Committee shall reject the application or issue a permit within 30 days after submital. In the event the application is rejected, the reasons shall be put in writing.

b. Permit applications shall not be considered accepted until all required documentation has been filed with the Committee. The City shall have available to the public, in written form, what documentation shall accompany an application.

30.07 REGULATIONS WHICH APPLY WITHIN THE MINIMUM SETBACK ZONE (ZONE 1) OF THE GPPA

A. PROHIBITED USES AND ACTIVITIES

1. Except as provided in Section 30.06, no person shall place a new potential primary source, new potential secondary source or new potential route within the minimum setback zone(s) of any existing or permitted community water supply well in the City.

2. Except as provided in Section 30.06, no person shall alter or change an existing potential primary source, potential secondary source or potential route where the alteration or change would result in a potential source or route that would be prohibited under this Chapter if it were a new potential source or route within the minimum setback zones.

B. REVIEW AND APPROVAL OF PROPOSED ACTIVITIES

1. All proposals for new chemical substance sources within the minimum setback zone (Zone 1) must be reviewed by the City for compliance with this Chapter, including the issuance of a Groundwater Protection Permit pursuant to this Chapter prior to issuance of any underlying permit.

2. No Groundwater Protection Permit shall be issued unless a finding is made by the City that the proposal will not impact the long term, short term or cumulative quality of aquifer. The find shall be based on the present or past land use activities conducted at the chemical substance source, chemical substances stored, handled, treated, used or produced and the potential for the activities or chemical substances to degrade groundwater quality.

30.08 REGULATIONS WHICH APPLY WITHIN THE MAXIMUM SETBACK ZONE (ZONE 2) OF THE GPPA

A. PROHIBITED USES AND ACTIVITIES

1. Except as provided in Section 30.06, no person shall place a new potential primary source within the maximum setback zone(s) of any existing or permitted community water supply well in the City.

2. Except as provided in Section 30.06, no person shall alter or change an existing potential primary source where the alteration or change would result in a potential source or route that would be prohibited under this Chapter if it were a new potential source or route within the maximum setback zones.

B. REVIEW AND APPROVAL OF PROPOSED ACTIVITIES

1. All proposals for new chemical substance sources which use, store, handle, treat or produce a chemical substance within the maximum setback zone (Zone 2) must be reviewed by the City for compliance with this Chapter, including obtaining a Groundwater Protection Permit pursuant to this Chapter prior to issuance of any underlying permit.

2. No Groundwater Protection Permit shall be issued unless a finding is made by the City that the proposal will not impact the long term, short term or cumulative quality of the aquifer. The finding shall be based on the present or past land use activities conducted at the facility, chemical substances stored, handled, treated, used or produced, and the potential for the activities or chemical substances to degrade groundwater quality.

30.09 REGULATION WHICH APPLY WITHIN THE FIVE-YEAR CAPTURE ZONE (ZONE 3) OF THE GPPA

A. All proposals for new chemical substance sources within the 5-year capture zone (Zone 3) must be reviewed by the City for compliance with this Chapter, including obtaining a Groundwater Protection Permit pursuant to this Chapter prior to issuance of any underlying permit.

B. No Groundwater Protection Permit shall be issued unless a finding is made by the City that the proposal will not impact the long term, short term or cumulative quality of the aquifer. The finding shall be based on the present or past land use activities conducted at the chemical substance source, chemical substances stored, handled, treated, used or produced, and the potential for the activities or chemical substances to degrade groundwater quality.

30.10 UNAUTHORIZED RELEASES

A. GENERAL PROVISIONS. Any unplanned release is unauthorized and must be either reported to the Marengo Fire Protection District or recorded in the owner's inspection and maintenance log according to the provisions of this Section 30.10. An unauthorized release is an

"unauthorized release requiring recording" if the release is completely captured by the containment device. If the containment device fails to contain the entire release, the release is an "unauthorized release requiring reporting." Reporting a release to the Marengo Fire Protection District does not exempt or preempt any other reporting requirements under federal, state or local laws.

B. UNAUTHORIZED RELEASES REQUIRING RECORDING. Unauthorized releases requiring recording shall be reported in the facility's operating report.

C. UNAUTHORIZED RELEASES REQUIRING REPORTING

1. Unauthorized releases requiring reporting shall be verbally reported to the Marengo Fire Protection District immediately.

2. A written report shall be submitted promptly thereafter containing the following information that is known at the time of filing the report:

   a. List of type, quantity and concentration of chemical substance(s) released.

   b. The results of all investigations completed at that time to determine the extent of soil or groundwater or surface water contamination because of the release.

   c. Method of cleanup implemented to date, proposed cleanup actions and approximate cost of actions taken to date.

   d. Method and location of disposal of the released chemical substance sources and any contaminated soils, groundwater or surface water.

   e. Proposed method of repair or replacement of the containment device.

   f. Chemical substance source owner's name and telephone numbers.

3. Until cleanup is complete, the owner shall submit reports containing the reporting required by Section 30.10-C herein to the City, every month or at a more frequent interval specified by the inspector.

4. The City shall either find that the containment standards of this Chapter can continue to be achieved or shall recommend the revocation of the permit until appropriate modifications are made to allow compliance with the standards.

5. The chemical substance source owner and/or operator jointly and severally shall be responsible for any costs incurred by the City or its authorized agents in the conduct of such remedial actions, including but not limited to all

consultant, engineering and attorney fees.

30.11 PENALTIES

A. A violation of any of the provisions of this Chapter shall constitute a misdemeanor and a nuisance. It shall be a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this Chapter is committed, continued or permitted.

B. Any owner or operator who violates any provisions of this Chapter shall be subject, upon conviction in court, to a fine not to exceed $500 per day, per chemical substance source.

C. In addition to any fines and penalties set forth above, the owner or operator shall reimburse the City for all reasonable costs incurred as a result of responding to, containing, cleaning up or monitoring the cleaning up and disposal of any spilled or leaked chemical substance sources including but not limited to consultant, engineering and legal fees.

30.12 ENFORCEMENT *Amended, 05-3-2*

A. The Committee shall be the administering agency and shall have the power and authority to administer and enforce the provisions of this Chapter. The City shall have the right to conduct inspections of chemical substance sources at reasonable times to determine compliance with this Chapter.

B. The City may revoke any permit issued pursuant to this Chapter after notice to the permitee and after affording the permitee an opportunity to meet either in person or by telephone if it finds that the permit holder:

1. Has failed or refused to comply with any provision of this Chapter.

2. Has submitted false or inaccurate information in a permit application.

3. Has refused lawful inspection.

4. Has an unauthorized release and the Groundwater Protection Technical Advisory Committee finds that the containment standards of this Chapter cannot continue to be achieved.

30.13 NOTICE OF VIOLATION

Whenever it is determined that there is a violation of this Chapter, the notice of violation issued shall:

1. Be in writing and delivered to the owner or operator by certified/registered mail.

2. Be dated and signed by the authorized City agent making the inspection.

3. Specify the violation or violations.

4. Specify the length of time to correct the violation after receiving the notice of violation.

30.14 APPEALS *Amended, 05-3-2*

Any decision made by the GTPAC or Building Department pursuant to this Chapter may be appealed to the City Council. Appeals to the City Council take place by filing an appeal in writing with the City within 15 days after receipt of a decision in writing by the GTPAC. A hearing with the Marengo City Council will be held within 60 days of submission of the appeal or petition.

30.15 SEVERABILITY

If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this Chapter, or any part thereof, or application thereof to any person is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction. Such a decision shall not affect the validity of effectiveness of the of the remaining portions of this Chapter or any part thereof. It is hereby declared to be the legislative intent of the City Council that this Chapter would have been adopted had such unconstitutional or invalid provision, clause, sentence, paragraph, section or part thereof not then been included.

30.16 INCONSISTENT ORDINANCES REPEALED

All other ordinances, or parts of ordinances, in conflict herewith are repealed.

30.17 SAVING CLAUSE

Nothing in this Chapter hereby adopted shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in this Chapter.

EXHIBIT A
BEST MANAGEMENT PRACTICES FOR THE CONSTRUCTION INDUSTRY

1. The general contractor, or if none the property owner, shall be responsible for assuring that each contractor or subcontractor evaluates each site before construction is initiated to determine if any site conditions may pose particular problems for the handling of any chemical substances. For instance, handling chemical substance(s) in the proximity of a Groundwater Protection Overlay Zone or water bodies may be improper.

2. If any chemical substances are stored on the construction site during the construction process, they shall be stored in a location and manner which will minimize any possible risk of release to the environment. Any storage of 55 gallons (208 liters), or 440 pounds (200 kilograms), or more containing chemical substances shall have constructed below it an impervious containment system constructed of materials of sufficient thickness, density and composition that will prevent the discharge to the land, groundwater or surface water of any pollutant which may emanate from said storage container or containers. Each containment system shall be able to contain 110 percent of the contents of all storage containers above the containment system.

3. Each contractor shall familiarize him/herself with the manufacturer's safety data sheet supplied with each material containing a chemical substance sources and shall be familiar with procedures required to contain and clean up any releases of the chemical substance. Any tools or equipment necessary to accomplish same shall be available in case of a release.

4. Upon completion of construction, all unused and waste chemical substances and containment systems shall be removed from the construction site by the responsible contractor, and shall be disposed of in a proper manner as prescribed by law.

EXHIBIT B
CHEMICAL SUBSTANCE MANAGEMENT PLAN

A Chemical Substance Management Plan shall be required as a condition of each Operating Permit. If a Spill Prevention Control Plan (SPCC), Best Practices Management Plan or similar contingency plan has been prepared in accordance with Illinois or United States Environmental Protection Agency requirements; a Chemical Substance Management Plan (CSMP) is not required as long as all of the chemical substances and requirements of a CSMP are included in the spill prevention control plan. The Chemical Substance Management Plan shall include:

1. The names and volumes of all chemical substances which are to be stored, handled, treated, used or produced at the facility being permitted quantities greater than the minimum amounts specified by this Chapter 30.

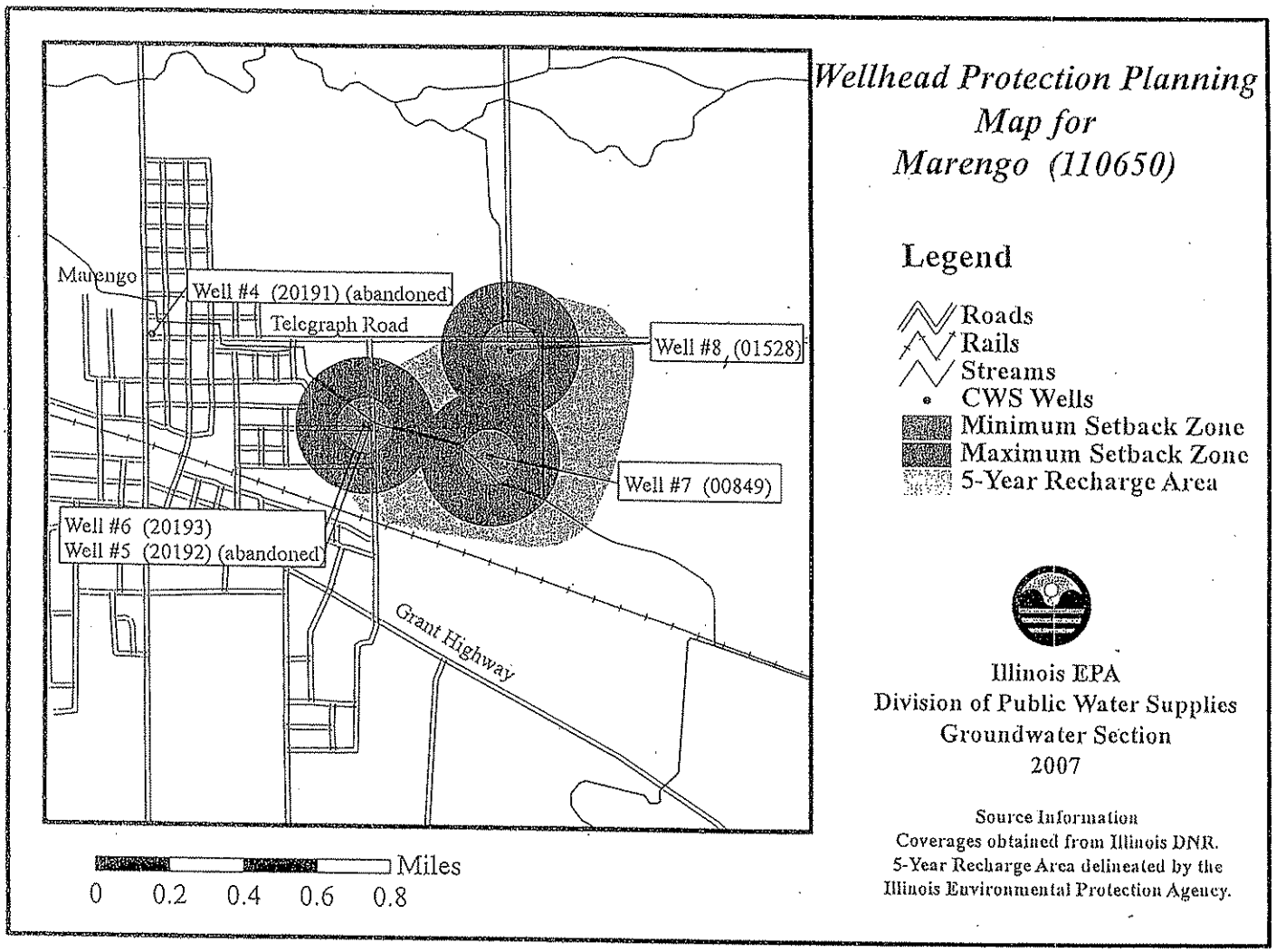
2. Location of adjacent (within 400 feet of the property line) public or private drinking water supply wells.

3. A brief description of the manner in which the on site chemical substances are stored and used.

4. A potential release assessment and the response procedures to be followed at the chemical substance source for notifying the local emergency response agencies.

5. Any management measures that are employed to reduce the potential for releases.

EXHIBIT C
WELLHEAD PROTECTION PLANNING MAP FOR MARENGO (110650)



CHAPTER 31
LICENSES AND PERMITS

31.01 Garage Sales
31.02 Raffles
31.03 Bed and Breakfast Licensing Requirements

31.01 GARAGE SALES

A. PERMITS AND FEES: It shall be unlawful for any person to conduct a garage sale in the City without first filing with the City Hall the information hereinafter specified and obtaining from the City Hall a license to do so, to be known as a Garage Sale License. The fee for such license shall be $5.

B. LICENSING: Such license shall be issued to any one address only twice within a 12-month period and no such license shall be issued for more than six consecutive calendar days; provided, however, that the licensee may split the six calendar days into two consecutive periods of not more than three days each over two consecutive weeks.

Each license issued under this Section 31.01 must be prominently displayed on the premises upon which the garage sale is conducted throughout the entire period of the licensed sale.

C. SIGNS: Signs advertising or indicating the existence, location and time of a sale shall be limited to three in number and shall be displayed only during the dates the sale is in progress. A sign must have its own support or post to be affixed in the ground. Under no circumstances shall a sign be attached to a telephone pole, tree or a federal, state or local sign or signal. No sign shall project higher than three feet above the ground level. All signs must be removed by the party holding the sale within 24 hours of the last day of the sale.

D. INFORMATION TO BE FILED: The information to be filed with the license application shall be as follows:

1. Name of person, firm, group, corporation, association or organization conducting said sale.

2. Name of owner of the property on which said sale is to be conducted if applicant is other than the owner.

3. Location at which sale is to be conducted.

4. Dates of sale.

5. Date, nature of any past sale.

6. Relationship or connection applicant may have had with any other person, firm, group, organization, association or corporation conducting any past sale and the date or dates of such sale.

7. Whether or not applicant has been issued any other vendor's license by any local, state or federal agency.

8. The location of any signs applicant intends to place.

9. Sworn statement or affirmation by the person signing that the information therein given is full and true and known to him to be so.

E. PERSONS AND SALES EXCEPTED: The provisions of this Section 31.02 shall not apply to or affect the following persons or sales:

1. Persons selling goods pursuant to an order or process of a court of competent jurisdiction.

2. Persons acting in accordance with their powers and duties as public officials.

3. Any person selling or advertising for sale an item or items of personal property which are specifically name or described in the advertisement and which separate items do not exceed five in number.

4. Not-for-profit organizations provided they file with the Administrator a request for exception containing the information specified in Section 31.01-D herein, together with the name of the organization, proof of its not-for-profit status and a description of the purpose of the sale.

F. PENALTY: Any person, association or corporation con ducting any such sale without being properly licensed therefore or who shall violate any of the other terms and regulations of this Section 31.01 shall, upon conviction, be fined not less than $25 nor more than $500 for each violation.

31.02 RAFFLES

A. DEFINITIONS: In addition to the definitions found in Appendix A of this Code, the terms used in this Section 31.02 are defined as follows:

Business organization: A voluntary organization composed of individuals and businesses who have joined together to advance the commercial, financial, industrial and civic interests of the City.

Charitable organization: An organization or institution organized and operated to benefit an in-

definite number of the public. The service rendered to those eligible for benefits must also confer some benefits upon the public.

Educational organization: An organization or institution organized and operated to provide systematic instruction in useful branches of learning by methods common to schools and institutions of learning which compare favorably in their scope and intensity with the course of study presented in tax-supported schools.

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

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

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

Non-profit organization: An organization or institution organized and conducted on a not-for-profit basis with no personal profit inuring to anyone as a result of such operation.

On-going raffle: A raffle in which there is one sale of chances before an initial drawing date; thereafter, the chances shall be valid at subsequent drawings in the same raffle.

Raffle: A form of lottery, as defined in Section 5/28-2(b) of the "Criminal Code of 1961" (720 ILCS 5/28-2) conducted by an organization licensed under this Section 31.01 in which:

1. The player pays or agrees to pay something of value for a chance represented and differentiated by a number or by a combination of numbers or by some other means, one or more of which chances is to be designated the winning chance;

2. The winning chance is to be determined through a drawing or by some other method based on an element of chance by an act or set of acts on the part of persons conducting or connected with the lottery, except that the winning chance shall not be determined by the outcome of a publicly exhibited sporting contest.

Religious organization: Any church, congregation, society or organization founded for the purpose of religious worship.

Veterans organization: An organization or association comprised of members of which substantially all are individuals who are veterans or spouses, widows or widowers of veterans, the primary purpose of which is to promote the welfare of its members and to provide assistance to the general

public in such a way as to confer a public benefit.

B. LICENSE REQUIRED: It shall be unlawful for any person to conduct or operate a raffle or to sell, offer for sale, convey, issue or otherwise transfer for value a chance on a raffle, unless conducted pursuant to a license duly issued by the City and in accordance with the provisions of this Section 31.02.

C. LICENSE APPLICATION:

1. Contents of Application: Any person seeking to conduct or operate a raffle shall file an application therefor with the Clerk on forms provided by the Clerk. The application shall contain the following information:

(a) The name, address and type of organization;

(b) The length of existence of the organization and, if incorporated, the date and state of incorporation;

(c) The name, address, telephone number, social security number and date of birth of the organization's presiding officer, secretary, raffles manager and any other members responsible for the conduct and operation of the raffle;

(d) The aggregate retail value of all prizes to be awarded in the raffle;

(e) The maximum retail value of each prize to be awarded in the raffle;

(f) The maximum price charged for each raffle chance issued or sold;

(g) The maximum number of raffle chances to be issued;

(h) The area or areas in which the raffle chances will be sold or issued;

(i) The time period during which raffle chances will be issued or sold;

(j) The date, time and location at which winning chances will be determined;

(k) A sworn statement attesting to the not-for-profit character of the applicant organization, signed by the presiding officer and secretary of that organization; and

(l) A certificate signed by the presiding officer of the applicant organization attesting to the fact that the information contained in the applica-

tion is true and correct.

2. Fees: A fee shall be charged by the City and paid to the Clerk at the time of application for a raffle license. Not-for-profit organizations shall be exempt from paying said license fee. The fee, based on the aggregate retail value of prizes, shall be:

Aggregate Retail Value of Prize	Fee
Less than $500	$ 5
$500 to $999	15
$1,000 to $9,999	25
$10,000 to $99,999	35
More than $100,000	50

D. LICENSEE QUALIFICATIONS: Raffle licenses shall be issued only to bona fide charitable, educational, fraternal, labor, religious and veterans organizations that operate without profit to their members and which have been in existence continuously for a period of five years or more immediately preceding the making of application for a license and which have had during that entire five-year period a bona fide membership engaged in carrying out their objectives, or to a non-profit fund raising organization that the City 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 following are ineligible for any license under this Section 31.02:

1. Any person who has been convicted of a felony;

2. Any person who is or has been a professional gambler or a gambling promoter;

3. Any person who is not of good moral character;

4. Any firm or corporation in which a person defined in 31.02-D-1, 2 or 3 has a proprietary, equitable or credit interest, or in which such a person is active or employed;

5. Any organization in which a person defined in 31.02-D-1, 2 or 3 is an officer, director or employee, whether compensated or not; and

6. Any organization in which a person defined in 31.02-D-1, 2 or 3 is to participate in the management or operation of a raffle as defined herein.

E. ISSUANCE OF LICENSE:

1. The Administrator or his designee shall review all raffle license applications and shall, within 30 days from the date of application, accept or reject a raffle license application. If an application is accepted a license shall be issued and shall be valid for a period of 30 days from and after its issuance unless the Administrator specifically authorizes a license for a longer period, but in no case for more than 60 days, except for on-going raffles as defined herein.

2. A raffle license shall show the following:

   (a) The area or areas in which raffle chances may be sold or issued;

   (b) The period of time during which the raffle chances may be sold or issued;

   (c) The maximum price which may be charged for each raffle chance issued or sold; and

   (d) The date, time and location on or at which winning chances will be determined.

3. Said license shall be prominently displayed at the time and location of the determination of the winning chances.

4. A license shall be valid for one raffle only; however, multiple licenses may be issued for multiple raffles to a licensee.

F. CONDUCT OF RAFFLES: The operation and conduct of raffles are subject to the following restrictions:

1. The entire net proceeds of any raffle must be exclusively devoted to the lawful purpose of the organization permitted to conduct that game;

2. No person except a bona fide member of the sponsoring organization may participate in the management or operation of the raffle;

3. No person may receive any remuneration or profit for participating in the management or operation of the raffle;

4. A licensee may rent a premises on which to deter mine the winning chance or chances in a raffle only from an organization which is also licensed under this Section 31.02;

5. Raffle chances may be sold, offered for sale, conveyed, issued or otherwise

transferred for value only within the area specified on the license, and winning chances may be determined only at those locations specified on the license;

6. Each raffle chance shall have printed thereon the following:

   (a) The cost of said chance;

   (b) The aggregate retail value of all prizes to be awarded in said raffle;

   (c) The maximum number of raffle chances to be issued; and

   (d) The date(s), time(s) and location(s) on or at which winning chances will be determined.

   However, when raffle chances are sold, conveyed, issued or otherwise transferred only at the time and location at which winning chances will be determined and only to persons then in attendance, the face of the raffle chance need not contain such information.

7. No cash prize in excess of $500,000 may be awarded.

8. No real property, including land and any buildings thereon, may be the prize in a raffle unless the organization holding the raffle license owns fee simple title as to the entire subject real property.

9. No person under the age of 18 years may participate in the conducting of raffles of chances. A person under the age of 18 years may be within the area where winning chances are being determined only when accompanied by his parent or guardian.

10. No chance shall be sold, offered for sale, conveyed, issued or otherwise transferred for value to or by any person under the age of 18 years without the permission of his parent or guardian.

Not withstanding the foregoing, any person may make a gift of a chance to any person of any age.

G. RAFFLES MANAGER, BONDS: All operation of and the conduct of raffles shall be under the supervision of a single raffles manager designated by the organization.

The raffles manager shall give a fidelity bond, equal in amount to the aggregate retail value of all prizes to be awarded, in favor of the licensee, conditioned upon his honesty in the performance of his duties. Terms of the bond shall provide that notice shall be given in writing to the licensing authority not less than 30 days prior to its cancellation.

H. RECORDS:

1. Each licensee shall keep records of its gross receipts, expenses and net proceeds for each single gathering or occasion at which winning chances are to be determined. All deductions from gross receipts for each single fathering or occasion shall be documented with receipts or other records indicating the amount, a description of the purchased item or service or other reason for the deduction and the recipient. The distribution of net proceeds shall be itemized as to payee, purpose, amount and date of payment.

2. Gross receipts from the operation of raffle programs shall be segregated from other revenues of the licensee, including bingo gross receipts, if bingo games are also conducted by the same non-profit organization pursuant to license therefor issued by the Illinois Department of Revenue, and placed in a separate account. Each licensee shall have separate records of its raffles. The person who accounts for gross receipts, expenses and net proceeds from the operation of raffles shall not be the same person who accounts for other revenues of the organization.

3. Each licensee shall report within 30 days after the conclusion of each raffle to its membership and to the Clerk: its gross receipts, expenses and net proceeds for raffles, and the distribution of net proceeds itemized as required herein.

4. Records required herein shall be preserved for three years, and licensees shall make available their records relating to operation of raffles for public inspection at reasonable times and places.

I. PENALTIES: Violation of this Section 31.02 or any of its requirements or provisions shall be punishable by a fine of not less than $50. Each day the violation continues shall constitute a separate offense. Each member of the sponsoring organization shall be jointly and severally liable with the organization and with each other for any violation.

The imposition of penalties herein prescribed shall not preclude the City from instituting appropriate action to prevent unlawful raffles or to restrain, enjoin, correct or abate a violation of this Section 31.02 or of the conditions of the raffle license issued pursuant hereto.

31.03 BED AND BREAKFAST LICENSING REQUIREMENTS *Ord. 09-9-3*

A. PURPOSE: The purpose of this Section is to set forth licensing requirements, standards and procedures for bed and breakfast establishments in the City.

B. DEFINITIONS: In addition to those terms defined in Appendix A of this Code, the

following definitions shall be applicable to this Section:

Bed and breakfast establishment ("establishment"): An operator-occupied residence providing accommodations for a charge to the public with no more than 5 guest rooms for rent, in operation for more than 10 nights in a 12-month period. Breakfast may be provided to the guests only. Bed and breakfast establishments shall not include motels, hotels, boarding houses or food service establishments.

Bed and breakfast guest ("guest"): Any person or persons staying in a guest room overnight on a transient basis, but for not more than 15 consecutive days, and having a permanent residence at an address other than that of the establishment.

Guest room: A sleeping room intended to serve no more than 2 transient guests per night.

Operator: The owner of an establishment, or the owner's agent, who is required by the Bed and Breakfast Act (50 ILCS 820/1 *et seq.*) ("Act") to reside in the establishment, or on contiguous property.

C. LICENSING AND INSPECTION REQUIREMENTS:

1. An establishment shall not be operated or maintained in the City without first obtaining a valid operating license as required by this Section and a special use permit pursuant to the Marengo Zoning Ordinance.

2. Bed and breakfast operating license applications are available from City Hall. Completed applications shall be submitted to the City Administrator.

3. A bed and breakfast operating license shall not be issued or renewed until the facilities have been inspected and approved by the City, McHenry County Health Department and the Marengo Fire Protection District. Proof of such inspections shall be submitted with the initial application or renewal application.

4. Each license issued shall expire on December 31 after the first calendar year or portion thereof and following two consecutive calendar years of operation. Application for renewal shall be made at least 30 days before the expiration date.

5. A bed and breakfast operating license shall be conspicuously displayed within the establishment and cannot be transferred to another person, location or establishment.

6. The fee for an operating or renewal license shall be $25 and shall be valid for the remainder of the calendar year in which it is issued and for the following

two consecutive calendar years.

D. MINIMUM STANDARDS: An establishment shall be subject to the requirements of the Act and the following minimum standards:

1. Each establishment shall maintain a guest register and available for inspection by the City at any time.

2. Guests shall not be permitted to stay overnight in any portion of the establishment that is not designated as a guest room.

3. One off-street parking space shall be provided for each authorized guest room, plus an additional two spaces for the principle residential dwelling. These requirements may be reduced by the City if the operator can demonstrate the ability of and permission to use alternative off-site parking accommodations.

4. Exterior signage for the establishment in a residential zoning district shall consist of no more that one sign having an area of no more than three square feet and kept in good repair.

5. Means of egress from an establishment shall not be blocked or obstructed.

6. Whenever guests are present the owner or the owner's agent shall be present.

7. The owner of the establishment shall have liability insurance coverage for guests in the amount of at least $500,000. A copy of such insurance coverage shall be submitted with the license application or license renewal.

E. PENALTY: Any person, firm or corporation found guilty of violating, disobeying or refusing to comply with any of the provisions of this Section, the Act and/or special use permit shall be fined not less than $200 or more than $750 for each offense. In addition to this penalty, a licensee violating any provision of this Section, the Act, special use permit or other applicable and relevant regulations of the City may be subject to having their license revoked, suspended or not renewed.

CHAPTER 32
BUSINESS REGULATIONS & AMUSEMENT LICENSE

32.01 Definition
32.02 Amusement License Intent
32.03 Amusement License Required
32.04 Amusement License Application and Fee
32.05 Amusement License Conditions
32.06 Inspection and Seizure of Amusement Devices
32.07 Amusement Device Confiscation, Forfeiture, Hearing and Sale
32.08 Amusement Device Violations and Penalties
32.09 Amusement Device Judicial Review
32.10 Business Licenses
Exhibit A License Fee Schedule

32.01 DEFINITION

For purposes of this Chapter, a coin operated or automatic amusement device is defined as: each and any machine, apparatus or device which, upon insertion of a coin, token or dollar bill(s), may be operated as a game or contest of skill or amusement of any kind or description, whereby the player initiates, employs or directs any force or energy by the machine.

32.02 AMUSEMENT LICENSE INTENT

Any person, partnership, firm, club, association or corporation engaged in the business of leasing, renting or contracting for the use or display of an coin operated device to be used or operated by the public within the City for entertainment or recreation purposes shall, before entering any lease, retail agreement or contract agreement with the owner or lessee of any premises, obtain a license from the City for the purpose of engaging in the business of leasing, renting or contracting for the use of any such devices. Or, any person, partnership, firm club, association or corporation owning any coin operated device and also engaging in any business whereby these internally owned devices are to be used or operated by the public within the jurisdiction of the City for entertainment, amusement or recreation purposes, shall obtain a license for the purpose of so displaying such devices for use or operation by the public.

32.03 AMUSEMENT LICENSE REQUIRED

No person, partnership, firm, club, association or corporation shall operate or maintain any automatic amusement device without first having obtained a license as provided in this Chapter 32.

32.04 AMUSEMENT LICENSE APPLICATION AND FEE

A. APPLICATION FOR AMUSEMENT LICENSE: Any person, partnership, firm, club, association or corporation desiring a City amusement license shall make application for that purpose to the City, which application shall set forth the following information:

1. The full name of the applicant.

2. The address, location and character of the building or place wherein the automatic amusement devices are to be located, maintained and operated.

3. The number of such devices to be located, maintained and operated in such

building or place.

4. The type of machine to be located, maintained and operated and the charge to be made to the customer for operating such device.

B. AMUSEMENT DEVICE LICENSE FEE: See Exhibit A of this Chapter.

32.05 **AMUSEMENT LICENSE CONDITIONS**

A. PLACEMENT OF AMUSEMENT DEVICES: All licensed automatic amusement devices shall at all times be kept and placed in plain view of any person(s) who may frequent or be in any place of business where such devices are kept or used. Nothing in this Chapter shall be construed to authorize, permit or license any gambling device or authorize any gambling. **It is a violation of Illinois State Law (Gambling and Related Offenses at 730ILCS 5/28-1) to play a game of chance or skill as licensed herein for money or other things of value. Such violations are a Class A misdemeanor**.

B. DISPLAY OF AMUSEMENT LICENSE: Each automatic amusement device shall have a City issued license affixed to the device in plain view as to allow for an inspection of the device.

C. REVOCATION OF LICENSE: In addition to any penalty imposed, the City may revoke such license for good cause, including a violation of this Chapter or any other ordinance or law of the State pertaining to automatic amusement devices or conduct of the business in which the automatic amusement device is kept or used.

D. TERMS OF AMUSEMENT LICENSE: Each license shall be for a one year period which shall be from January 1st through December 31st of the year of issuance. Any license issued after January 1st, shall require the $50.00 fee per device and will expire December 31st of the year of issuance regardless of the date issued. Licenses are not to be transferred amongst machines and will be replaced if lost, damaged or stolen for a fee of $2.00. All automatic amusement devices must be in compliance within 30 days of the adoption of this amendment (February 9, 2006).

32.06 **INSPECTION AND SEIZURE OF AMUSEMENT DEVICES**

Any automatic amusement device operated within the City is subject to inspection by the City. Any authorized City employee may, without a search warrant, seize any automatic amusement device which is being displayed in his or her presence in a manner that violates any provision of this Chapter. Such amusement device so seized shall be subject to confiscation and forfeiture as hereinafter provided.

32.07 **AMUSEMENT DEVICE CONFISCATION, FORFEITURE, HEARING AND SALE**

After seizing any automatic amusement device as provided in Section 32.06, the City's General Administration Committee ("Committee" for purposes of this Chapter) shall hold a hearing and determine whether such amusement device was properly licensed and/or being used in a manner which violates any provision of this Chapter.

Notification of this hearing will be posted at City Hall, 132 East Prairie Street, sent via certified mail to the owner of the automatic amusement device as reflected on the license application and if such person is not the owner of the seized device, sent via certified mail to the person who was in possession of the automatic amusement device at the time such device was confiscated at the address where such device was confiscated.

In the case neither the owner nor the person in possession of the amusement device is known, the Committee shall cause publication of the time and place of such hearing to be made at least once a

week for three consecutive weeks in a newspaper of general circulation within the City.

If, as a result of such hearing, the Committee determines that the seized amusement device was, at the time of seizure, being displayed in a manner which violates this Chapter, the Committee shall enter an order declaring the amusement device confiscated and forfeited to the City and to be sold by the City in the manner provided herein. The Committee shall give notice of such order to the owner of the device if he or she is known and also to the person in whose possession the amusement device so taken was found. In the case neither the owner nor the person in possession of the device is known, the Committee shall cause publication of such order to be made at least once a week for three consecutive weeks in a newspaper of general circulation within the City.

The person from whom the amusement device has been seized (or the owner, if that is a different person) may redeem and reclaim the device within 30 days after the Committee's order of confiscation and forfeiture becomes final by payment of an amount equal to twice the annual fee applicable to the amusement device, plus any cost of seizure, transportation, storage of the device and public hearing, as well as any fines imposed.

If no complaint for review, as provided in Section 32.09, has been filed within the time required by the Administrative Review Law and if such amusement device is not redeemed and reclaimed within the time and in the manner provided for in this Section, the Committee shall proceed to sell said property for the best price obtainable and shall forthwith pay over the proceeds of such sale to the City; provided, however, that if the value of the property to be sold at any one time shall be $500.00 or more, such property shall be sold only to the highest and best bidder on such terms and conditions and on open competitive bidding afer public advertisement.

32.08 AMUSEMENT DEVICES VIOLATIONS AND PENALTIES

A. Any licensee, person, partnership, firm, club, association or corporation convicted of violating any of the provisions of this Chapter on any two ocasions which are separated by a period of not less than 30 days, shall have its license revoked if, upon a hearing before the Committee, there is a finding that said violations did occur. In such event the license shall be revoked forthwith and in addition, the licensee or any person, partnership, firm, corporation or other entity, shall be ineligible to be licensed in the following year.

Thereafter, any licensee, person partnership, firm, club, association or corporation convicted of a third violation of the provision of this Chapter occurring at any time if, upon a hearing before the Committee, there is a finding that said violations did occur, then no such licensee, person, partnership, firm or corporation required to be licensed under the provisions of this Chapter shall be granted a license under the provision of this Chapter and any license issued to such licensee shall be revoked.

B. Any person, partnership, firm club, association or corporation violating any of the provisions of this Chapter shall be fined not less than $50.00 nor more than $500.00. Each day that the violation exists shall be considered a separate and distinct offense.

C. Any person, partnership, firm, club, association or corporation who shall knowingly file a false application or provide false information on the application required by this Chapter shall be fined not less than $50.00 nor more than $500.00.

32.09 AMUSEMENT DEVICE JUDICIAL REVIEW

All final administrative decisions of the City and/or the Committee under any Section of this Chapter shall be subject to judicial review pursuant to the provisions of the Administrative Review Law and any

amendment and/or modifications thereof and the rules adopted relative thereto.

32.10 **BUSINESS LICENSES**

The annual license fee for certain specified businesses and events is found in Exhibit A of this Chapter.

EXHIBIT A	
Business/Event	**Fee**
Automatic amusement device, for each device	$50
Carnival, per day (65 ILCS 5/11-54.102)	$150
Cigarette vending machine	$75
Circus, per day (65 ILCS 5/11-42-5)	$150
Dance hall, entertainment provided (65 ILCS 5/11-42-5)	$150
Food dispensing vehicle	
For one vehicle	$50
For each additional vehicle	$25
Handbills, samples and advertisements, distribution (Distribution of free political, civic or religious items and advertising materials for City businesses are exempt.)	$50
Junk peddler, for each vehicle (65 ILCS 5/11-42-5)	$100
Solicitation, Chapter 35, per person for a three-day license	$10
Sound trucks, operators per vehicle per day	$25
Taxicab, maximum fee for each taxicab business (65 ILCS 5/11-42-6)	$75

CHAPTER 33
LIQUOR CONTROL AND LIQUOR LICENSING

33.01 Definitions
33.02 License Required
33.03 Application
33.04 Disposition of Fees
33.05 Application Requirements
33.06 Term, Prorating Fee
33.07 Classifications, Fees, Daily Permit
33.08 Records
33.09 Death or Bankruptcy of Licensee
33.10 Change of Location
33.11 Change of Ownership
33.12 Abandonment
33.13 Renewal of License
33.14 Mandatory Meeting, List of Owners, Managers and Employees
33.15 Displaying License
33.16 Restrictions Upon Sound Amplification
33.17 Sanitary Conditions
33.18 Employee Restrictions
33.19 Location Restrictions, Notification
33.20 Premises
33.21 Books and Records of Licensee
33.22 Stores Selling School Supplies, Lunches, etc.
33.23 Closing Hours
33.24 Consumption on Premises, Drinking on Public Streets
33.25 Peddling
33.26 Purchase or Acceptance or Gift of Liquor by Persons Under the Age of 21; Identification Cards; Punishment; Exceptions
33.27 Sale to Persons Under 21 Years of Age
33.28 Sale or Use of False Evidence of Age and Identity
33.29 Sales to Intoxicated Persons, Habitual Drunkards, Spendthrifts and Mental Incompetents
33.30 Inspections and Enforcement
33.31 Gatherings Where One or More Persons are Under the Age of 21 Years
33.32 License Revocation Authorized
33.33 Revocation, Suspension or Fine
33.34 Prohibited Acts and Conditions
33.35 Compliance Check Procedures Concerning Alcohol/Tobacco Retailers
33.36 BASSET Program
33.37 Penalty

33.01 DEFINITIONS

Terms used in this Chapter 33 are defined in Appendix A of this Code. In addition, any reference to Liquor Commission shall mean the Local Liquor Control Commission and any reference to Commissioner shall mean the Local Liquor Control Commissioner.

33.02 LICENSE REQUIRED

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

33.03 APPLICATION

Applications for such license shall be made to the Commissioner in writing, signed by the applicant, if an individual, or by a duly authorized agent thereof if a group or corporation, verified by oath or affidavit, and shall be addressed to the Mayor and City Council, and shall further contain a statement and information as found in Exhibit A of this Chapter 33.

33.04 DISPOSITION OF FEES *Amended, 08-5-4*

All license fees shall be paid to the Commissioner at the time the application is made, and shall be forthwith turned over to the Treasurer.

If the license applied for is denied, the license fee shall be returned to the applicant. If the license is granted, the fee shall be deposited in the General Corporate Fund or in such other fund as designated by the City Council. License fees are separate and apart from the application fee required pursuant to Section 33.05-F herein.

33.05 APPLICATION REQUIREMENTS: *Amended, 08-5-4, 07-2-1, 06-1-3*

A. CONTENTS OF APPLICATION: Application for a liquor license shall be filed with the Commissioner, in writing, signed by the applicant if an individual, or by a duly authorized agent thereof, if a club, corporation or other legally recognized entity, verified by oath or affidavit, and shall contain full and complete responses to the requested statements and information which shall be immediately updated if any of said statements or information changes during the term of any license. In the event the applicant is a corporation, limited liability company, general partnership or limited partnership, said application shall be signed by any member, officer, manager, director, partner (silent and limited) or stockholder owning more than five percent interest in the corporation, limited liability company, general partnership or limited partnership, as the case may be. Each applicant must submit acceptable proof of ownership when the applicant is the property owner of the premises, or a copy of a fully-executed lease of premises when the applicant is not the property owner of the premises for which he or she is seeking a license. Such lease must have coverage period equal to, or longer than, the duration of the applicant's liquor license. Said lease must name the applicant as lessee. Applications shall contain the following information and statements:

1. The name, birth date, social security number and address of the applicant in

the case of an individual; in the case of a partnership, the name, birth date and social security number of each partner owning more than five percent interest and a copy of the partnership agreement; and, in the case of a corporation or other legally recognized entity, the articles of organization, the names, birth date, social security number and address of the officers, directors and/or members owning five percent or more interest in the corporation.

2. The citizenship of the applicant, his or her place of birth, and if a naturalized citizen, the time and place of his or her naturalization.

3. The character of business of the applicant.

4. The length of time said applicant has been in business of that character, or in the case of a corporation, the date when its charter was issued.

5. The amount of goods, wares and merchandise on hand at the time application is made.

6. The location and legal description of the premises or place of business which is to be operated under such license. Each application shall contain a diagram of the premises which depicts the location of any service bars and the location of one designated dancing area.

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

8. A statement 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 this Section 33.05, laws of this State or the ordinances, rules or resolutions of the City.

9. Whether a previous license by any state or subdivision thereof, or by the federal government has been revoked, and the reasons thereof.

10. A statement that the applicant will not violate any of the laws of the state, or of the United States, or any ordinance, rule or resolution of the City in the conduct of his or her place of business.

B. INVESTIGATION OF APPLICANT: No license shall be issued hereunder until the applicant shall have been investigated by the Liquor Commission and a report filed in the records of said Commission approving the issuance of such license. As a part of this investigation, the Liquor Commission shall have the right to require fingerprints of all new and renewal applicants. For purposes of obtaining fingerprints under this Section 33.05, the Liquor Commission shall collect a fee in the amount specified on the application and forward the fee to the Police Department. A copy

of fingerprints shall be held on record by the Chief of Police or his or her designee. In addition, the applicant shall sign a release authorizing the Police Department to conduct a criminal background check.

C. AMENDMENTS: Any and all licenses issued pursuant to this Chapter 33 shall be subject to any and all changes or amendments which may be hereafter made, and any and all rules adopted by the Commissioner or Liquor Commission. Any and all licenses shall be subject to any restrictions or conditions deemed desirable by the Liquor Commission or the Commissioner.

D. INSURANCE: No license shall be issued to any person or entity that cannot produce a policy of insurance by a solvent and responsible company authorized to do business in the state insuring said person or entity against liability for any injury or death which said parties may incur while operating under the provisions of the Liquor Control Act as follows:

1. $500,000 per person and $1,000,000 per occurrence for bodily injury liability; $100,000 for loss of means of support; $100,000 for property damage liability; or

2. A $1,000,000 single limit dram shop policy.

3. No license shall be issued to any person or entity that cannot produce a policy of insurance by a solvent and responsible company authorized to do business in the State insuring said person or entity against general liability in the amount of $500,000.

E. LIQUOR LIABILITY INSURANCE: Each applicant shall show by evidence satisfactory to the Liquor Commissioner, the issuance of a policy of the appropriate liquor liability insurance. In the event of cancellation, the Liquor Commissioner shall be notified immediately of such cancellation.

F. APPLICATION FEE: A non-refundable application fee in the amount of $2,500 shall be payable upon the initial application for any liquor license classification except Class C, Class D and daily permits. The renewal of liquor licenses as provided in Section 33.12 herein shall not be subject to this application fee.

G. STATE LIQUOR LICENSE: At the time a license is approved the City will provide a copy of the license to the licensee. The original City license will be issued when the licensee provides a copy of the license issued by the State of Illinois Liquor Control Commission.

H. OUTSTANDING DEBTS: An applicant or holder of a liquor licenses shall not be indebted to the City. Any indebtedness in excess of 30 days shall constitute the basis for the denial and/or revocation of a liquor license.

33.06 TERM, PRORATING FEES

A license is purely a personal privilege and, except for daily permits, shall expire one year from the

date of issuance. The one year period shall be from the 1st day of May of each year to the 30th day of April of each following year, unless sooner revoked or suspended. Licenses issued after the 1st day of May of any year shall pay the full license fee as provided herein.

All licenses, regardless of the date of issuance, shall terminate on the 30th day of April of each year following the date of issuance.

33.07 CLASSIFICATIONS, FEES, DAILY PERMIT *Amended,09-12-2, 09-9-1, 08-11-3, 08-10-2, 08-10-3, 09-8-6, 08-5-4, 07-2-1, 06-11-2, 06-7-3, 06-5-2, 06-1-3, 01-5-3*

A. CLASSES, FEES: Liquor licenses shall be divided into the following classes:

1. A Class AA license authorizes the retail sale of alcoholic liquor for consumption on or off the premises where sold, and not for resale in any form. The annual fee for a Class AA license shall be $1,750.

2. A Class A license authorizes the retail sale of alcoholic liquor for consumption on or off the premises where sold, and not for resale in any form when sold by a specialty or gourmet food grocery or delicatessen store where food is served for consumption on the premises. The annual fee for a Class A license shall be $1,500.

3. A Class BB license authorizes the retail sale of alcoholic liquor as packaged goods for consumption off the premises where sold on any premises used, maintained, operated, advertised and held out to the public as primarily a grocery, drug or department store. No more than 15 percent of the area within the licensed premises shall be used for the display and sale of packaged alcoholic liquor. Such area shall be closed and segregated at those times in which Class BB licensed sales are not permitted.

   Except as provided herein below, no displays, flyers, posters or other written material of any kind shall be secured on, adhered to or posted in the windows of the licensed premises, nor shall any displays, flyers, posters or other material be seen through the windows advertising the sale of any packaged alcoholic liquor. Packaged liquor sales must be separately identified in the cash register receipts. The employee operating said cash register shall be at least 21 years of age.

   The holder of a Class BB license may advise or inform the public of the existence of a liquor department within the licensed premises by erecting and maintaining a sign at each public entrance attached to the exterior of the licensed premises, provided said sign, if illuminated, is not a flashing, blinking or moving sign, and further provided that the size, construction and location of the sign in all other respects conforms to the applicable City; and/or by erecting and maintaining within the licensed premises a single sign at the entranceway to the segregated liquor department.

The annual fee for a Class BB license shall be $1,500.

4. A Class B license authorizes the retail sale of alcoholic liquor solely for consumption off the premises where sold, and not for resale in any form.

   The annual fee for a Class B license shall be $1,500.

5. A Class C license authorizes a City not-for-profit service organization for charitable causes, the consumption on the premises of alcoholic liquor containing not more than four percent of alcohol by volume. The licensed premises are limited to temporary stands, booths and counters such as used at picnics, celebrations and the like.

   The annual fee for a Class C license is $300.

6. A Class D license authorizes the retail sale, in a regularly organized club, as defined in Appendix A of this Code, of alcoholic liquor on the licensed premises. Sales shall be made only to the members of the club, or guests of the club members in the company of the member or an organization function open to the public.

   The annual fee for a Class D license shall be $300.

7. A Class E license authorizes the retail sale of alcoholic beverages, for consumption on the premises, as a supplement to the serving of food, such as a restaurant.

   The annual fee for a Class E license shall be $1,500.

   To qualify for a Class E license, a restaurant shall have a seating capacity for not less than 50 persons at tables and booths. In addition, not more than one bar shall be allowed that is intended primarily for the seating of customers or the seating capacity exceed one-tenth of the seating capacity of the restaurant.

   A Class E licensee may apply for an additional auxiliary license, designated as a Class E-1 license, which authorizes the retail sale of packaged beer and wine for consumption off the licensed premises.

   The annual fee for a Class E-1 license shall be $200.

8. A Class EE license authorizes the retail sale of beer and wine only at retail, for consumption on the premises, as a supplement to the serving of food, such as a restaurant.

The annual fee for a Class EE license shall be $1,500.

To qualify for a Class EE license, a restaurant shall have a seating capacity of not less than 25 persons at tables and booths. In addition, not more than one bar shall be allowed that is intended primarily for the seating of customers or the seating capacity exceed one-tenth of the seating capacity of the restaurant.

A Class EE licensee may apply for an auxiliary license, designated as a Class EE-1 license, which authorizes the retail sale of packaged beer and wine for consumption off the licensed premises.

The annual fee for a Class EE-1 license shall be $200.

9. A Class G license authorizes the retail sale of beer and wine only as packaged goods for consumption off the premises for establishments selling gasoline or establishments selling retail food and goods with a floor area of less than 2,500 square feet.

The annual fee for a Class G license shall be $1,500.

To qualify for a Class G license no more than 15 percent of the area within the licensed premises shall be used for the display and sale of packaged alcoholic liquor. No displays of beer or wine shall be located within five feet of any public entrance or cover more than five percent of the retail floor area. Employees selling, delivering, checking out or receiving payment for packaged alcoholic liquors must be 21 years of age or older.

A Class G license does not allow mechanical or repair work of any kind to be performed on automobiles on the licensed premises.

A Class G license, except as provided herein, mandates no signs, displays, flyers, banners, posters or other written or illustrated materials shall be adhered to or posted on the windows of the licensed premises, nor shall any signs, displays, flyers, banners, posters or other written or illustrated materials be seen through the windows advertising the sale of any packaged alcoholic liquor. No temporary point of sale, beer or wine advertising shall be located on gasoline islands. One lighted or unlighted sign advertising beer or wine not exceeding four square feet in area may be located in a window. If a freestanding or flush mounted sign is permitted on the licensed premises pursuant to City ordinances, only generic advertising using the words “beer” or “wine” and descriptive terms relating thereto (exclusive of brand and price advertising) shall be permitted.

10. A Class R license authorizes the retail sale of alcoholic liquor for consumption on or off the premises where sold, and not for resale in any

form, in a bowling alley.

The annual fee for a Class R license shall be $1,500.

11. A Class GC license authorizes the retail sale of alcoholic liquor for consumption only on the premises where sold, and not for resale in any form, to be issued to a regularly organized golf club, country club or golf club facility. This license also permits the retail sale of alcoholic liquor from a beverage cart or refreshment stand on the grounds of the golf club or country club or at patio immediately adjacent to the clubhouse/restaurant.

    The annual fee for a Class GC license shall be $1,750.

12. A Class EEE license authorizes the retail sale of alcoholic beverages, for consumption on the premises, as a supplement to the serving of food, such as a restaurant or operating a banquet hall, and provides catering services either on or off the licensed restaurant premises.

    The annual fee for a Class EEE license shall be $1,500.

    To qualify for a Class EEE license, a restaurant shall have a seating capacity for not less than 50 persons at tables and booths. In addition, one bar shall be allowed that is intended primarily for the seating of customers or the seating capacity exceed one-tenth of the seating capacity of the restaurant, and an auxiliary bar shall be allowed in the banquet hall.

    A Class EEE licensee may apply for an additional auxiliary license, designated as a Class EEE-1 license, which authorizes the retail sale of packaged beer and wine for consumption off the licensed premises.

    The annual fee for a Class EEE-1 license shall be $200.

B. NUMBER OF LICENSES ISSUED: There shall be issued in the City not more than:

Class A:	One license
Class AA:	Five licenses
Class B:	Two licenses
Class BB:	Three licenses
Class C:	Zero licenses
Class D:	Zero licenses
Class E:	Four licenses
Class E1:	One license
Class EE:	Zero licenses
Class EEE:	One license
Class EEE-1:	One license
Class G:	Three license

Class GC: One license
Class R: One license

C. DAILY PERMIT: The Commissioner may grant a daily permit to any not-for-profit organization or club, such as a church, order or lodge, veteran's organization or other civic organization, business or local liquor license holders in good standing. A daily permit shall be valid for one day only and the Commissioner reserves the right to limit the sale of liquor to particular times during the day of the permit. Permits shall be issued in accordance with the following standards:

1. No more than four such daily permits shall be issued to any one such organization, club, business or liquor licensee during the period of one year. A daily permit shall not be issued for any more than four consecutive days.

2. Any organization that does not have a valid liquor license shall pay a permit fee of $300 per day. Liquor licensees shall pay a permit fee of $50 per day. Permit fees shall be paid at the time the daily permit is issued.

3. The following information shall be submitted regarding the event:

   a. Date, time and location of the event;

   b. Type of alcohol to be served, which cannot exceed the type of alcohol a licensee already sells pursuant to its license;

   c. Description of the security measures to be utilized for both liquor service and the event;

   d. Description of the area in which alcoholic liquor will be available for service and consumption; and

   e. Sales and delivery of alcohol liquor shall be conducted pursuant to the requirements of this Chapter, the Illinois Liquor Control Act and the Illinois Liquor Control Commission Rules and Regulations.

4. Unless specifically provided otherwise, all requirements of this Chapter shall apply to permits granted under this Section including insurance requirements in Sections 33.05-D and E. To the extent that any such event may take place on public property and outside of the licensed premises, the applicant shall name the City as an additional insured and provide the City with the appropriate insurance endorsement.

5. Application for a daily permit must be submitted a minimum of 30 days in advance of the event.

33.08 RECORDS

The Commissioner shall keep a complete record of all licenses issued, and shall furnish the Clerk, Treasurer and Chief of Police each with a copy thereof. Upon the issuance of any new license, or the suspension or revocation of any old license, the Commissioner shall give written notice of such action to each of these officers.

33.09 DEATH, TRANSFER OR BANKRUPTCY OF LICENSEE

A license shall be a purely personal privilege, not to exceed one year after issuance unless revoked sooner, 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 cease upon the death of the licensee and shall not descend by the laws of testate or intestate devolution, provided that the executors or administrators of the estate of any deceased licensee, and the trustee of any insolvent or bankrupt licensee, when such estate consists in part of alcoholic liquor, may continue the business of the sale or manufacture of alcoholic liquor under order of the appropriate court, and may exercise the privileges of the deceased or insolvent or bankruptcy, until the expiration of such license, but not longer than six months after the death, bankruptcy or insolvency of such licensee.

A refund shall be made of that portion of the license fee paid for any period in which the licensee shall be prevented from operating under the license in accordance with the provisions of this Section 33.09.

33.10 CHANGE OF LOCATION

A liquor license shall permit the sale of alcoholic liquor only in the premises described in the application and license. Such location may be changed only upon the receipt of written permission from the Commissioner. No change of location shall be permitted unless the proposed new location is in compliance with provisions and regulations of this Chapter 33.

33.11 CHANGE OF OWNERSHIP

A liquor license shall be purely a personal privilege and shall be valid for the time specified therein, unless sooner revoked or suspended 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 be encumbered or hypothecated.

33.12 ABANDONMENT

If the licensee to which a license has been issued discontinues operations at the premises described in the application and license for 90 consecutive days, or whenever there is evidence of a clear intent of the licensee to abandon the premises, said license shall be subject to revocation.

33.13 RENEWAL OF LICENSE

Any licensee may renew his liquor license at the expiration thereof, provided that he is then qualified to receive a license and the premises for which such renewal license is sought are suitable for such purpose; provided further, that the renewal privilege herein shall not be construed as a vested right which shall in any case prevent the reduction of the number of licenses to be issued within the City.

33.14 MANDATORY MEETING, LIST OF OWNERS, MANAGERS AND EMPLOYEES *06-1-3; Amended, 09-5-4*

A. MANDATORY LICENSEE MEETING: All liquor license holders or their representatives shall be required to attend a mandatory meeting hosted by the Commissioner in March of each year to discuss changes in this Chapter 33, identify/address issues and concerns and provide for open communication between the licensees and Commissioner. The City will provide notice of the date, time and location for this meeting no less than 14 days in advance. Failure to attend the mandatory meeting could result in the revocation of the renewal privileges upon the expiration of the liquor license.

B. LISTING OF OWNERS, MANAGERS AND EMPLOYEES: All licensees shall by May 1 of each year submit to the Marengo Police Department a listing of all owners and managers of the licensed premises, as well as a list of any and all employees who prepare, dispense, sell or serve alcoholic beverages at the licensed premises. The listing shall include the names, home addresses, date of birth and indicate whether they have received BASSET training. The licensee shall have 10 days in which to update this listing with new managers or employees once they have been hired.

33.15 DISPLAYING LICENSE

Every licensee shall cause his license or licenses to be framed and hung in plain view in a conspicuous place on the licensed premises.

33.16 RESTRICTIONS UPON SOUND AMPLIFICATION

It shall be unlawful for any licensee to permit or allow any noise or sound to be amplified outside the bounds of a structure on the premises if a residence is within 500 feet of the premises.

33.17 SANITARY CONDITIONS

All premises used for the retail sale of alcoholic liquor, or for the storage of such liquor for sale, shall be kept in full compliance with the laws and ordinances regulating the condition of premises used for the storage or sale of food for human consumption.

33.18 EMPLOYEE RESTRICTIONS *Amended, 09-5-4*

It shall be unlawful for a licensee to permit any person under the age of 21 years to dispense, draw, pour or mix any alcoholic liquor, or in any way tend bar. . This shall not prevent persons 18 years of

age and over, as employees, from delivering alcoholic liquor for consumption on the premises.

It shall be unlawful to employ in any premises used for retail sale of alcoholic liquor any person who is afflicted with, or who is a carrier of, any contagious, infectious or venereal disease; and it shall be unlawful for any person who is afflicted with or is a carrier of any such disease to work in or about any premises or to engage in any way in the handling, preparing or distributing of such liquor.

33.19 LOCATION RESTRICTIONS, NOTIFICATION *Amended, 09-9-1, 08-5-4*

Except as provided herein, no liquor license shall be issued for the sale at retail of any alcoholic liquor within 100 feet of any church, school, hospital, undertaking establishment or mortuary, home for the aged or indigent persons or for veterans, their spouses or children, or any military or naval station. 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 at the place of business.

33.20 PREMISES

Except in the case of hotels and clubs, no alcoholic liquor shall be sold at retail upon any premises which has any access which leads from such premises to any other portion of the same building or structure used for dwelling or lodging purposes and which is permitted to be used or kept accessible for use by the public. This provision shall not prohibit any connection between such premises and such other portion of the building or structure which is used only by the licensee, his family and personal guests.

33.21 BOOKS AND RECORDS OF LICENSEE

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 Illinois Liquor Control Commission or any Commissioner 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. However, all original invoices covering purchases of alcoholic liquor must be retained on the licensed premises for a period of 90 days after such purchase.

33.22 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 persons under the age of 21 or where the principal business transacted consists of school books, school supplies, food, lunches or drinks for such persons.

33.23 CLOSING HOURS *Amended, 08-5-4, 04-8-4*

A. It shall be unlawful to sell or offer for sale at retail, or to give away, in or upon any licensed premises, any alcoholic liquor:

Between the hours of 1:01 a.m. and 6 a.m. Monday through Friday; and
Between the hours of 2 a.m. and 6 a.m. Saturday; and
Between the hours of 2 a.m. and 8:30 a.m. on Sunday.

B. SUNDAY HOURS: It shall be unlawful to sell or offer for sale at retail, or to give away, in or upon any licensed premises, any alcoholic liquor between the hours of 2 a.m. and 8:30 a.m. on Sunday.

C. HOLIDAYS: On the eve of New Year's Day, Memorial Day (observed), Independence Day (4th of July), Labor Day and Thanksgiving Day it shall be lawful to sell alcoholic liquor in the City until 2 a.m. in licensed premises.

D. The hours stated herein shall be Central Standard Time when Daylight Savings Time is in effect and then said hours shall be Central Daylight Savings Time.

E. It shall be unlawful to keep open for business, to admit the public to, to permit the public to remain within, or to permit the consumption of alcoholic liquor in, or upon, any premises in, or on, which alcoholic liquor is sold at retail during the hours within which the sale of such liquor is prohibited; provided, that in the case of restaurants and clubs, such establishments may be kept open, but no alcoholic liquor may be sold to or consumed by the public during the hours prohibited.

33.24 CONSUMPTION ON PREMISES, DRINKING ON PUBLIC STREETS

A. CONSUMPTION ON PREMISES: It shall be unlawful for anyone having a Class B, BB or G license to sell or offer for sale any alcoholic liquor for consumption on the premises where sold, or to permit the same to be consumed on the premises where sold.

B. DRINKING ON PUBLIC STREETS: No person shall openly drink or furnish to others any alcoholic liquor to be drunk upon any street, public place or vacant lot within the City and no person shall connive at or assist in or procure others to violate any provision of this Chapter 33.

33.25 PEDDLING

It shall be unlawful to peddle alcoholic liquor in the City.

33.26 PURCHASE OR ACCEPTANCE OF GIFTS OF LIQUOR BY PERSONS UNDER THE AGE OF 21; IDENTIFICATION CARDS, PUNISHMENT; EXCEPTIONS

A. PURCHASE OR ACCEPTANCE: It shall be a violation of this Section 33.26 for any person under the age of 21 to purchase, obtain, accept deliver of, accept a gift of, consume, or have in his or her possession alcoholic liquor.

B. WARNING PLACARD: In every place in the City 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 Clerk, and which shall read substantially as follows:

Warning to Persons Under 21 Years of Age

You are subject to a fine up to Five Hundred Dollars ($500.00) under the Liquor Control Ordinance of the City of Marengo if you purchase alcoholic liquor, or misrepresent your age for the purpose of purchasing or obtaining alcoholic liquor.

C. EXEMPTIONS: The possession and dispensing or consumption of alcoholic liquor by a person under 21 years of age in the performance of a religious service or ceremony, or the consumption by a person under 21 years of age under the direct supervision and approval of the parents or parent of such minor in the privacy of a home, is not prohibited by this Chapter 33.

D. PENALTY: Whoever violates any provision of this Section 33.26 shall be fined not less than $100 nor more than $500.

33.27 SALE TO PERSONS UNDER 21 YEARS OF AGE

A. SALE BY LICENSEE: It shall be a violation of this Section 33.27 for the licensee or any officer, associate, member, representative, agent or employee of such licensee, to sell, give or deliver alcoholic liquor to any person under the age of 21 years.

B. SALE BY OTHER PERSONS: It shall be a violation of this Section 33.27 for any person, after purchasing or otherwise obtaining alcoholic liquor, to sell, give or deliver such alcoholic liquor to another person under the age of 21 years, except in the performance of a religious ceremony or service.

C. PROOF OF IDENTITY AND AGE: To prevent the violation of this Section 33.27, any licensee, or his officer, associate, member, representative, agent or employee, may refuse to sell or serve alcoholic beverages to any person who is unable to produce adequate written evidence of identity and of the fact that he or she is over the age of 21 years. Adequate written evidence of age and identity of the person is a document issued by a federal, 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 member of the Armed Forces.

D. PENALTY: Whoever violates any provision of this Section 33.27 shall be fined not less than $200 nor more than $500. In addition to all other fines and penalties, the Commissioner may suspend or revoke the retail liquor dealer's license for any violation of this Section 33.27.

33.28 SALE OR USE OF FALSE EVIDENCE OF AGE AND IDENTITY

A. It shall be a violation of this Chapter 33 for any person to sell, give or furnish to any person under the age of 21 years any false or fraudulent written, printed or photostatic evidence of the age and/or identity of such person or to sell, give or furnish to any person under the age of 21 years evidence of age and/or identification of any other person.

B. It shall be a violation of this Chapter 33 for any person under the age of 21 to present or offer to any licensee, his agent or employee, any written, printed or photostatic evidence of age and/or identity which is false, fraudulent or not actually his or her 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 or her possession any false or fraudulent written, printed or photostatic evidence of age and/of identity.

C. PENALTY: Whoever violates any provision of this Section 33.28 shall be fined not less than $100 nor more than $500.

33.29 SALES TO INTOXICATED PERSONS, HABITUAL DRUNKARDS, SPENDTHRIFTS AND MENTAL INCOMPETENCE

No licensee, or any officer, associate, member, representative or agent or employee of the licensee, shall sell, give or deliver alcoholic liquor to any intoxicated person or to any person known by him or her to be an habitual drunkard, spendthrift, insane, feeble minded or distracted, mentally ill, mentally deficient or in need of mental treatment.

No licensee, or agent or employee of the licensee, shall harbor or permit any intoxicated persons to loiter on the premises described in the license or permit any conduct which shall tend to disturb the peace or quiet or the neighborhood or the premises.

33.30 INSPECTIONS AND ENFORCEMENT

Any law enforcing officer of the City may enter at any time upon any premises licensed hereunder to determine whether any of the provisions of this Chapter 33 or whether any of the rules or regulations adopted by the Mayor and City Council or by the State of Illinois have been or are being violated and at such time may examine the premises of the licensee in connection therewith.

Any law enforcing officer of the City may receive complaint from any citizen within the jurisdiction of the City that any of the provisions of this Chapter 33 or any rules or regulations adopted by the Mayor and City Council or by the State of Illinois have been or are being violated, and may act upon such complaints in the manner provided.

The Commissioner shall have the authority to make and establish rules and regulations of procedure concerning notice of hearings and all such other matters as may from time to time be necessary, and to appoint deputy Commissioners to the Liquor Commission.

It shall be a violation of this Chapter 33 to refuse to grant admittance to the premises for which a license has been issued at any time upon the verbal request of any police officer or any other legally authorized person.

33.31 GATHERINGS WHERE ONE OR MORE PERSONS ARE UNDER THE AGE OF 21 YEARS

A. It shall be a violation of this Section 33.31for any person to knowingly permit a

gathering at a residence which she/he occupies of two or more persons where any one or more of the persons is under 21 years of age and the following factors also apply:

1. The person occupying the residence knows that the person or persons under the age of 21 is in possession of or is consuming an alcoholic beverage; and

2. The possession or consumption of the alcohol by the person under 21 is not otherwise permitted by this Chapter 33; and

3. The person occupying the residence knows that the person under the age of 21 leaves the residence in an intoxicated condition.

B. For the purposes of this Section 33.31 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.

33.32 LICENSE REVOCATION AUTHORIZED

A. No person holding a City license shall, in the conduct of the licenses business or upon the licensed premises, either directly or through the agents or employees of the licensee:

1. Violate or permit a violation of any federal law or state statute related to the control of liquor.

2. Violate or permit a violation of any City ordinance or resolution regulating the sale of alcoholic liquor or relating to the eligibility of the licensee to hold a liquor license.

3. Violate or permit a violation of any rule or regulation of the Illinois Liquor Control Commission as amended from time to time.

4. Permit the sale and/or consumption of any alcoholic beverages outdoors absent a specific permit issued by the City.

5. Allow fighting, disorderly conduct or excessive noise constituting a nuisance to take place on the licensed premises or on, about and/or adjacent to the property where the licensed premises are located.

6. Allow patrons to serve or distribute alcoholic beverages to minors on the licensed premises or allow minors to drink alcoholic beverages on the licensed premises.

7. Fail to call the City Police Department upon the violation of any City ordinance or state law relating to fighting, disorderly conduct or excessive noise constituting a nuisance on the licensed premises.

8. Submit to the City a liquor license application containing a false or

misleading statement.

B. Proof before the Commissioner of the facts which establish a violation of any federal law, state statute, City ordinance or resolution or rule of the Illinois Liquor Control Commission shall be sufficient cause for revocation, suspension and fine of any liquor licensee, irrespective of whether or not a conviction has been obtained in any court. In addition, the licensee shall be obligated to reimburse the City for all attorney's fees incurred as a result of the prosecution of the offending licensee.

C. Pursuant to Resolution 00-8-C passed by the City Council and pursuant to 235 ILCS 5/7-9, all appeals from the decision of the Commissioner shall be limited to a review of the official record of proceedings.

33.33 REVOCATION, SUSPENSION OR FINE

A. REVOCATION: Licenses granted hereunder may be revoked by the Commissioner for the violation of any part or portion of this Chapter 33, or of the Liquor Control Act, or of any valid resolution or ordinance enacted by the City, or of any applicable rule or regulation established by the Commissioner or any violation of the Criminal Code, which occurs on the licensed premises or any violation of the Criminal Code which occurs off the licensed premises where said violation involves or relates to the sale or consumption of alcoholic beverages on the licensed premises. Licenses granted hereunder may be revoked upon the conviction of licensee under the Criminal Code. Should any applicant for license make a false or fraudulent statement in such application, the same shall be cause for revocation by the Commissioner of such license.

B. SUSPENSION: Licenses granted hereunder may be suspended by the Commissioner for a period of not exceeding 30 days for the violation of any part or portion of this Chapter 33, or of the Liquor Control Act, or of any valid resolution or ordinance enacted by the City, or of any applicable rule or regulation established by the Commissioner or by the State Liquor Control Commission or any violation of the Criminal Code which occurs on the licensed premises or any violation of the Criminal Code which occurs off the licensed premises where said violation involves or relates to the sale or consumption of alcoholic beverages on the licensed premises. During such period of suspension, no alcoholic liquor shall be sold on said licensed premises.

C. FINE: In addition to revocation or suspension of the liquor license by the Commissioner, the Commissioner may fine any licensee up to $1,000, plus the City's cost of prosecution including reasonable attorney fees, for each violation of any part or portion of this Chapter 33, or of the Liquor Control Act, or of any valid resolution or ordinance enacted by the City, or of any applicable rule or regulation established by the Commissioner or by the State Liquor Control Commission or any violation of the Criminal Code which occurs on the licensed premises or any violation of the Criminal Code which occurs off the licensed premises where said violation involves or relates to the sale or consumption of alcoholic beverages on the licensed premises.

33.34 PROHIBITED ACTS AND CONDITIONS *02-8-5; Amended, 08-5-4*

A. ADULT BUSINESS PROHIBITED: It shall be unlawful for any person maintaining,

owning or operating a commercial establishment located within the City at which alcoholic beverages are offered for sale for consumption on the premises, to permit or allow the following activity to be conducted on the premises of such a commercial establishment, all of which activity is defined in Chapter 44 of this Code: Adult Business; Adult Entertainment Center; Adults-Only Activity, Bookstore, Motion Picture Theater, Nightclub, Sauna; Nudity; Obscene Activity; Rap Parlor; Sadomasochistic Activity; or Sexual Conduct Activity.

B. BEER, ALCOHOLIC BEVERAGES PROHIBITED: It shall be unlawful for any establishment defined as an Adult Business pursuant to the Marengo Zoning Code to sell, distribute or permit beer or alcoholic beverages on the premises.

33.35 COMPLIANCE CHECK PROCEDURES CONCERNING ALCOHOL/TOBACCO RETAILERS *02-9-1*

The following guidelines are to be followed when members of the Marengo Police Department conducts investigations into suspected abuses of alcohol and/or tobacco being sold to Minors, commonly refereed to as a "Compliance Check." These investigations are conducted on retail establishments or businesses operating within the City limits which sell or distribute alcohol or tobacco products.

Compliance checks are defined as a controlled buy type operation, wherein a minor will attempt to purchase either alcohol or tobacco from the respective retailer.

1. ALCOHOL/TOBACCO PROCEDURES: Effective immediately, the following procedures shall be followed by members of the Marengo Police Department, when conducting said compliance checks:

    a. A compliance check operation will involve investigating those retail establishments and businesses that sell either tobacco or alcohol. The operations shall be specific in nature, in that they will target either tobacco or alcohol, and not be conducted simultaneously.

    b. Tobacco and alcohol enforcement operations will be conducted at a minimum of one time per year, or more as deemed necessary, or as manpower and resources are available.

    c. Alcohol related compliance checks, when possible, will involve targeting every establishment within the City that holds a liquor license, to the extent, that a member of the general public has ready access to purchase alcoholic beverages at the location of business for the liquor license holder.

    d. Tobacco operations will target every retailer or business that sells tobacco within the City, with the exemption of those tobacco retailers or businesses which are adult in nature, i.e. bars.

    e. Subjects used for the tobacco operations will be between 16-17 years of age and have

their parent or guardians consent to participate in the operation. A parental consent form will be completed prior to the operation.

f. Subjects used for the alcohol operations will be between 17-20 years of age. Subjects 18-20 years of age will sign a consent form, and those subjects 17 years of age will have their parent or guardian sign a consent form.

g. Minors enlisted to aid in the operation will be approved by the Chief of Police or his/her designee.

h. The minors will be of good character and have no record of tobacco or alcohol related violations.

i. Prior to the operation, the minor will provide the operations supervisor with proof of age, such as birth certificate or valid, State of Illinois photo driver's license or State of Illinois photo identification card, for proof of birth verification and age.

j. Minors involved in the operation will dress appropriately and make no attempt to alter their appearance, for the purpose of age enhancement.

k. Minors involved in the operation, if asked by the merchant or employee of the merchant, shall provide an accurate Illinois driver's license to the requesting merchant or employee of the merchant.

2. OPERATION AND TRANSACTION GUIDELINES

a. On the date of the operation, the minor will arrive at the department or other designated location for a briefing. At that time, the minor will be photographed and instructed in what they are to do and not do. They will also be instructed to remove all personal effects from their pockets, with the exception of their photo driver's license.

b. The minor will be issued the money for the transaction prior to entry into the establishment.

c. The officers enlisted to aid in the operation will make an attempt to view the sale of the item, when and where possible.

d. If there is a successful transaction, the minor or the observing officer will notify the operations supervisor or their designee and advise of the sale.

e. Every effort will be made to preserve all evidence of the transaction.

f. The operations supervisor or their designee will then immediately enter the establishment and make contact with the employee who conducted the transaction, unless authorization from the Chief of Police has been approved for multiple

transactional purchases. In the instance of alcohol transactions, the employee will be issued a "Notice to Appear" for the violation. For tobacco violations, the employee will be issued either a "Written Warning" for the first violation or "Notice to Appear" for any second or subsequent violation. If warranted, enforcement actions may be sought and/or taken against the liquor license holder.

g. All evidence related to the operation will be taken into custody, if practical and processed and secured as evidence.

h. At no time during the operation, will the minor ingest alcoholic beverages or tobacco products.

i. Initial and possible subsequent reports will be generated for the operation itself. Subsequent reports will be generated when a violation occurs, specific to the establishment in violation.

j. Upon completion of the operation, the Chief of Police or their designee will be notified of those establishments that were in violation.

33.36 BASSET PROGRAM *09-5-3*

A. For purposes of this Section, BASSET is defined as the state certified Beverage Alcohol Sellers and Servers Education and Training program licensed by the State of Illinois Liquor Control Commission, as required by 235 ILCS 5/3-12 (11.1) and 6-27 and Title 77 of Illinois Administrative Code, Chapter XVI, Section 3500.

B. All original or renewal applications for a liquor license shall be accompanied with proof of completion of a State certified BASSET program for all persons who sell or serve alcoholic beverages, all management personnel working on the premises and anyone whose job description entails checking identification for the purchase of alcoholic beverages pursuant to that license.

C. All licensed BASSET providers shall be required to have on file all licenses and certificates to prove current qualifications and provide a certificate of course completion and a card (a picture type identification is optional), to participants as proof of completion.

D. At least one person who has completed the BASSET program shall be required to be on the licensed premises during hours when alcoholic beverages may be purchased.

E. Any new owner, manager, employee or agent requiring completion of the BASSET program shall, until completion of the BASSET program, work under the supervision of a person who has successfully completed the BASSET program.

F. LIQUOR VIOLATIONS: In the event a licensed premises is found to be in violation of any provision of this Chapter or the Liquor Control Act of 1934 (235 ILCS 5/1-1 *et seq.*), the Commissioner, within his sole discretion, may require all persons who sell or serve alcoholic liquor and/or all management personnel working in a licensed premises and/or anyone whose job

description entails the checking of identification for the purchase of alcoholic liquor pursuant to the license to re-apply, attend and successfully complete a BASSET program.

33.37 PENALTY *Amended, 08-5-4*

Any person, firm, corporation or other legally recognized entity who violates any provision of this Chapter 33, for which a specific penalty is not stated, shall, upon conviction, be subject to a fine of not less than $50 nor more than $750 per offense, and be responsible for the City's cost of prosecution including reasonable attorney fees, for each offense or the revocation of his or her liquor license, or to both such fine and revocation of such license. Each day that a violation continues shall be considered a separate offense.

EXHIBIT A

CITY OF MARENGO
Liquor License Application Procedures

Original Application & Packet

Contact the City Clerk's Office or the Chief of Police to request a liquor license application packet.

Upon receiving the fully executed liquor license application, with all the required documents attached, the City Clerk will forward the application to the Mayor/Liquor Commissioner for review.

The Mayor will in writing advise the applicant if the license will be issued or denied. In the case of a denial, the reason will be stated.

Renewal Application

Every liquor license must be renewed by April 30th of each year. Each applicant seeking renewal of his/her liquor license must complete a renewal application and submit it to the City Clerk's Office, complete with the supporting documentation, and fee prior to April 15th of each year, which allows time for processing. Any incomplete application will not be processed.

Displaying Your License

All legally required licenses and permits of Federal, State or local issuance must be plainly displayed at all times on the licensed premises.

Revised December, 2006

Affidavit

County of McHenry

State of Illinois

I (or we) swear that I (or we) will not violate any liquor ordinances, Chapter 33, City of Marengo, Code Ordinances or any liquor laws of the United States or of the State of Illinois. That the statements contained in this application are true and correct to the best of my (our) knowledge and belief.

Subscribed and sworn to before me this _____ day of _____, 2_____

Notary Public

_____
(SEAL)

_____
SIGNATURE OF APPLICANT

_____
SIGNATURE OF APPLICANT (PARTNER)

_____
SIGNATURE OF APPLICANT (PARTNER/MANAGER)

License Holder

No license of any kind shall be issued by the State Commission or any local commission to a person who is not a resident of any City or County in which the premises covered by the license is located or a person who is not a citizen of the United States.

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, infectious, or venereal disease; and it shall be unlawful for any person who is afflicted with or is a carrier of any such disease to work in or about the premises or to engage in any way in the handling, preparation, or distribution of such liquor. All checkers, or other persons operating cash registers shall be at least 21 years of age. It shall be unlawful for any person under 21 years of age to draw, pour or mix alcoholic liquor as an employee of any retail license.

CITY OF MARENGO, ILLINOIS

Marengo Liquor License

To hold a City of Marengo Liquor License is a privilege; not a right!

It shall be unlawful to sell offer for sale at retail in the City of Marengo any alcoholic liquor without having a retail dealer's license, a State of Illinois license and any other necessary document for the sale of alcoholic liquor.

Alcoholic liquor includes alcohol, spirits, wine, beer, and every liquid or solid, patented or not, containing alcohol spirits, wine, or beer, and capable of being consumed as a beverage by a human being.

CITY OF MARENGO

Liquor License Application

It shall be unlawful to sell or offer to sale at retail in the City of Marengo any alcoholic liquor without having a retail liquor dealer's license.

Applicant Information

Individual

Name _____

Address _____

_____

_____

Phone Number _____ **Age** _____

Place of Birth _____

Citizenship _____

Naturalization Y ___ N ___ **If Yes, Date of Naturalization** _____

Place of Naturalization _____

Social Security _____

Insurance Company / Agent (Address & Telephone) & Policy Number

_____

_____

Policy Expiration _____

Revised December, 2006

CITY OF MARENGO

Liquor License Application

Applicant Information

Corporation

Directors

Name _____

Address _____

_____

_____

Phone Number _____ Age _____

Place of Birth _____

Citizenship _____

Naturalization Y ___ N ___ If Yes, Date of Naturalization _____

Place of Naturalization _____

Number of Corporate Shares Owned _____

Name _____

Address _____

_____

_____

Phone Number _____ Age _____

Place of Birth _____

Citizenship _____

Naturalization Y ___ N ___ If Yes, Date of Naturalization _____

Place of Naturalization _____

Number of Corporate Shares Owned _____

CITY OF MARENGO

Liquor License Application

Applicant Information

Corporation

Directors

Name _____

Address _____

_____

_____

Phone Number _____ Age _____

Place of Birth _____

Citizenship _____

Naturalization Y ___ N ___ If Yes, Date of Naturalization _____

Place of Naturalization _____

Number of Corporate Shares Owned _____

Name _____

Address _____

_____

_____

Phone Number _____ Age _____

Place of Birth _____

Citizenship _____

Naturalization Y ___ N ___ If Yes, Date of Naturalization _____

Place of Naturalization _____

Number of Corporate Shares Owned _____

CITY OF MARENGO

Liquor License Application

Applicant Information

Corporation

Officers

Name _____

Address _____

_____

_____

Phone Number _____ Age _____

Place of Birth _____

Citizenship _____

Naturalization Y ___ N ___ If Yes, Date of Naturalization _____

Place of Naturalization _____

Number of Corporate Shares Owned _____

Name _____

Address _____

_____

_____

Phone Number _____ Age _____

Place of Birth _____

Citizenship _____

Naturalization Y ___ N ___ If Yes, Date of Naturalization _____

Place of Naturalization _____

Number of Corporate Shares Owned _____

CITY OF MARENGO

Liquor License Application

Applicant Information

Corporation

Officers

Name _____

Address _____

_____

_____

Phone Number _____ Age _____

Place of Birth _____

Citizenship _____

Naturalization Y ___ N ___ If Yes, Date of Naturalization _____

Place of Naturalization _____

Number of Corporate Shares Owned _____

Name _____

Address _____

_____

_____

Phone Number _____ Age _____

Place of Birth _____

Citizenship _____

Naturalization Y ___ N ___ If Yes, Date of Naturalization _____

Place of Naturalization _____

Number of Corporate Shares Owned _____

Revised December, 2006

CITY OF MARENGO

Liquor License Application

Applicant Information

Corporation

Stockholders

Name _____

Address _____

_____

_____

Phone Number _____ Age _____

Place of Birth _____

Citizenship _____

Naturalization Y ___ N ___ If Yes, Date of Naturalization _____

Place of Naturalization _____

Number of Corporate Shares Owned _____

Name _____

Address _____

_____

_____

Phone Number _____ Age _____

Place of Birth _____

Citizenship _____

Naturalization Y ___ N ___ If Yes, Date of Naturalization _____

Place of Naturalization _____

Number of Corporate Shares Owned _____

CITY OF MARENGO

Liquor License Application

General Business Information

Character of the business _____

_____

If Corporation, object for which it was formed _____

_____

Length of time the applicant has been in business of this character _____

_____

If Corporation, date charter was issued _____

Dollar amount of goods, wares, and merchandise on hand at time of application __

_____

Dollar amount of alcoholic liquors on hand at time of application _____

Location and description of premises or place of business which is to be operated under this license _____

Is, or will, the establishment be located within 100 feet of any church, school, hospital, home for aged or mortuary, military or naval station? _____

If yes, describe _____

CITY OF MARENGO

Liquor License Application

General Business Information (cont'd.)

Has applicant made application for a similar or other license on the premises other than described in this application? _____

Disposition of such application _____

Statement 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 Marengo Code Ordinances of Laws of the State _____

_____

Has previous license by any state or subdivision thereof, or by the federal government ever been revoked and the reason therefore _____

_____

Statement that the applicant will not violate any of the laws of the State of Illinois, or of the United States, or any law of the City of Marengo in the conduct of his place of business _____

_____

Do you lease this property? Y___ N___ **If property is leased, a copy of the lease must be attached to this application.**

CITY OF MARENGO

Liquor License Application

General Business Information (cont'd.)

Is any law enforcing public official, mayor, member of the City Council directly or indirectly interested in the business for which this license is sought? _____

_____

Has any alcohol manufacturer, importing distributor directly or indirectly paid or agreed to pay the license applied for, advance money or anything else of value or directly or indirectly interested in the ownership, conduct or operation of the business place? _____ If yes, describe _____

_____

Is the applicant or any affiliate, associate, subsidiary, officer, director, or other agent engaged in the manufacture of alcoholic liquors? _____

If so, at what location or locations? _____

Will the business be conducted by a manager or agent? _____

If so, give the name and residence of such manager or agent _____

_____

CITY OF MARENGO

Liquor License Application

License Information

Class of License Sought

_____ **AA** 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.

Fee: $1,750.00/Annually

_____ **A** 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.

Fee: $1,500.00/Annually

_____ **BB** which shall permit the retail sale of alcoholic liquor as packaged goods for consumption off the premises where sold on any premises used, maintained, operated, advertised, and held out to the public as primarily a grocery, drug, or department store.

Fee: $1,500.00/Annually

_____ **B** shall permit the retail sale of alcoholic liquor solely for the consumption off the premises where sold, and not for resale in any form.

Fee: $1,500.00/Annually

_____ **C** which shall be issued to city not-for-profit service organizations for charitable causes, which shall permit the retail sale of beer for consumption only on the premises where sold, and not for resale in any form, containing not more than 4% of alcohol by weight, to be issued to temporary stands, booths, and counters such as used at picnics, celebrations, and the like.

Fee: $300.00/Day

CITY OF MARENGO

Liquor License Application

License Information

Class of License Sought (cont'd.)

_____ **D** which shall permit the retail sale of alcoholic liquor for consumption only on the premises where sold, to be issued to a regularly organized club, in the company of the member, or an organization function of the club open to the public.

Fee: $300.00/Annually

_____ **E** Sale of all alcoholic beverage by restaurant for consumption on premises. 50 persons minimum seating. No more than 10% at the bar.

Fee: $1,500.00/Annually

_____ **EE** Sale by restaurant, beer/wine only for consumption on premises. 25 persons minimum seating. No more than 10% at the bar.

Fee: $1,500.00/Annually

_____ **R** 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 in a bowling alley.

Fee: $1,500.00/Annually

_____ **G** which authorizes the retail sale of beer and wine only as packaged goods for consumption off the premises for establishments selling gasoline and goods with a floor area of less than 2,500 square feet. For additional restrictions and regulations pertaining to this particular classification refer to Chapter 33 (ordinance 06-7-3 as amended 07/24/06).

Fee: $1,500.00/Annually

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 in force and affect the insurance required by statute. The landlord of any leased premises shall also comply with this section. Refer to Chapter # 33, Section 33.05 Application Requirements; D: Insurance.

CITY OF MARENGO

Liquor License Application

All liquor license applicants, corporate officials and managers must agree to and be fingerprinted under the agreement of the City of Marengo and the Illinois State Police. The local liquor control commission inter agency agreement was established November 6, 1987. The following fees must be paid in advance by the liquor applicant:

Illinois State Police Fingerprint Cards
$44.00 Total Fee

Fees are subject to yearly change and are not refundable.

Applicant's State of Illinois Tax Identification Number

_____

CITY OF MARENGO

Liquor License Application

List of Employees

1. Name _____
   Address _____
   Date of Birth _____

2. Name _____
   Address _____
   Date of Birth _____

3. Name _____
   Address _____
   Date or Birth _____

4. Name _____
   Address _____
   Date or Birth _____

5. Name _____
   Address _____
   Date or Birth _____

6. Name _____
   Address _____
   Date or Birth _____

7. Name _____
   Address _____
   Date or Birth _____

8. Name _____
   Address _____
   Date or Birth _____

9. Name _____
   Address _____
   Date or Birth _____

10. Name _____
    Address _____
    Date or Birth _____

CITY OF MARENGO

Liquor License Application

Liquor License Restrictions

a) A person who is not a resident of the City or employs a Manager who is a resident.

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

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

d) A person who has been convicted of a felony.

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

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

g) A person whose license under the Marengo Code of Ordinances has been revoked for cause.

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

i) A co-partnership, unless all members of such co-partnership shall be qualified to obtain a license.

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

k) A person whose place of business is conducted by a manager or agent unless the manager or agent that processes the same qualifications required by license.

l) A person who has been convicted of a violation of any federal or state law concerning the manufacture, possession, or sale of alcoholic liquor, or who shall have forfeited bond to appear in court to answer charges for any such violation.

<u>Liquor License Restrictions</u> (cont'd.)

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

n) Any law enforcing public official, any mayor or member of the City Council and no such official shall be interested in any way, either directly or indirectly, in the manufacture, sale or distribution of alcoholic liquor.

o) Any person, firm, or corporation not eligible for a state retail liquor dealer's license.

CITY OF MARENGO

Liquor License Application

City of Marengo - Holidays

New Year's Day
Memorial Day
Independence Day
Labor Day
Veteran's Day
Thanksgiving Day
Christmas Day

During the Spring and Fall time change, it will be permitted to stay open for business one (1) extra hour.

MARENGO POLICE DEPARTMENT

****

****

AUTHORIZATION & RELEASE

_____

_____

I, _____ (print name), applied for a liquor license with the City of Marengo, Illinois; do hereby authorize and request the Marengo Police Department, an agent of the City to release any records from the following: criminal history, driving record in this or any other state, or other documentation which may be under the control of the Marengo Police Department excluding any juvenile records. This request shall authorize the Marengo Police Department to furnish to the City of Marengo any and all information related to a background check.

_____

I also release and hold harmless the City of Marengo and any agents or representatives for providing such information from any and all civil liability in connection with the disclosure of this information.

_____

_____
(Signature of Applicant)

_____ _____
(Print Name) Date of Birth

Date _____

_____

On this _____ day of _____, 2_____above appeared before me personally, known as the person described and executed the foregoing instrument, and acknowledged that (s) he executed same as his/her free act and will.

_____

_____ _____
Notary Public Expires

CHAPTER 34
OCCUPATION AND OTHER TAXES

34.01 Municipal Retailers Occupation Tax
34.02 Municipal Service Occupation Tax
34.03 Municipal Use Tax
34.04 Police Protection Tax
34.05 Hotel Tax
34.06 Municipal Utility Tax
34.07 Municipal Utility Tax on Electric Gross Receipts

34.01 MUNICIPAL RETAILERS OCCUPATION TAX

A. REQUIRED TAX: A tax is hereby imposed upon all persons engaged in this municipality in the business of selling tangible personal property at retail in this City at the rate of one percent of the gross receipts from such sales made in the course of such business while this Section 34.01 is in effect, in accordance with the provisions of 65 ILCS 5/8-11-1.3, as amended.

B. REPORT TO STATE: Every such person engaged in such business in the City shall file on or before the 15th day of each calendar month, the report to the Illinois Department of Revenue as required by 35 ILCS 120/3, "An Act in relation to a tax upon persons engaged in the business of selling tangible personal property."

C. PAYMENT TO STATE: At the time such report is filed, there shall be paid to the Illinois Department of Revenue the amount of tax hereby imposed on account of the receipts from sales of tangible personal property during the proceeding month, together with any penalties then due, if any, and such other information as may be required by 35 ILCS 120/3.

34.02 MUNICIPAL SERVICE OCCUPATION TAX

A. REQUIRED TAX: A tax is hereby imposed upon all persons engaged in this City in the business of making sales of service at the rate of one percent of the cost price of all tangible personal property transferred by said servicemen either in the form of tangible personal property or in the form of real estate as an incident to a sale of service, in accordance with the provisions of 65 ILCS 5/8-1-1.4, as amended.

B. REPORT TO STATE: Every supplier or serviceman required to account for Municipal Service Occupation Tax for the benefit of this City shall file, on or before the last day of each calendar month, the report to the Illinois Department of Revenue as required by 35 ILCS 115/9, "An Act to impose a tax upon persons engaged in the business of making sales of service."

C. PAYMENT TO STATE: At the time such report is filed, there shall be paid to the Illinois Department of Revenue the amount of tax hereby imposed together with any penalties then due and such other information as my be required.

34.03 MUNICIPAL USE TAX

A. REQUIRED TAX: A tax is hereby imposed upon the privilege of using, in the City, any item of tangible personal property which is purchased outside Illinois at retail from a retailer, and which is titled or registered with any agency of this state's government, at a rate of 1 percent of the selling price of such tangible personal property; "selling price" is defined in 35 ILCS 105/2, the Use Tax Act.

B. REPORT TO STATE: Such tax shall be collected from persons whose Illinois address for titling or registration purposes is given as being in the City. Such tax shall be collected by the Illinois Department of Revenue.

34.04 POLICE PROTECTION TAX

A tax is hereby imposed for the purpose of police protection in this City at the rate of .05 percent of the value, as equalized or assessed by the Department of Revenue of all the taxable property therein for the first year in which the tax is levied, and at the rate of .075 percent of the value as equalized or assessed by the Department of Revenue for all taxable property therein, in all succeeding years, all in accordance with the provisions of 65 ILCS 5/11-1-3.

34.05 HOTEL/MOTEL TAX

A. DEFINITIONS: In addition to the definitions found in Appendix A of this Code, terms, whether capitalized or not, used in this Section 34.05 shall have the following meanings:

Bed and Breakfast: An operator-occupied residence providing accommodations for a charge to the public with no more than six guest rooms for rent, in operation for more than 10 nights in a 12-month period in which breakfast may be provided to the guests, but not the general public.

Hotel: Any building or buildings in which the public may, for a consideration, obtain living quarters, sleeping or housekeeping accommodations. The term includes inns, motels, tourist homes or courts, lodging houses, rooming houses and apartment houses with more than five guest units for rent.

Operator: Any person operating a hotel.

Occupancy: The use or possession, or a right to the use or possession, of any room or rooms in a hotel for any purpose, or the right to the use or possession of the furnishings or to the services and accommodations accompanying the use and possession of the room or rooms.

Room or Rooms: Any living quarters, sleeping or housekeeping accommodations.

Permanent Resident: Any person who occupied or has the right to occupy any room or rooms, regardless of whether or not it is the same room or rooms, in a hotel for at least 30 consecutive days.

Person: Any natural individual, firm, partnership, association, joint stock company, joint adventure, public or private corporation, limited liability company or a receiver, executor, trustee, guardian or other representative appointed by order of any court.

Rent or Rental: The consideration received for occupancy, valued in money, whether received in money or otherwise, including all receipts, cash, credits and property or services of any kind or nature.

B. TAX: A tax is imposed upon persons engaged in the business of renting, leasing or letting rooms in a hotel at the rate of five percent of the gross rental receipts from such renting, leasing or letting, excluding, however, from gross rental receipts, the proceeds of such renting, leasing or letting to permanent residents of that hotel.

C. PAYMENT AND COLLECTION:

1. The tax levied herein shall be paid in addition to any and all other taxes. It shall be the duty of the operator of every hotel to collect said tax from the guest or lodger, and to pay over to the City said tax on a quarterly basis as provided

herein.

2. Every person required to collect the tax levied by this Section 34.05 shall receive said tax from the guest or lodger at the time the room charge is paid. A receipt, invoice or other statement or memorandum showing the itemized rental and all taxes shall be issued to the user, lessee or tenant.

D. ADMINISTRATION AND ENFORCEMENT:

1. Inspections: The Administrator or his or her designee may enter the premises of any hotel for inspection and examination of books and records for the proper administration of this Section 32.05 and enforcement of the collection of the tax imposed. It shall be unlawful for any person to prevent, hinder or interfere with the Administrator or his or her designee in enforcing this Section 32.05.

2. Records Required: It shall be the duty of every person operating a hotel in the City to keep accurate and complete books and records to which the Administrator shall, at all times, have full access, which records shall include a daily sheet showing:

   a. The number of hotel rooms rented during the 24-hour period, including multiple rentals of the same hotel when such occurs; and

   b. The actual hotel room tax receipts collected for the date in question.

3. Quarterly Tax Returns: Every person operating a hotel shall file tax returns showing tax receipts received with respect to each hotel during each three month period ending on March 31, June 30, September 30 and December 31 of each year, within 30 days after the end of the respective date, upon forms prescribed by rules and regulations of the Administrator. At the time of filing said tax returns, the operator shall pay to the City all taxes due for the period to which the tax return applies. Each return shall be accompanied by payment to the City of all taxes due and owing for the quarter covered by the return.

E. FAILURE TO PAY TAX:

1. Interest and Penalty: In the event any hotel owner, manager or operator fails to collect and pay to the City the tax required hereunder within 30 days after the same is due, interest shall accumulate and be due upon said tax at the rate of one percent per month commencing as of the first day of the month following the month for which the tax was to have been collected. In addition, a penalty of 10 percent of the tax and interest due shall be assessed and collected against any hotel owner, manager or operator.

2. Suit for Collection: Whenever any person fails to pay any tax required herein, the City Attorney shall, upon the request of the Administrator, bring or cause to be brought an action to enforce the payment of said tax in behalf of the City in any court of competent jurisdiction. Any legal fees incurred by the City in the cost of collection shall be paid by the operator.

3. Revocation of City Licenses: If the Mayor, after conducting a hearing, finds that any person has wilfully avoided payment of the tax imposed herein, he may suspend or revoke all City licenses held by the hotel. The operator shall have

an opportunity to be heard at a hearing held not less than five days after notice of the time and place of the hearing, with said notice addressed to the operator at the last known place of business, has been delivered to the operator.

F. PENALTY: Any person found guilty of violating any provision of this Section 34.05 shall, upon conviction, be fined not less than $100 nor more than $1,000 for each offense and be responsible for the City's cost of prosecution, including reasonable attorney fees. Each day that a violation continues shall be considered a separate offense.

34.06 MUNICIPAL UTILITY TAX

A. DEFINITIONS: In addition to the terms defined in Appendix A of this Code, terms, whether capitalized or not, used in this Section 34.06 mean as follows:

Gross Receipts: The consideration received for the transmission of messages, or distributing, supplying, furnishing or selling gas, or electricity for use or consumption and not for resale, as the case may be; and for all services rendered in connection therewith valued in money, whether received in money or otherwise, including cash, credit, services and property of every kind and material and for all services rendered therewith; and shall be determined without any deduction on account of the cost of transmitting said messages without any deduction on account of the cost of transmitting said messages without any deduction on account of the cost of the service, product or commodity supplied, the cost of materials used, labor or service cost, or any other expenses whatsoever. Gross receipts shall not include receipts received from the City for the sale to said municipality of any of the utility products or services mentioned above. Gross receipts shall not include any charges added to customers' bills pursuant to the provisions of Sections 9-221 or 9-222 of the Illinois Public Utilities Act or any other separately stated charge added to customers' bills in respect of any tax or other governmental imposition.

Transmitting Messages: Pursuant to Chapter 34, in addition to the usual and popular meaning of person-to-person communication, shall include the furnishing for a consideration, of services or facilities (whether owned or leased or both) to persons in connection with the transmission of messages where such persons do not, in turn, receive any consideration in connection therewith, but shall not include such furnishing of services or facilities to persons for the transmission of messages to the extent that any such services or facilities for the transmission of messages are furnished for a consideration by such persons to other persons, for the transmission of messages.

B. A tax is imposed on all persons engaged in the following occupations or privileges:

1. Persons engaged in the business of transmitting messages by means of electricity, at the rate of five percent of the gross receipts from such business originating within the corporate limits of the City.

2. Persons engaged in the business of distributing, supplying, furnishing or selling gas for use or consumption within the corporate limits of the City and not for resale, at the rate of five percent of the gross receipts therefrom.

3. Persons engaged in the business of distributing, supplying, furnishing or selling electricity for use or consumption within the corporate limits of the City and not for resale, at the rate of five percent of the gross receipts therefrom.

Subject, however, to all the provisions, conditions and limitations of 65 ILCS 5/8-11-2, authoring this tax, and to all the provisions, conditions and limitations in this Section 34.06, consistent with the powers conferred upon the City by Section 5/8-11-2 and other relevant law. The tax imposed under

this Section 34.06 shall not apply with respect to gross receipts pertaining to bills for the distribution, supply, furnishing or sale of electricity where the use or consumption of the electricity is subject to the tax imposed under Section 34.07.

C. EXEMPTIONS: No tax is imposed by this Section 34.06 with respect to any transaction in interstate commerce or otherwise to the extent to which such business may not, under the constitution and statutes of the United States, be made subject to taxation by this state or any political subdivision thereof; nor shall any person engaged in the business of distributing, supplying, furnishing or selling gas or electricity, or engaged in the business of transmitting messages be subject to taxation under the provisions of this Section 34.06 for such transactions as are or may become subject to taxation under the provisions of the Section 34.01 herein.

D. APPLICATION: Such tax shall be in addition to the payment or money, or value of products or services furnished to this City by the taxpayer as compensation for the use of its streets, alleys or other public places, or installation and maintenance therein, thereon or there under of poles, wire, pipes or other equipment used in the operation of the taxpayers' business.

E. STATEMENT: On or before the last day of each month each taxpayer shall make a return to the Treasurer for the proceeding month stating:

1. His name;
2. His principal place of business;
3. His gross receipts during those months upon the basis of which the tax is imposed;
4. Amount of tax; and
5. Such other reasonable and related information as the corporate authorities may require.

On or before the last day of every third month, each taxpayer shall make a like return to the Treasurer for a corresponding three-month period.

The taxpayer making the return herein provided for shall, at the time of making such return, pay to the Treasurer the amount of tax herein imposed; provided that in connection with any return the taxpayer may, if he so elects, report any pay an amount based upon his total billings of business subject to the tax during the period for which the return is made (exclusive of any amounts previously billed), with prompt adjustments of later payments based upon any difference between such billings and the taxable gross receipts.

F. ERRORS: If is shall appear that an amount of tax has been paid which was not due under the provisions of this Section 34.06, whether as the result of a mistake of fact or an error of law, then such amount shall be credited against any tax due, or to become due, under this Section 34.06 from the taxpayer who made the erroneous payment; provided that no amounts erroneously paid more than three years prior to the filing of a claim therefor shall be so credited. If a taxpayer under this Section 34.06 is unable to use a credit authorized by this Section 34.06-F has been replaced by the tax imposed under Section 34.07, then the taxpayer may apply such credit against any tax due under Section 34.07.

G. RECOVERY DEADLINE: No action to recover any amount of tax due under the provisions of this section shall be commenced more than three years after the due date of such amount.

H. PENALTY: Any taxpayer who fails to make a return, or who makes a fraudulent return, or who willfully violates any other provision of this Section 34.06 is guilty of a misdemeanor and upon conviction thereof shall be fined not less than $100 nor more than $200 and, in addition, shall be liable

in a civil action for the amount of tax due.

34.07 MUNICIPAL UTILITY TAX ON ELECTRIC GROSS RECEIPTS

A. DEFINITIONS: In addition to the terms defined in Appendix A of this Code, terms, whether capitalized or not, used in this Section 34.07 mean as follows:

Person: For purposes of this Section 34.07, any natural individual, firm, trust, estate, partnership, association, joint stock company, joint venture, corporation, municipal corporation or political subdivision of this State, or a receiver, trustee, conservator or other representative appointed by order of any court.

Person maintaining a place of business in this State: For purposes of this Section 34.07, any person having or maintaining within the State, directly or by a subsidiary or other affiliate, an office, generation, facility, distribution facility, transmission facility, sales office or other place of business, or any employee, agent or other representative operating within the State under the authority of the person or its subsidiary or other affiliate, irrespective of whether such place of business or agent or other representative is located in the State permanently or temporarily, or whether such person, subsidiary or other affiliate is licensed or qualified to do business in the State.

Purchase at retail: For purposes of this Section 34.07, any acquisition of electricity by a purchaser for purposes of use or consumption, and not for resale, but shall not include the use of electricity by a public utility, as defined in 65 ILCS 5/8-11-2, directly in the generation, production, transmission, delivery or sale of electricity.

Purchaser: For purposes of this Section 34.07, any person who uses or consumes, within the corporate limits of the City, electricity acquired in a purchase at retail (other than an exempt purchaser).

Tax collector: For purposes of this Section 34.07, the person delivering electricity to the purchaser.

B. TAX IMPOSED: Pursuant to the Illinois Municipal Code (65 ILCS 5/8-11-2) and any other applicable authority, a tax is imposed upon the privilege of using or consuming electricity purchased at retail and used or consumed within the corporate limits of the City at the following rates, calculated on a monthly basis for each purchaser, except the City:

1. For the first 2,000 Kilowatt-hours ("Kwh") used or consumed in a month, .550 cents per Kwh;

2. For the next 48,000 Kwh used or consumed in a month, .361 cents per Kwh;

3. For the next 50,000 Kwh used or consumed in a month, .325 cents per Kwh;

4. For the next 400,000 Kwh used or consumed in a month, .316 cents per Kwh;

5. For the next 500,000 Kwh used or consumed in a month, .307 cents per Kwh;

6. For the next 2,000,0000 Kwh used or consumed in a month, .289 cents per Kwh;

7. For the next 2,000,000 Kwh used or consumed in a month, .284 cents per Kwh;

8. For the next 5,000,000 Kwh used or consumed in a month, .280 cents per

Kwh;

9. For the next 10,000,000 Kwh used or consumed in a month, .275 cents per Kwh; and

10. For all electricity consumed or used in excess of 20,000,000 kwh in a month, .271 cents per kwh.

The tax rates set forth hereinabove will be used at least through December 31, 2008, are proportional to the rates enumerated in 65 ILCS 5/8-11-2 (as modified by Public Act 90-561), and do not exceed the revenue that could have been collected during 1997 using the rates enumerated in 65 ILCS 5/8-11-2 (as modified by Public Act 90-561).

C. EFFECTIVE DATE: The tax rates as set forth in Section 32.07-D herein shall become effective as follows:

1. For all residential customers within the corporate limits of the City, August 1, 1998.

2. For nonresidential customers, upon the earlier of the date of the first bill issued to each non-residential customer pursuant to 220 ILCS 5/16-104 or the last bill issued prior to December 31, 2000.

D. RETAIL SALE: It shall be presumed that any electricity delivered to a person within the City is sold at retail, for its use or consumption within the City. This presumption is refutable only by clear and convincing evidence.

E. UTILITY TAX: Pursuant to 65 ILCS 5/8-11-2, the tax provided in Section 32.06-B-3 herein shall remain in full force and effect as follows:

1. For gross receipts, as defined herein, attributable to residential customers, until August 1, 1998; and

2. For gross receipts attributable to nonresidential customers until the earlier of the last bill issued prior to December 31, 2000, or the date of the first bill issued to each nonresidential customer pursuant to 220 ILCS 5/16-104.

F. COLLECTION: The tax imposed by this Section 34.07 shall be collected from the purchaser by the person maintaining a place of business in this State who delivers the electricity to the purchaser. The tax shall constitute a debt of the purchaser to the person who delivers the electricity to the purchaser. If the tax is unpaid it is recoverable in the same manner as the original charge for delivering the electricity. Any tax required to be collected pursuant to this Section 34.07 and any such tax collected by a person delivering electricity shall constitute a debt owed to the municipality by such person delivering the electricity, provided that the person delivering electricity shall be allowed credit for such tax related deliveries of electricity, the charges for which are written off as uncollectible, and provided further, that if such charges are thereafter collected, the delivering supplier shall be obligated to remit such tax to the City. Persons delivering electricity shall collect the tax from the purchaser by adding such tax to the gross charge for delivering the electricity. Persons delivering electricity shall be authorized to add to such gross charge an amount equal to three percent of the tax assessed pursuant to this Section 34.07 to reimburse the person delivering electricity for the expense incurred in keeping records, billing customers, preparing and filing returns, remitting tax and supplying data to the City. If the person delivering electricity fails to collect the tax from the purchaser, then the purchaser shall be required to pay the tax directly to the City in the manner prescribed herein. Persons delivering

electricity who file returns pursuant to this Section 34.07 shall, at the time of filing such return, pay the City the amount of the tax collected pursuant to this Section 34.07.

G. BOOKS AND RECORDS:

1. Every person delivering electricity who is required to collect a tax pursuant to this Section 34.07 shall keep accurate books and records of all transactions which may affect the tax provided for herein including, but not limited to, records of the number of Kilowatt-hours (Kwh) used by each consumer within the City for each month, the charge imposed upon each consumer for the sale of the electricity and any related services, the amount of tax imposed by this Section 34.07 billed to each consumer of electricity and the amount of tax actually collected, the amount of the charge imposed and collected by the electric distributor as compensation for collecting the tax provided for in Section 34.07-D, and the total gross receipts received by the electricity deliverer for each month, not including the tax imposed by Section 34.07-D.

2. Every person delivering electricity who is required to collect a tax as set forth herein shall provide to the City, within seven days of written request, copies of all records, or any part thereof, which the City requests, which the electricity deliverer is required to keep pursuant to Section 34.07 herein.

H. TAX REMITTANCE AND RETURN:

1. Every person collecting a tax pursuant to this Section 34.07 shall, on a monthly basis, file a return with the City in a form prescribed by the City along with the total revenues collected. The return and accompanying remittance shall be delivered to the City on or before the last day of the month following the month during which the tax is collected or is required to be collected under Section 34.07-D-5.

2. Each person who is required to pay a tax pursuant to Section 34.07-D and who has not paid said tax to the electricity deliverer as provided for herein, shall file a return with the City as provided in Section 34.07-I-2 and pay directly to the City the tax on or before the last day of the month following the month during which the electricity was used or consumed.

I. REINSTATEMENT OF UTILITY TAX ON ELECTRICITY: In the event Public Act 90-561 is declared unconstitutional, or if this Section 34.07 is found unconstitutional or voided by any court of competent jurisdiction, the provisions of Section 34.06-A-3 shall remain in effect in all respects as if it had never been repealed, and any amounts paid to the City by any person delivering electricity pursuant to this Section 34.06-C shall be deemed to have been paid pursuant to Section 34.06-A-3 as it existed prior to the passage of this amendment to Section 34.06.

CHAPTER 35
SOLICITORS

35.01 Definitions
35.02 Purpose
35.03 License Required
35.04 Application for License
35.05 Issuance, Denial and Revocation of Licenses
35.06 City Policy on Soliciting
35.07 Notice Regulating Soliciting
35.08 Duty of Solicitors
35.09 Uninvited Soliciting
35.10 Time Limit on Soliciting
35.11 License Fee
35.12 Law Enforcement Solicitation
35.13 Penalty

35.01 DEFINITIONS

Terms used in this Chapter 35 are defined in Appendix A and the Illinois Compiled Statutes.

35.02 PURPOSE

Numerous complaints have been received by members of the governing body of this City from occupants of residences and dwelling units about persons who have gained or sought to gain admittance to their residences for the purpose of soliciting; or on the pretext of soliciting, have by their conduct made nuisances of themselves by disturbing and annoying the occupants; or by their acts and conduct have violated the right of the occupants to the quiet and peaceful enjoyment and security of their homes.

The City of Marengo declares that the regulations established by this Chapter 35 are necessary for the safety, health, comfort, good order, protection and welfare of residents of this City who desire the protection of the regulations established by this Chapter 35.

35.03 LICENSE REQUIRED

It shall be unlawful for any person to call upon any residence in the City for the purpose of soliciting, without first securing a license from the Chief of Police, or without being exempt therefrom pursuant to Section 35.04 herein. Any person required by this Chapter 35 to have a solicitor's license must have the license in his possession while engaging in solicitation.

35.04 APPLICATION FOR LICENSE

Application for a solicitor's license shall be made upon a form provided by the Chief of Police and filed with the Chief of Police. The applicant shall truthfully state in full the information requested on the application, to-wit:

1. Name, address of present place of residence, phone number and date of birth of the applicant and person who will be soliciting for the applicant.

2. Provide a valid photo identification (driver's license or state identification) of the applicant and person who will be soliciting for the applicant.

3. Physical description of the applicant.

4. Name and address of the person, firm or corporation or association whom the applicant is soliciting for and the length of time applicant has been soliciting for the entity.

5. Description sufficient for identification of the subject matter of the soliciting which the applicant will engage in.

6. Period of time for which the license is applied for, shall not exceed 30 days.

7. Whether a license issued to the applicant under this Chapter 35 was ever revoked.

8. Whether the applicant was ever convicted of a violation of any provision of this Chapter 35, or the ordinance of any other Illinois municipality regulating soliciting.

9. Whether the applicant was ever 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.

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

35.05 ISSUANCE, DENIAL AND REVOCATION OF LICENSES

A. The Chief of Police, after consideration of the application and all information obtained relative thereto, shall issue a license to those applicants found fully qualified and the license shall be issued forthwith. The license shall state the expiration date thereof.

B. The Chief of Police, after consideration of the application and all information obtained relative thereto, shall deny the application for the reasons here listed. Endorsement shall then be made by the Chief of Police upon application of the denial of the application No license 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 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 35 or of an ordinance of any municipality regulating this Chapter 35 or of an ordinance of any municipality regulating solicitation; nor to any person who has supplied false information on the application or has been previously revoked after a license was issued.

C. Any license that has been issued shall be revoked by the Chief of Police if the holder of the license is convicted of a violation of this Chapter 35, or has made a false statement in the application or otherwise becomes disqualified for the issuance of a license. Immediately upon such revocation, written notice thereof shall be given by the Chief of Police to the holder of the license, in person or by certified United States mail addressed to the residence set forth in the application. Immediately on giving such notice, the license shall be null and void.

35.06 CITY POLICY ON SOLICITING

It is the policy of the City Council that the occupant or occupants of the residences in this City shall make the determination of whether solicitors shall be, or shall not be, invited to their residence. If no determination is made as is provided in Section 35.07 herein, then soliciting is permitted.

35.07 NOTICE REGULATING SOLICITING

Every person desiring to secure the protection intended to be provided by the regulations pertaining to soliciting contained in this Chapter 35 shall comply with the following directions, to-wit:

Notice of the determination by the occupant of giving invitation to solicitors, or giving invitation only to for-profit solicitors, or the refusal of invitation to any solicitors, to any residence shall be given in the manner following:

1. A card shall be exhibited upon or near the main entrance door to the residence, indicating the determination by the occupant, containing the applicable words, as follows:

   "NO SOLICITORS INVITED"

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

2. A card shall be exhibited upon or near the main entrance door to the residence, indicating the determination by the occupant, containing the applicable words, as follows:

   "NO FOR PROFIT SOLICITORS INVITED"

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

3. The absence of a "solicitors card" upon or near the main entrance door to the residence shall be deemed notice that solicitation is invited within the provisions of this Chapter 35.

35.08 DUTY OF SOLICITORS

A. It shall be the duty of every solicitor upon going onto any premises in the City, upon which a residence as herein defined is located, to first examine the notice provided for in Section 35.07 herein, if any is attached, and be governed by the statement contained on the notice. If the notice is present then the solicitor, whether licensed or not, shall immediately and peacefully depart the premises.

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

C. A solicitor may not go upon any portion of the yard (other than a walkway or pathway leading to the front door of the residence) or ring the doorbell upon or near any back door of any residence, 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 and engage in soliciting in such areas after dark.

35.09 UNINVITED SOLICITING

It is unlawful and shall constitute a violation of this Chapter 35 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 35.07 herein.

35.10 TIME LIMIT ON SOLICITING

It is unlawful and shall be a violation of this Chapter 35 for any person, whether licensed or not, to go upon any premises and ring the doorbell upon or near any door of a residence located thereon, or rap or knock upon any door, or create any sound in any manner calculated to attract the attention of the occupant of such residence, for the purpose of securing an audience with the occupant thereof and engage in soliciting, prior to 10 a.m. or after 6 p.m. Monday through Saturday. Soliciting shall not be permitted on Sunday.

35.11 LICENSE FEE

All solicitors or applicants for a solicitor's license shall pay a fee of $10.00 per person for a three-day solicitor's license.

35.12 LAW ENFORCEMENT SOLICITATION

A. A person may not solicit property from the general public when the property or any part of that property in any way tangibly benefits, is intended to tangibly benefit or is represented to be for the tangible benefit of any law enforcement officer, law enforcement agency or law enforcement association.

B. For purposes of this Section 35.12, a solicitation tangibly benefits a law enforcement agency, officer or association if the proceeds of that solicitation are used, represented to be used or intended to be used to support a law enforcement program or purpose which a law enforcement agency or association otherwise would have to fund through its own budgeting mechanism.

C. EXCEPTIONS: This Section 35.12 shall not apply to solicitations:

1. By or on behalf of law enforcement officers campaigning for election to public office; or

2. Solicitations for charitable purposes unrelated to law enforcement activities; or

3. Solicitations for programs that benefit the general welfare of the community, and are sanctioned by the Chief of Police, and 100 percent of the proceeds collected are devoted to that beneficial program.

35.13 PENALTY

Every violation of this Chapter 35 shall be punishable by a fine of not less than $50 and not more than $500 for each violation.

CHAPTER 36
TAXICABS

36.01 License Required
36.02 Character of Applicant
36.03 Number of Licensees
36.04 License Fees; Taxicab Standards
36.05 Vehicles
36.06 Insurance
36.07 Taxicab Drivers
36.08 Traffic Rules
36.09 Unlawful Use
36.10 Passengers

36.01 LICENSE REQUIRED

It shall be unlawful to engage in the business of operating a taxicab in the City without first having secured a license therefor. Applications for such licenses shall be made in writing to the City, and shall include the name of the applicant, the intended place of business and the number of taxicabs to be operated. If the applicant is a corporation, the names and addresses of its president and secretary shall be given.

36.02 CHARACTER OF APPLICANT

No taxicab license shall be issued to or held by any person who is not a person of good character or who has been convicted of a felony; nor shall such license be issued to or held by any corporation of any officer thereof would be ineligible for a license under the foregoing conditions.

36.03 NUMBER OF LICENSEES

There shall be no more than two taxicab licenses in the City. No person or corporation shall be issued more than one license, nor shall a license be issued unless the licensee has taxicabs in service.

36.04 LICENSE FEES; TAXICAB STANDARDS

A. The annual fee payable in advance for a taxicab license shall be $10 for the first taxicab and $5 for each additional taxicab operated up to a maximum fee of $75. All fees shall be paid to the City at the time application is made. In the event the license is denied, the fee shall be returned to the applicant. If the license is issued, the fee shall be deposited in the City's general corporate fund or such other fund designated by the City Council. Whenever the number of taxicabs operated is increased during the license year, the licensee shall notify the City of the change and shall pay the additional fee to the City. Such fee shall be in lieu of any other vehicle fee required by ordinance, and the City shall issue suitable tags or stickers for the number of taxicabs covered by each license. Such tag or sticker shall be displayed in a prominent place on each taxicab while it is in use. If a taxicab is withdrawn from service and another taxicab replaces the one withdrawn, the licensee shall notify the City, who shall issue a tag or sticker for such replacement taxicab upon the payment of a $1 transfer fee. The licensee shall notify the City of the motor number and the license number of each taxicab operated and of the corresponding City tag or sticker number.

B. The annual license fee shall include the right to use one or more of the designated parking places for taxicabs in each of the various locations throughout the City, known as cab stands. Cab stands shall be assigned by the Chief of Police and no other licensee shall use that parking place or

places. Each cab stand shall be appropriately marked by signs erected under the supervision of the Chief of Police. It shall be unlawful to park any vehicle other than a taxicab in any cab stand.

36.05 VEHICLES

A. No taxicab shall be operated unless it bears a state license, and no taxicab shall be operated unless it is equipped with proper brakes, lights, tires, horn, muffler, rear vision mirror and windshield wipers in good condition. All taxicabs shall be subject to a semi-annual safety test at an official State Police testing station. A certificate of safety, with a number on the face indicating the date of the next inspection period the vehicle is subject to inspection, shall be displayed in a prominent place on each taxicab. If the test shows the taxicab is not in a safe mechanical condition, it shall not be operated on the streets of the City until it has been issued a certificate of safety issued. It shall be the duty of the Chief of Police to inspect every taxicab as necessary to insure compliance with this Section 36.05.

B. Each taxicab, while operated, shall have on each side, in letters readable from a distance of 20 feet, the name of the licensee operating it. If more than one taxicab is operated by a licensee, each taxicab shall be designated by a different number, and such number also shall so appear on each side of such taxicab.

36.06 INSURANCE

No taxicab shall be operated unless it is covered by a bond or public liability policy as required by statute.

36.07 TAXICAB DRIVERS

A. No person shall drive a taxicab unless licensed by the State of Illinois. Proof of such license shall be submitted to the Chief of Police, who will issue a certificate that the applicant has complied with the provisions of this Chapter 35.

B. It shall be unlawful for any taxicab driver, while on duty, to drink any intoxicating liquor, or to use any profane or obscene language, or to shout or call to prospective passengers, or to disturb the peace in any way.

C. The taxicab licensee shall submit a list of drivers to the City semi-annually.

36.08 TRAFFIC RULES

It shall be the duty of every driver of a taxicab to obey all traffic rules established by statute or ordinance.

36.09 UNLAWFUL USE

It shall be unlawful to knowingly permit any taxicab to be used in the preparation of a crime or misdemeanor.

36.10 PASSENGERS

A. It shall be the duty of the driver of any taxicab to accept as a passenger any person who seeks to use the taxicab, provided such person is not intoxicated and conducts himself in an orderly manner.

B. No person shall be admitted to a taxicab occupied by a passenger without the consent of

the passenger.

C. The driver of a taxicab shall not carry a passenger in the front seat of the taxicab.

D. The driver shall take his passenger to his destination by the most direct available route from the place where the passenger enters the taxicab.

CHAPTER 37
MUNICIPAL TELECOMMUNICATIONS INFRASTRUCTURE MAINTENANCE FEE

37.01 Definitions
37.02 Registration of Telecommunications Providers
37.03 Municipal Telecommunications Infrastructure Maintenance Fee
37.04 Collection, Enforcement and Administration of Telecommunications Infrastructure Maintenance Fee
37.05 Compliance with Other Laws
37.06 Existing Franchises and Licenses
37.07 Penalties
37.08 Enforcement
37.09 Severability
37.10 Conflict
37.11 Waiver and Fee Implementation

37.01 DEFINITIONS

In addition to the terms defined in Appendix A of this Code, the following terms shall have the following meanings:

Gross Charges: The amount paid to a telecommunications retailer for the act or privilege of originating or receiving telecommunications within the City, and for all services rendered in connection therewith, valued in money whether paid in money or otherwise, including cash, credits, services, and property of every kind or nature, and shall be determined without any deduction on account of the cost of such telecommunications, the cost of the materials used, labor or service costs, or any other expense whatsoever. In case credit is extended, the amount thereof shall be included only as and when paid. Gross charges for private line service shall include charges imposed at each channel point within the City, charges for the channel mileage between each channel point within the City, and charges for that portion of the interstate inter-office channel provided within the City. However, gross charges shall not include:

1. Any amounts added to a purchaser's bill because of a charge made under: (i) the fee imposed by Section 37.03 herein, (ii) additional charges added to a purchaser's bill under 220 ILCS 5/9-221 or 5/9-222 (the Public Utilities Act), (iii) amounts collected under 65 ILCS 5/8-11-17, (iv) the tax imposed by the Telecommunications Excise Tax Act (35 ILCS 630/1 et seq., (v) 911 surcharges, or (vi) the tax imposed by Section 4251 of the Internal Revenue Code;

2. Charges for a sent collect telecommunication received outside the City;

3. Charges for leased time on equipment or charges for the storage of data or information or subsequent retrieval or the processing of data or information intended to change its form or content. Such equipment includes, but is not limited to, the use of calculators, computers, data processing equipment, tabulating equipment or accounting equipment and also includes the usage of computers under a time-sharing agreement;

4. Charges for customer equipment, including such equipment that is leased or rented by the customer from any source, wherein such charges are disaggregated and separately identified from other charges;

5. Charges to business enterprises certified under 220 ILCS 5/9-221 (Public Utilities Act) to the extent of such exemption and during the period of time specified by the City;

6. Charges for telecommunications and all services and equipment provided in connection therewith between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries, and only to the extent that the charges between the parent corporation and wholly owned subsidiaries or between wholly owned subsidiaries represent expense allocation between the corporations and not the generation of profit other than a regulatory required profit for the corporation rendering such services;

7. Bad debts (bad debt means any portion of a debt that is related to a sale at retail for which gross charges are not otherwise deductible or excludable that has become worthless or uncollectible, as determined under applicable federal income tax standards; if the portion of the debt deemed to be bad is subsequently paid, the retailer shall report and pay the tax on that portion during the reporting period in which the payment is made);

8. Charges paid by inserting coins in coin-operated telecommunications devices; or

9. Charges for telecommunications and all services and equipment provided to the City.

Public right-of-way: Any municipal street, alley, water or public right-of-way dedicated or commonly used for utility purposes, including utility easements wherein the City has acquired the right and authority to locate or permit the location of utilities consistent with telecommunications facilities. Public right-of-way shall not include any real or personal City property that is not specifically described in the previous sentence and shall not include City buildings and other structures or improvements, regardless of whether they are situated in the public right-of-way.

Retailer maintaining a place of business in this State (or any like term): Means and includes any retailer having or maintaining within the State, directly or by a subsidiary, an office, distribution facilities, transmission facilities, sales office, warehouse or other place of business, or any agent or other representative operating within this State under the authority of the retailer or its subsidiary, irrespective of whether such place of business or agent or other representative is located here permanently or temporarily, or whether such retailer or subsidiary is licensed to do business in this State.

Sale of telecommunications at retail: The transmitting, supplying or furnishing of telecommunications and all services rendered in connection therewith for a consideration, other than between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries, when the gross charge made by one such corporation to another such corporation is not greater than the gross charge paid to the retailer for their use or consumption and not for sale.

Service address: The location of telecommunications equipment from which telecommunications services are originated or at which telecommunications services are received. If this is not a defined location, as in the case of wireless telecommunications, paging systems, maritime systems, air-to-ground systems, and the like, service address shall mean the location of the customer's primary use of the telecommunications equipment as defined by the location in Illinois where bills are sent.

Telecommunications: Includes, but is not limited to, messages or information transmitted through use of local, toll and wide area telephone service, channel services, telegraph services, teletypewriter service, computer exchange services, private line services, specialized mobile radio services or any other transmission of messages or information by electronic or similar means, between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite or similar facilities. Unless the context clearly requires otherwise, telecommunications shall also include wireless telecommunications as hereinafter defined. Telecommunications shall not include value added services in which computer processing applications are used to act on the form, content, code and protocol of the information for purposes other than transmission. Telecommunications shall not include purchase of telecommunications by a telecommunications service provider for use as a component part of the service provided by him or her

to the ultimate retail consumer who originates or terminates the end-to-end communications. Retailer access charges, right of access charges, charges for use of intercompany facilities and all telecommunications resold in the subsequent provision and used as a component of, or integrated into, end-to-end telecommunications service shall not be included in gross charges as sales for resale. Telecommunications shall not include the provision of cable services through a cable system as defined in the Cable Communications Act of 1984 (47 U.S.C. Sections 521 and following) as now or hereafter amended or cable or other programming services subject to an open video system fee payable to the City through an open video system as defined in the rules of the Federal Communications Commission (47 C.D.F. 76.1550 and following) as now or hereafter amended.

Telecommunications provider:

1. Any telecommunications retailer; and

2. Any person that is not a telecommunications retailer that installs, owns, operates or controls equipment in the public right-of-way that is used or designed to be used to transmit telecommunications in any form.

Telecommunications retailer: Means and includes every person engaged in the business of making sales of telecommunications at retail as defined in this Section 37.01. The City may, in its discretion, upon application, authorize the collection of the fee hereby imposed by any retailer not maintaining a place of business within this State, who, to the satisfaction of the City, furnishes adequate security to ensure collection and payment of the fee. When so authorized, it shall be the duty of such retailer to pay the fee upon all of the gross charges for telecommunications in the same manner and subject to the same requirements as a retailer maintaining a place of business within the City.

Wireless telecommunications: Includes cellular mobile telephone services, personal wireless services as defined in Section 704(C) of the Telecommunications Act of 1996 (Public law No. 104-104), 42 U.S.C. §332(c)(7), as now or hereafter amended, including all commercial mobile radio services, and paging services.

37.02 REGISTRATION OF TELECOMMUNICATIONS PROVIDERS

A. Every telecommunications provider, as defined by this Chapter 37, shall register with the City within 30 days after the effective date of this Chapter 37, or becoming a telecommunications provider, whichever is later, on the Telecommunications Provider Registration Form, attached to this Chapter 37 as Exhibit A, provided, however, that any telecommunications retailer that has filed a return pursuant to Section 37.04-C herein shall be deemed to have registered in accordance with this Section 37.02.

B. Every telecommunications provider who has registered with the City pursuant to Section 37.02-A herein has an affirmative duty to submit an amended registration form or current return as required by Section 37.04-C herein, as the case may be, to the City within 30 days from the date of the occurrence of any changes in the information provided by the telecommunications provider in the registration form or most recent return on file with the City.

37.03 MUNICIPAL TELECOMMUNICATIONS INFRASTRUCTURE MAINTENANCE FEE

A. City telecommunications infrastructure maintenance fee is hereby imposed upon all telecommunications retailers in the amount of 1.0 percent of all gross charges charged by the telecommunications retailer to service addresses within the City for telecommunications originating or received in the City.

B. Upon the effective date of the infrastructure maintenance fee authorized in this Chapter 37, the City infrastructure maintenance fee authorized hereunder shall be the only fee or compensation for the use of all public rights-of-way within the City by telecommunications retailers. Imposition of the infrastructure maintenance fee provided under this Chapter 37 does not, however, serve as a limitation on the levying of any taxes or imposition of any fees otherwise authorized by law.

C. The City telecommunications infrastructure maintenance fee authorized by this Section 37.03 shall be collected, enforced and administered as set forth in Section 37.04 herein.

37.04 COLLECTION, ENFORCEMENT AND ADMINISTRATION OF TELECOMMUNICATIONS INFRASTRUCTURE MAINTENANCE FEES

A. A telecommunications retailer shall charge to and collect from each customer an additional charge in an amount equal to the City infrastructure maintenance fee attributable to that customer's service address.

B. Unless otherwise approved by the City, the infrastructure maintenance fee shall be remitted by the telecommunications retailer to the City not later than the last day of the month subsequent to the month in which a bill is issued to the customer, provided, however, that the telecommunications retailer may retain an amount not to exceed two percent of the City infrastructure maintenance fee collected by it to reimburse itself for expenses incurred in accounting for and remitting the fee.

C. Remittance of the municipal infrastructure fee to the City shall be accompanied by a return, in a form to be prescribed by the City, which shall contain such information as the City may reasonably require.

D. Any infrastructure maintenance fee required to be collected pursuant to this Chapter 37 and any such infrastructure maintenance fee collected by such telecommunications retailer shall constitute a debt owed by the telecommunications retailer to the City. The charge imposed under Section 37.04-A by the telecommunications retailer pursuant to this Chapter 37 shall constitute a debt of the purchaser to the telecommunications retailer who provides such services until paid and, if unpaid, is recoverable at law in the same manner as the original charge for such services.

E. If it shall appear that an amount of infrastructure maintenance fee has been paid that was not due under the provisions of this Chapter 37, whether as a result of a mistake of fact or an error of law, then such amount shall be credited against any infrastructure maintenance fee due, or to become due, under this Chapter 37, from the telecommunications retailer who made the erroneous payment; provided, however, the City may request, and telecommunications retailer shall provide, written substantiation for such credit. However, no claim for such credit may be made more than three years after the date of the erroneous payment unless:

1. The credit is used only to offset a claim of underpayment made by the City within the applicable statutory period of limitations, and

2. The credit derives from an overpayment made by the same telecommunications retailer during the applicable statutory period of limitations.

F. Amounts paid under this Chapter 37 by telecommunications retailers shall not be included in the tax base under any of the following acts as described immediately below:

1. Gross charges for purposes of the Telecommunications Excise Tax Act, 35 ILCS 630/1 et seq.;

2. Gross receipts for purposes of the municipal utility tax as prescribed in 65 ILCS 5/8-11-2;

3. Gross charges for purposes of the municipal telecommunications tax as prescribed in 65 ILCS 5/8-11-17;

4. Gross revenue for purposes of the tax on annual gross revenue of public utilities prescribed in 220 ILCS 5/2-202 (Public Utilities Act).

G. The City shall have the right, in its discretion, to audit the books and records of all telecommunications retailers subject to this Chapter 37 to determine whether the telecommunications retailer has properly accounted to the City for the City infrastructure maintenance fee. Any underpayment of the amount of the City infrastructure maintenance fee due to the City by the telecommunications retailer shall be paid to the City plus five percent of the total amount of the underpayment determined in an audit, plus any costs incurred by the City in conducting the audit, in an amount not to exceed five percent of the total amount of the underpayment determined in an audit. Said sum shall be paid to the City within 21 days after the date of an invoice for same.

H. The City Administrator, or his or her designee, may promulgate such further or additional regulations concerning the administration and enforcement of this Chapter 37, consistent with its provisions, as may be required from time to time and shall notify all telecommunications retailers that are registered pursuant to Section 37.02 herein of such regulations.

37.05 COMPLIANCE WITH OTHER LAWS

Nothing in this Chapter 37 shall excuse any person or entity from the obligations imposed under any law, including but not limited to:

1. Generally applicable taxes; and

2. Standards for construction on, over, under or within, use of or repair of the public rights-of-way, including standards relating to free standing towers and other structures upon the public rights-of-way, as provided; and

3. Any liability imposed for the failure to comply with such generally applicable taxes or standards governing construction on, over, under or within, use of or repair of the public rights-of-way; and

4. Compliance with any ordinance or provision of this Code concerning uses or structures not located on, over or within the right-of-way.

37.06 EXISTING FRANCHISES AND LICENSES

Any franchise, license or similar agreements between telecommunications retailers and the City entered into before the effective date of this Chapter 37 regarding the use of public rights-of-way shall remain valid according to and for their stated terms except for any fees, charges or other compensation to the extent waived.

37.07 PENALTIES

Any telecommunications provider who violates, disobeys, omits, neglects or refuses to comply with any of the provisions of this Chapter 37 shall be subject to fine in accordance with the general penalty provisions of this Code.

37.08 ENFORCEMENT

Nothing in this Chapter 37 shall be construed as limiting any additional or further remedies that the City may have for enforcement of this Chapter 37.

37.09 SEVERABILITY

If any section, subsection, sentence, clause, phrase or portion of this Chapter 37 is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

37.10 CONFLICT

This Chapter 37 supersedes all ordinance or parts of ordinance adopted prior hereto which are in conflict herewith, to the extent of such conflict.

37.11 WAIVER AND FEE IMPLEMENTATION

A. The City hereby waives all fees, charges and other compensation that may accrue, after the effective date of the waiver, to the City by a telecommunications retailer pursuant to any existing City franchise, license or similar agreement with a telecommunications retailer during the time the City imposes the Telecommunications Infrastructure Maintenance Fee. This waiver shall only be effective during the time the Infrastructure Maintenance Fee provided for in this Chapter 37 is subject to being lawfully imposed on the telecommunications retailer and collected by the telecommunications retailer from the customer.

B. The City Clerk shall send a Fee Waiver Form, attached hereto as Exhibit B, by certified mail/return receipt requested to each telecommunications retailer with whom the City has a franchise.

C. The City infrastructure maintenance fee provided for in this Chapter 37 shall become effective and imposed on the first day of the month not less than 90 days after the City provides written notice, using the Notice of Imposition of Infrastructure Maintenance Fee, attached hereto as Exhibit C, by certified mail to each telecommunications retailer with whom the City has an existing franchise, license or similar agreement that the City waives all compensation under such existing franchise, license or similar agreement during such time as the fee is subject to being lawfully imposed and collected by the retailer and remitted to the City. The infrastructure maintenance fee shall apply to gross charges billed on or after the effective date as established in the preceding sentence.

Exhibit A

City of Marengo
Telecommunications Provider
Registration Form

Pursuant to Section 37.02 of the Marengo Municipal Code, all telecommunications providers are required within [insert 30 days of the effective date of the ordinance] or becoming a telecommunications provider, whichever is later, to register with the City. In addition to completing this form, applicants must comply with all City codes and ordinances including but not limited to generally applicable standards regarding the use of the public right-of-way and zoning regulations.

All information must be provided, if any question does apply, please indicate "NA"

I. GENERAL REGISTRANT INFORMATION

	NAME	ADDRESS, CITY, ZIP	PHONE	FACSIMILE	E-MAIL
Registrant					
All Affiliates of Registrant					
Contact Person					

II. REQUIRED BUSINESS INFORMATION

Federal Employee ID No.	
IL Business Tax No.	
Property Tax No. (PIN)	
Business Ownership Type *(Circle One)*	**Corporation** **Sole Owner** **Partnership**

III. INFORMATION ABOUT THE PROVIDER'S SERVICE (attach additional sheet if necessary)

Describe the registrant provider's existing or proposed facilities, including the location within the City	
Describe the registrant provider's service	

IV. If you own, operate or control telecommunications equipment located in the right-of-way and lease this equipment to another telecommunications retailer or provider, please list all parties to whom you currently lease telecommunications equipment.

NAME	ADDRESS, CITY, ZIP	PHONE	FACSIMILE	E-MAIL

V. PLEASE SEND THE COMPLETED FORM TO:

City Administrator
Marengo City Hall
132 E. Prairie Street
Marengo, IL 60152

VI. I HEREBY CERTIFY THE ABOVE INFORMATION IS COMPLETE, TRUE AND CORRECT

Signature:_____

Title:_____

Date:_____

Exhibit B

FEE WAIVER FORM

_____, 1997

VIA CERTIFIED MAIL - RETURN RECEIPT REQUESTED

[Send one to each current telecommunications franchisee]

_____
_____
_____

RE: Notice of Implementation of Municipal Infrastructure Maintenance Fee and Waiver of All Fees, Charges and Other Compensation Pursuant to Existing Franchise Agreements, Licenses and Similar Agreements

Dear _____:

On December 1, 1997 the City of Marengo passed and approved Ordinance No. 97-12-1, implementing a Municipal Telecommunications Infrastructure Maintenance Fee which will be effective on the first day of the month not less than ninety (90) days after this notice and during the time the City imposes a Municipal Telecommunications Infrastructure Maintenance Fee. The Infrastructure Maintenance Fee is one percent of the Gross Charges as defined in Public Act 90-154 and Ordinance 97-12-1. A copy of the ordinance is enclosed.

In addition, you are hereby notified that on the first day of the month not less than (ninety) 90 days after due notice and during the time City imposes the Municipal Telecommunications Infrastructure Maintenance Fee, the City has waived all fees, charges and other compensation that may accrue after the effective date of the waiver pursuant to the Franchise Agreement with [name of company] dated _____. All other terms of the Franchise Agreement will remain in effect until its expiration. This waiver shall only be effective during the time the Telecommunications Infrastructure Maintenance Fee is subject to being lawfully imposed and collected.

If you have any questions regarding this notice or the Municipal Telecommunications Infrastructure Maintenance Fee, please contact the City Administrator.

CITY OF MARENGO

_____
City Clerk

Exhibit C

NOTICE OF IMPOSITION OF INFRASTRUCTURE MAINTENANCE FEE

_____, 1997

[Send one to each current telecommunications retailer]
_____
_____
_____

RE: Notice of Imposition of Municipal Infrastructure Maintenance Fee

Dear _____:

On

On December 1, 1997 the City of Marengo passed and approved Ordinance No. 97-12-1 implementing a Municipal Telecommunications Infrastructure Maintenance Fee which will be effective January 1, 1998 [or _____,] and during the time the City imposes a Municipal Telecommunications Infrastructure Maintenance Fee. The Infrastructure Maintenance Fee is [1/4, 1/2, 3/4, 1]% of Gross Charges as defined in Public Act 90-154 and Ordinance 97-12-1. A copy of the ordinance is enclosed.

In addition, you are hereby notified that effective January 1, 1998 or 90 days after due notice and during the time City imposes the Telecommunication Infrastructure Maintenance Fee, the City has waived all fees, charges and other compensation to be paid to the City pursuant to existing franchise agreements, licenses or similar agreements that may become due after the effective date of the waiver.

If you have any questions regarding this notice or the infrastructure maintenance fee, please contact the City Administrator.

CITY OF MARENGO

_____
City Clerk

CHAPTER 40
OFFENSES BY ORGANIZED GROUPS

40.01 Disorderly conduct
40.02 Curfew
40.03 Damaging Property
40.04 Parental Responsibility
40.05 Street Gang Activity
40.06 Alcoholic Beverages
40.07 Weapons
40.08 Drug Paraphernalia; Definitions
40.09 Persons Responsible for Unlawful Activities on their Premises
40.10 Unlawful Possession of Cannabis *09-O-05*
40.11 Penalty (Alternative)

40.01 DISORDERLY CONDUCT

No person shall engage in disorderly conduct in the City. A person commits disorderly conduct when he knowingly:

1. Does any act in such unreasonable manner as to alarm or disturb another and to provoke a breach of the peace;

2. Transmits in any manner to the fire department of any municipality or fire protection district a false alarm or fire, knowing at the time of such transmission that there is no reasonable ground for believing that such fire exists;

3. Transmits in any manner to another a false alarm to the effect that a bomb or other explosive of any nature is concealed in such place that its explosion would endanger human life, knowing at the time of such transmission that there is no reasonable ground for believing that such bomb or explosive is concealed in such place.

4. 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.

5. Enters upon the property of another and for a lewd or unlawful purpose and deliberately looks into a dwelling on the property through any window or other opening in it.

6. With the purpose of causing public danger, alarm, disorder, nuisance, he commits any of the following acts in a public place:

a. Commits an act in a violent manner toward another whereby that other person is placed in danger of his life or health;

b. Commits an act in a violent manner toward another whereby the property of any person is placed in danger of being destroyed or damaged;

c. Causes, provokes or engages in any fight, brawl or riotous conduct so as to endanger the life, health or property of another;

d. Interferes with another's pursuit of a lawful occupation by acts of violence;

e. Obstructs, either singly or together with other persons, the flow of vehicular or pedestrian traffic on a public way and refuses to clear such public way when ordered to do so by a peace officer or other lawful authority;

f. Incites, attempts to incite or is involved in attempting to incite a riot or unlawful disturbance;

g. Uses abusive language or threats to any peace officer or any other person when such words have a direct tendency to cause acts of violence. Words merely causing displeasure, annoyance or resentment are not prohibited;

h. Makes or causes to be made any loud, boisterous and unreasonable noise or disturbance in a public place or affecting a public place or another person's premises to the annoyance of any other persons nearby, or near to any public highway, road, street, lane, alley, park, square or common, whereby the public peace is broken or disturbed, or the traveling public annoyed;

i. Fails to obey a lawful order to disperse by a peace officer where one or more persons are committing acts of disorderly conduct in the immediate vicinity, and the public health and safety is threatened;

j. Uses abusive or obscene language or makes an obscene gesture in public;

k. Assembles with three or more persons for the purpose of using force or violence to disturb the public peace;

l. Assembles with three or more persons for the purpose of violating any provision of this Code; and

m. Appears in any public place and is under the influence of alcohol or controlled substance, to the degree that he may endanger himself or other persons or property, or alarm or disturb other persons in his vicinity.

7. Permits any assembly of two or more persons for the purpose of committing any unlawful act or breach of the peace, or any riotous, offense or disorderly conduct, in or upon any premises owned or occupied by him or under his control.

8. Interrupts or disturbs any lawful assembly of people by making any loud or unusual noise, or by rude or indecent behavior, or by profane, obscene or improper discourse or conduct.

9. Engages in Mob Action: Mob action consists of any of the following:

   a. The use of force or violence disturbing the public peace by two or more persons acting together and without authority of law;

   b. The assembly of two or more persons to commit an unlawful act; or

   c. The assembly of two or more persons, without authority of law, for the purpose of doing violence to the person or property of anyone supposed to have been guilty of a violation of the law, or for the purpose of exercising correctional powers or regulative powers over any person by violence.

10. Disturbs, tends to disturb or aid in disturbing the peace of others by violent, tumultuous conduct, and no person shall knowingly permit such conduct upon any premises owned or possessed by him or under his control.

11. Uses paint or other medium in any way to deface, damage or destroy property.

12. PENALTY: Any person violating this Section 40.01 shall be fined not less than $100 for each offense and be responsible for reimbursing the City's cost of prosecution including attorney fees incurred by the City. Each day that a violation continues shall be considered a separate offense. Restitution by the violator shall also be made to any property damaged or destroyed or person injured.

40.02 CURFEW

A. It shall be unlawful for any person less than 17 years of age to be present or upon any public road, street, alley or park, or other lands used for public purposes or in any public place of business or amusement in the City at the following times unless such person is accompanied and supervised by a parent, legal guardian or other responsible companion at least 18 years of age approved by a parent or legal guardian or unless engaged in a business or occupation which the statutes of the state authorize a person less than 17 years of age to perform:

1. Between 12:01 a.m. and 6 a.m. Friday;

2. Between 12:01 a.m. and 6 a.m. Saturday; and

3. Between 11 p.m. on Sunday to Thursday, inclusive, and 6 a.m. on the following day.

B. It shall be unlawful for a parent, legal guardian or other person to knowingly allow or permit a person in his custody or legal control to violate this Section 40.02.

C. PENALTY: Any person violating this Section 40.02 shall be fined not less than $100 for each offense and be responsible for the City's cost of prosecution including attorney fees incurred by the City. Each day that a violation continues shall be considered a separate offense. Restitution by the violator shall also be made to any property damaged or destroyed or person injured.

40.03 DAMAGING PROPERTY

A. GRAFFITI DEFINED: Graffiti is any permanent display of any name, identification, letter, numeral, figure, emblem, insignia, picture, outline, character, spectacle, delineation, illustration, symbol or any combination thereof, which without authorization is marked, written, drawn, painted, scratched, inscribed or affixed, and which is a different color from the color of the exterior of those objects of structures described above and to which is affixed.

B. PROHIBITED: It shall be unlawful, and is hereby declared a nuisance to place graffiti, or permit graffiti to remain upon any public or private curb stone, flagstone, brick, sidewalk or any portion of any part of any sidewalk or street, or upon any tree, lamp post, telephone pole, utility box, utility pole, stanchion, postal mail receptacle, sign, hydrant, fence, door, wall, window, garage or enclosure, vehicle, bridge, pier or upon any other public or private structure or building.

C. No person shall damage, befoul, disturb, destroy or deface any City property or any public or private property without permission of the owner.

D. PENALTY: Whoever violates any provision of this Section 40.03 shall be fined not less than $100 for each offense and be responsible for the City's cost of prosecution including attorney fees incurred by the City. Each day that a violation continues shall be considered a separate offense. Restitution by the violator shall also be made to the owner of any property damaged or destroyed. Nothing herein shall preclude such additional civil remedies available to the person whose property has been damaged or destroyed. Each day any violation or any provision of this Section 40.03 shall continue shall constitute a separate violation.

40.04 PARENTAL RESPONSIBILITY

A. It shall be unlawful for a parent or legal guardian of an unemancipated minor residing with such parent or legal guardian to knowingly allow or permit said minor to commit any violation of a City ordinance or state statute concerning vandalism, battery, fireworks, obscene conduct, trespass, possession of weapons or alcoholic liquor, curfew, disorderly street gang conduct, suspicious activity, or any other offense or willful or malicious acts to persons or property.

B. The parent or guardian responsible for the willful or malicious acts of the minor child pursuant to this Section 40.04 shall make full restitution to the injured or damaged party or parties within 10 days after notification by mail. Parents and guardians shall be responsible individually and jointly.

C. PENALTY: Whoever violates any provision of this Section 40.04 shall be fined not less than $100 for each offense and be responsible for the City's cost of prosecution including attorney fees incurred by the City. Each day that a violation continues shall be considered a separate offense. Restitution by the violator shall also be made to the owner of any property damaged or destroyed. Nothing herein shall preclude such additional civil remedies available to the person whose property has been damaged or destroyed. Each day any violation or any provision of this Section 40.05 shall continue shall constitute a separate violation.

40.05 STREET GANG ACTIVITY

A. CITY COUNCIL FINDINGS:

1. The City Council hereby finds and declares that it is the right of every person, regardless of race, color, creed, religious, national origin, sex, gender, sexual orientation, age or disability to be secure and protected from fear, intimidation and physical harm caused by the activities of violent groups and individuals. It is not the intent of this Chapter 40 to interfere with the exercise of the constitutionally protected rights of freedom of expression and association. The City Council hereby recognizes the constitutional right of every citizen to harbor and express beliefs on any lawful subject whatsoever, to lawfully associate with others who share similar beliefs, to petition lawfully constituted authority for a redress of perceived grievances, and to participate in the electoral process.

2. The City Council finds, however, that urban, suburban and rural communities, neighborhoods and schools throughout the State are being terrorized and plundered by street gangs. The City Council finds there are now several hundred street gangs operating in Illinois, and that while their terrorism is most widespread in urban areas, street gangs are spreading into suburban and rural areas of Illinois, including McHenry County.

3. The City Council further finds that street gangs are often controlled by criminally sophisticated adults who take advantage of our youth by intimidating and coercing them into membership by employing them as drug couriers and runners, and by using them to commit brutal crimes against persons and property to further the financial benefit to and dominance of the street gang.

4. Street gang activity presents a clear and present danger to public order and safety and is not constitutionally protected. No society is or should be required to endure such activities without redress. Accordingly, it is the intent of the City Council, by enacting this Chapter 40, to prohibit street gang related activity.

B. For the purpose of this Section 40.05, "street gang" or "gang" is defined as any ongoing organization, association in fact or group of three or more persons, whether formally or informally organized, or any sub-group or affiliated group thereof, having as one of its activities the commission of criminal or illegal acts, including by way of example only and not in anyway limiting or specifying, illegal drug distribution, and whose members individually or collectively engage in or have engaged in a pattern of criminal or illegal acts, and which group frequently, though not necessarily, claim one or more particular geographic territory or "turf" exclusively as its realm of influence and operations.

C. It shall be unlawful for any person within the City to knowingly use, display or wear colors, emblems or insignia on or about their person in public for the purpose of promoting any street gang activity.

D. It shall be unlawful for any person within the City to knowingly do or make any act, utterance, gesture or display for the purpose of communicating membership of, affiliation with, association with, support of, identification with, sympathy toward or affront or insult toward any street gang, or with actual knowledge that the subject act, utterance, gesture or display is used and recognized as communicative of street gang membership, affiliation, association, support, identification, sympathy or affront.

E. PENALTY: Any person violating this Section 40.05 shall be fined not less than $100 for each offense and be responsible for the City's cost of prosecution including attorney fees incurred by the City. Each day that a violation continues shall be considered a separate offense.

40.06 ALCOHOLIC BEVERAGES

A. INTOXICATING LIQUORS: Any police officer having probable cause that intoxicating liquors are being kept in violation of law in any place, shall search such suspected place, and if the police officer finds upon the premises intoxicating liquors, he shall seize the same, together with the vessels in which they are contained, with the intent of violating this Chapter 40, and shall arrest any person or persons in charge of such place, or aiding in any manner in carrying on the business conducted in such place.

B. PUBLIC PROPERTY: Consumption or possession of any alcoholic liquors without a permit issued by the City pursuant to Chapter 33 of this Code, including beer and wine, at anytime in any public park, street, alley or public place owned, controlled or operated by the City is prohibited.

C. PENALTY: Any person violating this Section 40.06 shall be fined not less than $100 for each offense and be responsible for the City's cost of prosecution including attorney fees incurred by the City. Each day that a violation continues shall be considered a separate offense.

40.07 WEAPONS

A. WEAPONS: Unless authorized by law, no person shall wear under his clothing, or conceal about his person, or display in a threatening like manner, any dangerous or deadly weapon including, but not limited to any pistol, revolver, sling shot, knuckles, any bowie or similar knife, or any knife with a switch-blade or device whereby the blade or blades can be opened by a button, pressure on the handle or other mechanical contrivance.

B. DISCHARGE OF FIREARMS: No person shall discharge any firearms in the City. In addition to those firearms defined by the Illinois Compiled Statutes, for purposes of this section, firearms shall include pump air rifles, potato guns, CO_2 pellet guns and any other device capable of discharging a projectile if used with intent to inflict harm to person or property or to assault or threaten harm to a person or property or when used in a reckless manner.

C. DISPLAY AND SALE OF SPECIFIED WEAPONS: No pawnbroker, second-hand dealer or other person engaged in business in the City shall display or place on exhibition in any show window or other window facing upon any street, any pistol, revolver or other firearm, with a barrel less than 12 inches in length, or any brass or metal knuckles, or any club loaded with lead or other weight, or any blackjack or billy club. Weapons displayed for sale shall be incapable of firing. In non-business hours said weapons shall be stored in a secured and locked vault, safe or security box.

D. PENALTY. Any person violating this Section 40.07 shall be fined not less than $100 for each offense and be responsible for the City's cost of prosecution including attorney fees incurred by the City. Each day that a violation continues shall be considered a separate offense. Restitution by the violator shall also be made to any property damaged or destroyed or person injured.

40.08 DRUG PARAPHERNALIA; DEFINITIONS *Amended, 09-4-5*

A. In addition to the terms defined in Appendix A of this Code, the definitions contained herein shall be observed and applied, except when the context clearly indicates otherwise.

The term "drug paraphernalia" means all equipment, products and materials of any kind which are used, intended for use or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance as defined in 720 ILCS 550/3 *et seq*. and 720 ILCS 570/202 through 212, as amended. It includes, but is not limited to:

1. Kits used, intended for use or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or cannabis or from which a controlled substance or cannabis can be derived;

2. Kits used, intended for use or designed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substance or cannabis;

3. Isomerization devices used, intended for use or designed for use in increasing the potency of any species of plant which is a controlled substance or cannabis;

4. Testing equipment used, intended for use or designed for use in identifying, or in analyzing the strength effectiveness or purity of controlled substances or cannabis;

5. Scales and balances used, intended for use or designed for use in weighing or measuring controlled substances or cannabis;

6. Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use or designed for use in cutting controlled substances or cannabis;

7. Separation gins and sifters used, intended for use or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining marijuana;

8. Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding controlled substances or cannabis;

9. Capsules, balloons, envelopes and other containers used, intended for use or designed for use in packaging small quantities of controlled substances or cannabis;

10. Containers and other objects used, intended for use or designed for use in storing or concealing controlled substances or cannabis;

11. Objects used, intended for use or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish oil into the human body, such as:

    a. Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;

    b. Water pipes;

    c. Carburization tubes and devices;

    d. Smoking and carburization masks;

e. Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;

f. Chamber pipes;

g. Carburetor pipes;

h. Electric pipes;

i. Air-driven pipes;

j. Chillums;

k. Bongs; and

l. Ice pipes or chillers.

In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

1. Statements by an owner or by anyone in control of the object concerning its use;

2. Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substances;

3. The proximity of the object, in time and space, to a direct violation of this Section 40.08;

4. The proximity of the object to controlled substances;

5. The existence of any residue of controlled substances on the object;

6. Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he knows, or should reasonably know, intend to use the object to facilitate a violation of this Section 40.08; the innocence of an owner, or of anyone in control of the object, as to a direct violation of this Section 40.08, shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia;

7. Instructions, oral or written, provided with the object concerning its use;

8. Descriptive materials accompanying the object which explain or depict its use;

9. National and local advertising concerning its use;

10. The manner in which the object is displayed for sale;

11. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;

12. Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;

13. The existence and scope of legitimate uses for the object in the community; and

14. Expert testimony concerning its "use."

B. It shall be unlawful for any person to possess, sell, offer for sale, display, furnish, supply or give away any cocaine spoon, marijuana pipe, hashish pipe or any drug paraphernalia.

C. The prohibition contained in this Section 40.08 shall not apply to manufacturers, wholesalers, jobbers, licensed medical technicians, technologists, nurses, hospitals, research teaching institutions, clinical laboratories, medical doctors, osteopathic physicians, dentists, chiropractors and podiatrists, veterinarians, pharmacists or embalmers in the normal lawful course of their respective businesses or professions, nor to common carriers or warehousers or their employees engaged in the lawful transportation of such paraphernalia, nor to public officers or employees while engaged in the performance of their official duties, nor to persons suffering from diabetes, asthma or any other medical condition requiring self injection.

D. PENALTY: Whoever violates any provision of this Section 40.08 shall be fined not less than $100 for each offense and be responsible for the City's cost of prosecution including attorney fees incurred by the City. Each day that a violation continues shall be considered a separate offense. Restitution by the violator shall also be made to the owner of any property damaged or destroyed. Nothing herein shall preclude such additional civil remedies available to the person whose property has been damaged or destroyed. Each day any violation or any provision of this Section 40.08 shall continue shall constitute a separate violation.

40.09 PERSONS RESPONSIBLE FOR UNLAWFUL ACTIVITIES ON THEIR PREMISES

A. It shall be unlawful for any person or persons who are the owners or occupants of any premises to allow, initiate or maintain any gathering on that premises in which tenants, invitees, visitors or trespassers engage in any unlawful activity. Unlawful activity shall include, but not be limited to, violations of any sections of this Chapter 40. A person will be deemed to have permitted the gathering if that person is on the premises while the unlawful activity is occurring and has not informed the police thereof. For purposes of this Section 40.09 only, a gathering shall consist of two or more persons who are not occupants or owners of the premises.

B. Any person violating this Section 40.09 shall be fined not less than $100 for each offense and be responsible for the City's cost of prosecution including attorney fees incurred by the

City. Each day that a violation continues shall be considered a separate offense. Restitution by the violator shall also be made to any property damaged or destroyed or person injured.

40.10 UNLAWFUL POSSESSION OF CANNABIS *09-O-05*

A. A person commits unlawful possession of cannabis if he or she, while in the Village, has in his or her possession any substance containing cannabis.

B. For the purpose of this Section, cannabis includes marijuana, hashish and other substances which are identified as including any parts of the plant Cannabis Sativa, whether growing or not; the seeds thereof, the resin extracted from any part of such plant; and any compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin, including tetrahydrocannabinal (THC) and all other cannabinol derivatives, including its naturally occurring or synthetically produced ingredients, whether produced directly or indirectly by extraction, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis; but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil or cake, or sterilized seed of such plant which is incapable of germination.

C. Whoever violates any provision of this Section shall be fined not less than $100 or more than $750.

40.11 PENALTY (ALTERNATIVE)

A. Unless otherwise provided in this Chapter 40, any person, firm or corporation violating any section of this Chapter 40 shall be fined not less than $100 for each offense and be responsible for the City's cost of prosecution. Each day that a violation continues shall be considered a separate offense. Restitution by the violator shall also be made to any property damaged or destroyed or person injured.

B. A defendant who has been found guilty and ordered to pay a fine under this Chapter 40 may petition the court to convert all or part of the fine into court-approved public or community service, to be performed as directed by and to be verified by the Department of Court Services.

C. The public or community service work assigned shall be, whenever available, for the benefit of the City, or agency or department thereof. If no public or community service work opportunities are available for the benefit of the City or agency or department thereof, the defendant shall be assigned to perform public or community service work for a not-for-profit organization or agency which provides service to or otherwise benefits the citizens of the City.

D. One hour of public or community service shall be equivalent to $5 of fine, upon conversion.

E. Neither restitution obligations nor mandatory court costs or attorneys fees may be converted to or discharged by public or community service work.

F. Neither the City nor any agency or department thereof, the Department of Court Services, public or community service programs or site, nor any official or employee thereof acting in the course of their official duties shall be liable for any injury or loss a person may receive while performing public or community service as ordered by the court pursuant to this Section 40.10, nor shall they be liable for any tortious acts of any person performing public or community service, except for willful wanton misconduct or gross negligence on the part of such governmental unit, official or employee.

G. No person assigned to a public or community service program shall be considered an employee for any purpose, nor shall the City, McHenry County or not-for-profit organization or agency be obligated to provide any compensation to such person.

CHAPTER 42
VEHICLE LICENSE TAX

42.01 Definitions
42.02 License Required
42.03 Application for License
42.04 License Fees
42.05 Replacement of License
42.06 Plate or Sticker
42.07 Penalty

42.01 DEFINITIONS

In addition to the definitions found in Appendix A of this Code, whenever the term "motor vehicle" is used in this Chapter 42, it is construed to include vehicles propelled by automotive power, such as automobiles and motorcycles, with the exception of traction engines, farm tractors, road rollers and steam railways. This Chapter 42 does not apply to bicycles or other vehicles propelled by muscular power.

42.02 LICENSE REQUIRED

A. It is unlawful for the owner or operator of any motor vehicle registered in the City to use or to cause or permit any of his agents or employees to operate or store a motor vehicle in the City unless the same is licensed as hereinafter provided.

B. All vehicles for which a license is required by this Chapter 42, not owned by persons residing in the City, but kept in the City or used for more than 30 cumulative days are declared to be within the City and subject to the provisions of this Chapter 42, if operated or stored in the City. It is unlawful for any person to engage in the business of carrying passengers for hire, in motor vehicles, within the corporate limits of the City, without first obtaining a license as provided by herein.

C. If a vehicle is not in operation at the time a violation is found, a ticket may be issued to the owner of said vehicle who shall be presumed to be in control of such vehicle at the time of the violation. A ticket may be issued as in cases of parking violations by firmly affixing the ticket to the vehicle.

D. EXEMPTIONS: Taxing bodies shall be exempt from the provisions of this Chapter 42.

42.03 APPLICATION FOR LICENSE

Application for a vehicle license is made in writing to the City. The application shall include the name, address and telephone number of the vehicle's owner; state license plate number; and vehicle description. The vehicle registration must be shown to verify the application. Upon payment of the license fee to the City, the City shall issue the license.

42.04 LICENSE FEES *Amended, 09-4-3*

A. ANNUAL FEE: The license fee to be paid annually to the City shall be as follows:

1. Vehicles owned by persons under age of 65: $20.

2. Vehicles owned by persons 65 and over: $5.

3. Any proprietor, firm or corporation owning and operating more than one vehicle for commercial purposes shall pay $10 per vehicle for the first four vehicles owned and operated in the business and $5 per vehicle for any additional vehicles owned and operated for commercial purposes.

Such license fees are due and payable annually in the first day of August of each year; all issued licenses expire on the last day of July in each year. When issued for a period of less than one year, the fee shall remain the same.

B. NEW VEHICLE PURCHASES: Applicants for licenses who have purchased motor vehicles after August 30 have 30 days to purchase a vehicle license. If the vehicle license is purchased within the 30-day period, the applicant is entitled to the same fee as those purchasing vehicle licenses prior to the 30th day of August of each year.

C. TRANSFER LICENSE: If an applicant is transferring a license to a unlicensed vehicle, a $2 transfer fee shall be required.

D. GRACE PERIOD: A non-resident who becomes a resident of the City may, for a period of the first 60 days of residence in the City, operate any motor vehicle without complying with the provisions of this Chapter 42.

E. DELINQUENT FEES: In the event the license fee is not paid as required herein, the fee shall be doubled and the vehicle owner subject to a fine as provided herein.

42.05 REPLACEMENT OF LICENSE

Any licensee whose license is mutilated, destroyed or otherwise require replacement may obtain a replacement upon proof of the mutilation, destruction or other circumstances requiring replacement of his/her original license, and the payment of a replacement fee of $2 to the City.

42.06 PLATE OR STICKER

Each applicant, upon payment of the fee, is given a license plate or windshield sticker, without charge, of such design and material as approved by the City Council. The plate or sticker must be fastened on the lower right hand corner of the vehicle's windshield at all times the vehicle is operated and/or stored in the City. At no time should a succession of windshield stickers obstruct the view of the vehicle's operator.

42.07 PENALTY *Amended, 09-*

Every violation of this Chapter 42 shall be punishable by a fine of not less than $150 and not more than $500 for each violation.

CHAPTER 43
OFFENSES AGAINST PUBLIC PEACE, SAFETY AND MORALS

43.01 Disorderly Conduct
43.02 Resisting or Obstructing a Peace Officer
43.03 Battery
43.04 Assault
43.05 Firearms and Air Rifles
43.06 Fireworks
43.07 Barbed Wire Fences
43.08 Noise
43.09 Damaging Property
43.10 Littering
43.11 Trespasses
43.12 Combustible Refuse
43.13 Parades and Demonstrations
43.14 Bathing
43.15 Possession, Use of Tobacco, Smokeless Tobacco, Tobacco Accessories and Smoking Herbs
43.16 Curfew
43.17 Parental Responsibility
43.18 Theft of Service
43.19 Bicycles, Tricycles, Skateboards or Similar Motorized and Non-motorized Recreational Devices
43.20 Non-Smoking Environment
43.21 Remote Control Devices
43.22 Truancy

43.01 DISORDERLY CONDUCT

No person shall engage in disorderly conduct in the City. A person commits disorderly conduct when he knowingly:

1. Does any act in such unreasonable manner as to alarm or disturb another and to provoke a breach of the peace.

2. Transmits in any manner to the fire department of any city, town or fire protection district a false alarm of fire, knowing at the time of such transmission that there is no reasonable ground for believing that such fire exists.

3. Transmits in any manner to another a false alarm to the effect that a bomb or other explosive of any nature is concealed in such place that its explosion would endanger human life, knowing at the time of such transmission that there is no reasonable ground for believing that such bomb or explosive is concealed in such place.

4. 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.

5. Enters upon the property of another and for a lewd or unlawful purpose deliberately looks into a dwelling on the property through any window or other opening in it.

43.02 RESISTING OR OBSTRUCTING A PEACE OFFICER

No person shall resist or obstruct a peace office in the City. A person who knowingly resists or obstructs the performance by one known to the person to be a peace officer of any authorized act within his official capacity commits the offense of resisting or obstructing a peace officer.

43.03 BATTERY

No person shall commit a battery in the City. A person commits battery if he intentionally or knowingly, without legal justification and by any means:

1. Causes bodily harm to an individual

2. Makes physical contact of an insulting or provoking nature with an individual.

43.04 ASSAULT

No person shall commit an assault in the City. A person commits an assault when, without lawful authority, he engages in conduct which places another in reasonable apprehension of receiving a battery.

43.05 WEAPONS

A. A person who is not a City officer, shall not carry about his person any concealed pistol, switchblade, knife with a blade in excess of five inches, razor, slingshot, metal knuckles or any other weapon or thing of deadly character.

B. No person shall sell, give or transfer any such weapon to any minor person.

43.06 FIREWORKS

No person shall sell, offer for sale, use or explode any fireworks in the City except the City Council may grant a permit for a public display of fireworks under such conditions as it may impose under the provisions of 425 ILCS 35/0.01 *et seq*.

43.07 BARBED WIRE FENCES

No person shall maintain any fences containing barbed wire along or near any public sidewalk.

43.08 NOISE *Amended, 08-11-1*

A. DEFINITIONS: In addition to the definitions found in Appendix A of this Code, for purposes of this Section 43.08, the following words and phrases, whether capitalized or not, shall have the following meanings:

Construction: Any site preparation, assembly, erection, substantial repair, alteration or similar action, but excluding demolition, for or of public or private right-of-way, structures, utilities or similar property.

Demolition: Any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces or similar property.

Emergency: Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

Emergency Work: Any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

Impulsive Sound: Sound of short duration, usually less than one second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions, drop forge impacts and the discharge of firearms.

Industrial Area: As defined in the Marengo Zoning Code.

Motor Carrier Vehicle Engaged in Interstate Commerce: Any vehicle for which regulations apply pursuant to Section 18 of the Federal Noise Control Act of 1972 (P.L. 92-574), as amended, pertaining to motor carriers engaged in interstate commerce.

Motor Vehicle: Any vehicle that is propelled or drawn on land by a motor, such as, but not limited to, passenger car, truck, truck trailer, semitrailer, camper, go-cart, snowmobile, amphibious raft on land, dune buggy or racing vehicle, but not including motorcycles.

Motorcycle: An unenclosed motor vehicle having a saddle for the use of the operator and two or three wheels in contact with the ground, including, but not limited to, motor scooters and minibikes.

Muffler or Sound Dissipative Device: A device for abating the sound of escaping gases of an internal combustion engine.

Noise: Any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

Noise Disturbance: Any sound which either:

1. Endangers or injures the safety or health of humans or animals, or

2. Annoys or disturbs a reasonable person or normal sensitivities, or

3. Endangers or injures personal or real property.

Person: Any individual, association, partnership or corporation, and includes any officer, employee, department, agency or instrumentality of a state or any political subdivision of a state.

Powered Model Vehicle: Any self-propelled airborne, waterborne or landborne plane, vessel or vehicle, which is not designed to carry persons, including, but not limited to, any model airplane, boat, car or rocket.

Public Right-of-Way: Any street, avenue, boulevard, highway, sidewalk or alley or similar place which is owned or controlled by a governmental entity.

Public Space: Any real properties or structures thereon which are owned or controlled by a governmental entity.

Real Property Boundary: An imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person, but not including intra-building real property divisions.

Residential Area: As defined in the Marengo Zoning Code.

Weekday: Any day Monday through Friday which is not a legal holiday.

B. NOISE SENSITIVE ZONE RECOMMENDATIONS: The City Council may designate the noise sensitive zone which contains noise sensitive activities. Existing quiet zones shall be considered noise sensitive zones until otherwise designated. Noise sensitive activities include, but are not limited to, operation of a school, public library, church, hospital and nursing home.

C. NOISE DISTURBANCES PROHIBITED: No person shall unreasonably make, continue or cause to be made or continued, any noise disturbance. Noncommercial public speaking and public assembly activities conducted on any public space or public right-of-way shall be exempt from this Section 43.08-C.

D. RADIOS, TELEVISION SETS, MUSICAL INSTRUMENTS AND SIMILAR DEVICES: No person shall operate, play or permit the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier or similar device which produces, reproduces or amplifies sound:

1. Between the hours of 11 p.m. and 7 a.m. the following day in such a manner as to create a noise disturbance across a real property boundary or within a noise sensitive zone, except for activities open to the public and for which a permit has been issued by the City Council;

2. In such a manner as to create a noise disturbance at 50 feet or 15 meters from such a device, when operated in or on a motor vehicle on a public right-of-way or public space;

3. In such a manner as to create a noise disturbance to any person other than the operator of the device, when operated by any passenger on a common carrier;

4. This Section 43.08-D shall not apply to noncommercial spoken language covered until Section 43.08-E herein.

E. LOUDSPEAKER OR PUBLIC ADDRESS SYSTEMS: No person shall;

1. Use or operate for any noncommercial purpose any loudspeaker, public address system or similar device between the hours of 11 p.m. and 7 a.m. the following day, such that the sound therefrom creates a noise disturbance across a residential real property boundary or within a noise sensitive zone.

2. Use or operate for any commercial purpose any loudspeaker, public address system or similar device as follows:

a. Such that the sound creates a noise disturbance across a real property boundary or within a noise sensitive zone; or

b. Between the hours of 11 p.m. and 7 a.m. the following day on a public right-of-way or public space.

F. STREET SALES: No person shall offer for sale or sell anything by shouting or outcry within any residential or commercial area except by permit issued by the City Council.

G. ANIMALS AND BIRDS: No person shall own, possess or harbor any animal or bird which frequently or for continued duration, howls, barks, meows, squawks or makes other sounds which create a noise disturbance across a residential real property boundary or within a noise sensitive zone.

H. LOADING AND UNLOADING: No person shall load, unload, open, close or otherwise handle boxes, crates, containers, building materials, garbage cans or similar objects between the hours of 8 p.m. and 7 a.m. the following day in such a manner as to cause a noise disturbance across a residential real property boundary or within a noise sensitive zone.

I. CONSTRUCTION: Except as provided herein and except for emergency work of public service utilities, no person shall operate or permit the operation of any tools or equipment used in construction, drilling or demolition work so as to create a noise disturbance across a residential real property boundary or within a noise sensitive zone. The proper working hours

shall be as follows:

1. Between the hours of 7 a.m. and 8 p.m. on weekdays.

2. Between the hours of 8 a.m. and 8 p.m. on Saturdays, Sundays and holidays.

J. VEHICLE OR MOTORBOAT REPAIRS AND TESTING: No person shall repair, rebuilt, modify or test any motor vehicle, motorcycle or motorboat in such a manner as to cause a noise disturbance across a residential real property boundary or within a noise sensitive zone.

K. PLACES OF PUBLIC ENTERTAINMENT: No person shall operate, play or permit the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier or similar device which produces, reproduces or amplifies sound in any place of public entertainment at a sound level greater than 90 dBA as read by the slow response on a sound level meter at any point that is normally occupied by a customer, unless a conspicuous and legible sign is located outside such place, hear the public entrance, stating "WARNING: SOUND LEVELS WITHIN MAY CAUSE PERMANENT HEARING IMPAIRMENT."

L. POWERED MODEL VEHICLES: No person shall operate or permit the operation of powered model vehicles so as to create a noise disturbance across a residential real property boundary, in a public space or within a noise sensitive zone between the hours of 10 p.m. and 7 a.m. the following day. The maximum sound levels in a public space during the permitted period of operation shall be measured at a distance of 50 feet or 15 meters from any point on the path of the vehicle.

M. STATIONARY NON-EMERGENCY SIGNALING DEVICES: Except for devices used in conjunction with places of religious worship, no person shall sound or permit the sounding of any electronically amplified signal from any stationary bell, chime, siren, whistle or similar device intended primarily for non-emergency purposes, from any place for more than 10 minutes in any hourly period.

N. EMERGENCY SIGNALING DEVICES:

1. Except for emergency purposes or for testing, no person shall intentionally sound or permit the sounding outdoors of any fire, burglar or civil defense alarm siren, whistle or similar stationary emergency signaling devices.

2. Testing of a stationary emergency signaling device shall occur at the same time of day each time such test is performed but not before 7 a.m. or after 6 p.m. Any such testing shall use only the minimum cycle test time. In no case shall such test time exceed 60 seconds.

3. Testing of a complete emergency signaling system, including the functioning of the signaling device and the personnel response to the

signaling device, shall not occur more than once in each calendar month. Such testing shall not occur before 7 a.m. or after 6 p.m. A time limit shall be applicable to such complete system testing.

O. NOISE SENSITIVE ZONES: No person shall create or cause the creation of any sound within any noise sensitive zone so as to disrupt the activities normally conducted within the zone or disturb or annoy the patients of a hospital, nursing home or similar activity, provided that conspicuous signs are displayed indicating the presence of the zone.

P. DOMESTIC POWER TOOLS: No person shall operate or permit the operation of any mechanically powered saw, drill, sander, grinder, lawn or garden tool, snowblower or similar device used outdoors in residential areas between the hours of 11 p.m. and 7 a.m. the following day so as to create a noise disturbance across a residential real property boundary.

Q. EMERGENCY EXCEPTIONS: The provisions of this Section 43.08 shall not apply to the emission of sound for the purpose of alerting persons to the existence of an emergency or the emission of sound in the performance of emergency work.

R. EXCEPTIONS: Exceptions to this Section 43.08 may be granted by the City Council upon the filing of an application. Said application shall contain information which demonstrates that bringing the source of sound or activity into compliance with this Section 43.10 would constitute an unreasonable hardship on the applicant, the City or on other persons.

S. MOTOR VEHICLES: No person shall operate or permit the operation of any motor vehicle with a gross vehicle weight rating (GVWT) in excess of 10,000 pounds, or any auxiliary equipment attached to such a vehicle, for a period longer than 15 minutes in any hour while the vehicle is stationary for reasons other than traffic congestion, on a public right-of-way or designated noise sensitive zone, between the hours of 11 p.m. and 7 a.m. the following day.

T. PENALTY: Any person, firm or corporation violating any provision of this Section 43.08, or willfully or knowingly violates any of its provisions, shall be fined not less than $75 nor more than $500 for each offense, and a separate offense shall be deemed committed on each day during or on which an offense occurs or continues.

43.09 DAMAGING PROPERTY *Amended, 01-8-3*

A. No person shall damage, disturb, destroy or deface any City property or any public or private property.

B. GRAFFITI DEFINED: Graffiti is any permanent display of any name, identification, letter, numeral, figure, emblem, insignia, a picture, outline, character, spectacle, delineation, illustration, symbol or any combination thereof, which without authorization is marked, written, drawn, painted, scratched, inscribed or affixed, and which is a different color from the color of the exterior of those objects or structures described above and to which it is affixed.

C. PROHIBITED: It shall be unlawful, and is hereby declared a nuisance to place graffiti, or permit graffiti to remain upon any public or private curb stone, flagstone, brick, sidewalk or any portion of any part of any sidewalk or street, or upon any tree, lamp post, telephone pole, utility box, utility pole, stanchion, postal mail receptacle, sign, hydrant, fence, door, wall, window, garage or enclosure, vehicle, bridge, pier or upon any other public or private structure or building.

D. GRAFFITI REMOVAL. It shall be the duty of the Chief of Police to serve or cause to be served, a notice upon the owner and person in possession of any such object or structure upon which graffiti is present and to demand the abatement of the nuisance within five days. All exterior surfaces shall be kept clean and free of graffiti. Surfaces which have been exposed to graffiti shall be cleaned, painted or in some manner covered, so as to effect the complete removal or the graffiti from that surface and return the surface to its prior condition within 5 days of receipt of the violation notice to the owner. The duty of the owner and person in possession shall be joint and several.

E. PENALTY: Whoever violates any provision of this Section 43.09 shall be fined not less than $25 nor more than $750 for each offense and be responsible for the City's cost of prosecution, including attorney fees. Each day that a violation continues shall be considered a separate offense. Restitution by the violator shall also be made to the owner of any property damaged or destroyed.

43.10 LITTERING

No person shall litter any public or private property with paper or other debris or foreign matter. Any stored or transported materials susceptible to blowing or scattering shall be adequately covered or protected to prevent littering.

43.11 TRESPASSES

A. PROHIBITED: It shall be unlawful for any person to commit a trespass within this City upon either public or private property.

B. SPECIFICALLY ENUMERATED TRESPASSES; SUPPRESSION: Without constituting and limitation upon the provisions of this Section 43.11, any of the following acts by any person shall be deemed included among those that constitute trespasses in violation of the provisions of this Section 43.11, 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 Section 43.11, the aforesaid enumerated acts so included, being as follows, to-wit:

1. An entry upon the premises, or any part thereof, of another, including any public property in violation of a notice posted or exhibited at the main entrance to such premises or at any point of approach or entry or in violation of any notice, warning or protect given orally or in writing, by any owner or occupant thereof; or

2. The pursuit of a course of conduct or action incidental to the making of any entry upon the land of another in violation of a notice posted or exhibited at the main entrance to such premises or at any notice, warning or protest given orally or in writing by any owner or occupant thereof; or

3. A failure or refusal to depart from the premises of another in case of being requested, wither orally or in writing, to leave by any owner or occupant thereof; or

4. An entry into or upon any vehicle, aircraft or watercraft made without the consent of the person having the right to the possession or control thereof, or a failure or refusal to leave any such vehicle, aircraft or watercraft after being requested to leave by the person having such right.

43.12 COMBUSTIBLE REFUSE

It shall be unlawful to permit or store any combustible refuse in such manner as to create a fire hazard, or to throw or deposit, or cause to thrown or deposited, any such refuse of any kind on or in any street, highway, or alley or other public place within the corporate limits of the City.

43.13 PARADES AND DEMONSTRATIONS

A. No person shall participate in or promote any parade or demonstration on any street or other public property unless a permit has been issued by the City Council.

B. Application for such permit shall provide such information as the Chief of Police shall require for proper protection of the public.

C. No such parade or demonstration shall be held during the night time, or in any such manner as to obstruct the orderly use by the public of any street or public place.

D. The City Council may issue such permit subject to such reasonable restrictions as it shall deem necessary to safeguard the residents of the City and to protect private and public property.

43.14 BATHING

It shall be unlawful for any person to bathe at any public place, or in any place open to public view, unless such person is adequately or decently clothed or garbed in a bathing suit; and it shall be unlawful for any person to robe or disrobe at any public place or in any place open to public view, or to change clothing, or to change into or out of a bathing suit at any public place or in any place open to public view, or in an automobile or other motor vehicle on or in any street, highway, alley or other public place within the corporate limits of the City.

43.15 POSSESSION, USE OF TOBACCO, SMOKELESS TOBACCO, TOBACCO ACCESSORIES AND SMOKING HERBS

A. DEFINITIONS: In addition to those terms defined in Appendix A of this Code, terms used in this Section 43.15 are defined as follows:

Bidi cigarette: a product that contains tobacco that is wrapped in temburni or tendu leaf or that is wrapped in any other material identified by rules of the Illinois Department of Public Health that is similar in appearance or characteristics to the temburni or tendu leaf.

Smoking herbs: all substances of plant origin and their derivatives, including but not limited to broom, calea, California poppy, damiana, hops, ginseng, lobelia, jimson weed and other members of the Datura genus, passion flower and wild lettuce, which are processed or sold primarily for use as smoking materials.

Smokeless tobacco: any finely cut, ground, powdered or leaf tobacco that is intended to be placed in the oral cavity; any tobacco product that is suitable for dipping or chewing.

Tobacco accessories: cigarette papers, pipes, holders of smoking materials of all types, cigarette rolling machines and other items, designed primarily for the smoking or ingestion of tobacco products or of substances made illegal under any statute or of substances whose sale, gift, barter or exchange is unlawful.

Tobacco products: cigars, cigarettes, smokeless tobacco or tobacco.

B. POSSESSION AND USE OF TOBACCO PROHIBITED: No person under 18 years of age shall possess, buy or use 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 person under 18 years of age. Tobacco products may be sold through a vending machine only in the following locations:

1. Factories, businesses, offices, private clubs and other places not open to the general public.

2. Places to which persons under 18 years of age are not permitted access.

3. Places where alcoholic beverages are sold and consumed on the premises.

4. Places where the vending machine is under the direct supervision (which means that the owner or employee has an unimpeded line of sight to the vending machine) of the owner of the establishment or an employee over 18 years of age. The sale of tobacco products from a vending machine under direct supervision of the owner or an employee of the establishment is considered a sale of tobacco products by that person.

5. Places where the vending machine can only be operated by the owner or an employee over age 18 either directly or through a remote control device if the device is inaccessible to all customers.

Any person violating any provision of this Section 43.15-B is guilty of a petty offense and for the first offense shall be fined not less than $100, $300 for the second offense in a 12-month period, and $500 for the third or any subsequent offense in a 12-month period and be responsible for the City's cost of prosecution, including reasonable attorney fees.

C. SMOKELESS TOBACCO:

1. SALES TO MINORS PROHIBITED: No person shall sell any smokeless tobacco to any person under the age of 18. Any person who violates this Section 43.15-C1 shall be guilty of a petty offense punishable by a fine of not less than $50 for each violation. In addition, the violator shall be responsible for the City's cost of prosecution, including reasonable attorney fees.

2. DISTRIBUTION TO MINORS PROHIBITED: No person shall distribute or cause to be distributed to any person under the page of 18, without charge or at a nominal cost, any smokeless tobacco product. Any person who violates this Section 43.15-C2 shall be guilty of a petty offense punishable for a first offense by a fine of not less than $50, for a second offense in a 12-month period by a fine of $200, and for a third or any subsequent offense in a 12-month period by a fine of $500. In addition, the violator shall be responsible for the City's cost of prosecution, including reasonable attorney fees.

D. TOBACCO ACCESSORIES AND SMOKING HERBS:

1. SALE TO MINORS PROHIBITED: No person shall knowingly sell, barter, exchange, deliver or give away or cause or permit or procure to be sold, bartered, exchanged, delivered or given away tobacco accessories or smoking herbs to any person under 18 years of age.

2. SALE OF BIDI CIGARETTES: No person shall knowingly sell, barter, exchange, deliver or give away a bidi cigarette to another person, nor shall a person cause or permit or procure a bidi cigarette to be sold, bartered, exchanged, delivered or given away to another person.

3. SALE OF CIGARETTE PAPER: No person shall knowingly offer, sell, barter, exchange, deliver or give away cigarette paper or cause, permit or procure cigarette paper to be sold, offered, bartered, exchanged, delivered or given away except from premises or an establishment where other tobacco products are sold.

4. SALE OF CIGARETTE PAPER FROM VENDING MACHINES: No person shall knowingly offer, sell, barter, exchange, deliver or give away cigarette paper or cause, permit or procure cigarette paper to be sold,

offered, bartered exchanged, delivered or given away by use of a vending or coin-operated machine or device. For purposes of this Section 43.15-D4, cigarette paper shall not include any paper that is incorporated into a product to which a tax stamp must be affixed under the Cigarette Tax Act (35 ILCS 130/1 *et seq.*) or the Cigarette Use Tax Act (35 ILCS 135/1 *et seq.).*

5. USE OF IDENTIFICATION CARDS: No person in the furtherance or facilitation of obtaining smoking accessories and smoking herbs shall display or use a false or forged identification card or transfer, alter or deface an identification card.

6. WARNING TO MINORS: Any person, firm, partnership, company or corporation operating a place of business where tobacco accessories and smoking herbs are sold or offered for sale shall post in a conspicuous place upon the premises a sign which there shall be imprinted the following statement: SALE OF TOBACCO ACCESSORIES AND SMOKING HERBS TO PERSONS UNDER 18 YEARS OF AGE OR THE MISREPRESENTATION OF AGE TO PROCURE SUCH A SALE IS PROHIBITED BY LAW. The sign shall be printed on a white card in red letters at least one-half inch in height.

7. PENALTY: Any person who knowingly violates or shall knowingly cause the violation of any provision of this Section 43.15-D other than Section 43-15-D2 shall be guilty of a petty offense for which the offender shall be fined as follows: for the first offense, not less than $100, for a second offense within a 2-year period, not less than $250, and for a third or subsequent offense within a 2-year period, not less than $500. In addition, the violator shall be responsible for the City's cost of prosecution, including reasonable attorney fees.

43.16 CURFEW *Amended, 04-4-2*

A. DEFINITIONS: In addition to those terms defined in Appendix A of this Code, the following definitions are applicable to this Section 43.16:

Emergency: An unforeseen combination of circumstances for the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident or any situation requiring immediate action to prevent serious bodily injury of loss of life.

Establishment: Any privately-owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.

Guardian: A person who, under court order, is the guardian of the person of a minor; or a public or private agency with whom a minor has been placed by a court.

Minor: A person less than 17 years of age.

Operator: Any individual, firm, association, partnership or corporation operating, managing or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.

Parent: A person who is (1) a natural parent, adoptive parent or step-parent or another person; or (2) at least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.

Public place: Any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities and shops.

Remain: To linger or stay; or fail to leave premises when requested to do so by a police officer or the owner, operator or other person in control of the premises.

Serious bodily injury: Bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.

B. CURFEW: Except as provided in Section 43.16-C herein, it is unlawful for any person less than 17 years of age to be on any public road, street, alley, park or other lands used for public purposes or in any public place of business or amusement in the City between the hours of 12:01 a.m. Saturday and 6 a.m. Saturday, and between 12:01 a.m. Sunday and 6 a.m. Sunday and between the hours of 11 p.m. and 6 a.m. on any other day of the week.

C. EXCEPTIONS: The following shall constitute valid exceptions to the operation of the curfew:

1. At any time when accompanied by his or her parent, guardian or other adult person responsible for or having the legal care, custody and control of the individual, or an authorized adult;

2. If participating in, going to or returning from, without any detour or stop:

   (a) an emergency as defined herein;

   (b) lawful employment;

   (c) attending an official school, religious or other social or recreational activity supervised by adults and sponsored by a unit of government, civic organization or other similar entity that takes responsibility for the attendees;

(d) an activity involving the exercise of First Amendment rights protected by the United States Constitution (or those similar rights protected by the State of Illinois Constitution), such as free exercise of religion, freedom of speech and the right of assembly.

3. Is married or had been married or is an emancipated minor under the Emancipation of Mature Minors Act, as amended (750 ILCS 30/1 *et seq.*).

D. ESTABLISHMENTS: The owner, operator or any employee of an establishment commits an offense if he or she knowingly allows a minor to remain upon the premises of the establishment during curfew hours or fails to promptly notify the Police Department that a minor is present on the premises of the establishment during curfew hours and refuses to leave.

E. ENFORCEMENT: Before taking any enforcement action under this Section 43.16, a police officer shall ask the suspected offender's age and reason for being in the public place or on the premises. The police officer shall not issue a citation or make an arrest under this Section 43.16 unless the police officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no exception in Section 43.16-C applies.

F. PENALTY: Any person, firm or corporation violating this Section 43.16 shall be fined in not more than $500 for each offense and be responsible for the City's cost of prosecution. Each day that a violation continues shall be considered a separate offense. Restitution by the violator shall also be made to any property damaged or destroyed or person injured.

43.17 PARENTAL RESPONSIBILITY

A. It shall be unlawful for any parent or legal guardian of any unemancipated minor who resides with such parent of legal guardian to fail to pay for actual damages for the willful or malicious acts of such minor which cause injury to a person or to property.

B. A parent or legal guardian of an unemancipated minor who resides with such parent or legal guardian shall be liable for actual damages caused by said minor and shall be presumed to have failed to exercise proper parental responsibility and said minor shall be deemed to have acted with the knowledge and permission of the parent or guardian in violation of this Section 43.17 whenever:

1. Said minor shall be adjudged to be in violation of any ordinance, law or statute prohibiting wilful and malicious acts which cause injury to a person or property.

2. Said parent or legal guardian shall have served upon them a notice in writing that said minor has received a non-judicial sanction from the City Police Department or other governmental agency as a result of an admission of guilt by said minor of a violation of an ordinance, law or statute prohibiting will full and malicious acts which caused injury to a

person or property and subsequent to receipt of said notice said minor is adjudicated to be in violation of an ordinance, law or statute or receives a non-judicial sanction from any governmental agency as a result of an admission of guilt by said minor in violation of an ordinance, law or statute.

C. Recovery of damages shall be pursuant and limited to an amount provided by 740 ILCS 115/5, as amended.

D. This Section 43.17 shall not affect the recovery of damages in any other cause of action where the liability of the parent or legal guardian is predicated on a common law basis.

E. Any person violating any provision of this Section 43.17 shall, upon conviction, be fined not less than $25 nor more than $500 for each offense. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

43.18 THEFT OF SERVICE

A. UNAUTHORIZED CONNECTION PROHIBITED: No person shall make any unauthorized connection, physically, electrically, acoustically, inductively or otherwise, with any part of the cable television system existing in the City for the purpose of enabling himself or others to receive television signals, radio signals, pictures, programs, sounds or any other information or intelligence transmitted over said cable television system without payment to the owner of the cable television system.

No person shall, without the consent of the owner of the cable television system, willfully tamper with, remove or injure any cable, wires, or other equipment used for the distribution programs, sounds, or any other information or intelligence transmitted over said cable television system.

B. PENALTY: Any person violating any provision of this Section 43.18 shall, upon conviction, be fined not less than $25 nor more than $500 for each offense. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

43.19 BICYCLES, TRICYCLES, SKATEBOARDS or SIMILAR MOTORIZED and NON-MOTORIZED RECREATIONAL DEVICES *Amended, 04-5-2*

A. DEFINITIONS: In addition to the terms defined in Appendix A of this Code, the following words, when used in this Section 43.19, shall have the following meanings:

Central Business District: The B-1 Central Business District as identified in the Marengo Zoning Code.

City property: Any sidewalk, street right-of-way, City park, City parking lot/area or any other public property owned by the City.

Motorized wheelchair: As defined in 625 ILCS 5/1-148.3, as amended.

Personal use vehicle and personal use device: Vehicles, devices or means of transportation or recreation which include, but are not limited to, the following: skateboard, bicycle, tricycle, roller blade, roller skate, or other similar device, whether non-motorized or motorized (electric, gasoline engine or other form of external power), mini-bike, pedalcycle, recreational device or vehicle, snowmobile, go-kart, moped, all-terrain vehicles (ATV), golf cart or other such motorized or non-motorized devices or vehicles or modes of transportation.

B. USE OF PERSONAL USE VEHICLES AND DEVICES: Except as provided in Section 43.19-C herein, it shall be unlawful and is hereby declared a nuisance for any person to operate, ride on, be pushed on or traverse on a personal use vehicle or personal use device on any City property or on any private property without the permission of the property owner.

C. EXEMPTIONS:

1. Motorized wheelchairs shall be permitted to operate on any City property so long as operated in a safe and orderly manner.

2. Non-motorized bicycles, tricycles, skateboards and other non-motorized recreational devices or vehicles may be operated on sidewalks in residential zoning districts provided the operators remain in single file, yield the right-of-way to pedestrians, and, when approaching a pedestrian, reduce the speed of the device to a speed which is no greater than necessary to continue the safe operation of the device, and without impairing the right-of-way of the pedestrian or without causing alarm or danger and/or damage to the pedestrian and/or property.

3. Non-motorized tricycles, operated by children accompanied by an adult, shall be permitted in Calvin Spencer Park.

4. Special events that are conducted with a written permit issued by the Chief of Police.

5. Any personal use vehicle or device licensed and registered pursuant to the Illinois Vehicle Code shall be permitted on any City street or parking lot/area.

6. Any employee of any unit of government may operate any personal use vehicle or device owned by a unit of government in the course of his or her duties on any City property.

D. PENALTIES: Any person, firm or corporation violating any provision of this Section 43.19 shall be fined not less than $25, nor more than $500, for each offense. A separate offense shall be deemed committed on each day during which the violation occurs or continues.

43.20 NON-SMOKING ENVIRONMENT

The City does hereby concur in the policy as set forth by the Illinois General Assembly in the Illinois Clean Indoor Air Act that tobacco smoke is annoying, harmful and dangerous to human beings and a hazard to public health. Pursuant to the requirements of the Illinois Clean Indoor Air Act, no person shall smoke on premises owned and controlled by the City nor in a public place which is any enclosed indoor area used by the public or serving as a place of work.

43.21 REMOTE CONTROL DEVICES

No remote control device shall be operated on any City sidewalk, street, parking lot or park.

43.22 TRUANCY *06-5-1*

A. For purposes of this Section 43.22, the term "truant" is (1) any person between the ages of 7 and 16 who is subject to compulsory school attendance and who is absent, without valid cause, from school attendance during a regular school day or any portion thereof or during a required summer school program established pursuant to 105 ILCS 5/10-22.33B; and (2) any person who is 16, 17 or 18 years of age and enrolled in a public school and who is absent, without valid cause, from school attendance during a regular school day or any portion thereof or during a required summer school program.

The following children are not considered truant:

1. Any child attending a private or parochial school where children are taught the branches of education taught to children or corresponding age and grade in the public schools, and where the instruction of the child in the branches of education is in the English language;

2. Any child who is not enrolled in a public school and is instructed by a legal guardian in a manner equal or superior to that obtainable in the public schools;

3. Any child who is physically or mentally unable to attend school, such disability being certified to either Marengo Community High School District 154 or Marengo-Union Elementary School District 165 (hereinafter "school district") truancy officer or McHenry County Regional Office of Education truancy officer, by a licensed physician or by a Christian Science practitioner residing in Illinois and listed with the Christian Science Journal; or who is excused for temporary absence for cause by the principal or teacher of the school which the child attends; the exemptions in this Section 43.22-A2 do not apply to any female who is pregnant or the mother of one or more children, except where a female is unable to attend school due to a complication arising from her pregnancy and the existence of such complication is certified to the school district truancy officer or McHenry County Regional Office of Education truancy

officer by a competent physician;

4. Any child necessarily and lawfully employed according to the provisions of the law regulating child labor may be excused from attendance at school by the school district Superintendent of Schools or by the Regional Superintendent of Schools, on certification of the facts by and the recommendation of either the school district Board of Education. If a part-time continuation school is run in either school district, children so excused shall attend the continuation school at least 8 hours each week;

5. Any child over 12 and under 14 years of age while in attendance at confirmation classes;

6. Any child absent from school on a particular day or days or at a particular time of day for the reason that he is unable to attend classes or to participate in any examination, study or work requirements on a particular day or days or at a particular time of day, because the tenets of his religion forbid secular activity on a particular day or days or at a particular time of day; and

7. Emergency or unforeseen absences due to illness or other causes beyond the control of the person so absenting himself or herself from school without parental or legal guardian permission shall not constitute truancy if permission for such absence has been obtained from the parent or legal guardian and such permission is submitted to the proper school authorities within 24 hours of such absence.

B. TRUANCY PROHIBITED: Upon a complaint signed by an authorized school district official, it shall be unlawful for any person to be truant. Any person who is truant shall be guilty of the offense of truancy and be subject to the penalties hereinafter set forth in this Section 43.22.

C. PERMITTING MINOR TO BE TRUANT PROHIBITED: It is unlawful for a parent, legal guardian or other person to knowingly permit a person in his or her custody or control to violate this Section 43.22.

D. PENALTY: Upon a complaint being signed by an authorized school district official, any person, firm or corporation violating any provision of this Section 43.22 shall be fined not less than $50 nor more than $500 for each offense. A separate offense shall be deemed committed on each day during or on which such violation occurs or continues.

CHAPTER 44
ADULT BUSINESS LICENSES[1]

44.01 Definitions
44.02 License
44.03 Application for License
44.04 Standards for Issuance of License
44.05 Fees
44.06 Display of License
44.07 Renewal of License
44.08 Revocation of License
44.44 Employees
44.10 Physical Layout of Adult Business
44.11 Responsibilities of the Operator
44.12 Exclusions
44.13 Penalties and Prosecution
44.14 Enforcement

44.01 DEFINITIONS

In addition to the terms defined in Appendix A of this Code, capitalized terms, when used in this Chapter 44, shall have the following meanings:

Adult Business: Any establishment having as a substantial or significant portion of its stock in trade or business activity in a use such as, but not limited to the following: Adults-Only Bookstores, Adults-Only Motion Picture Theaters, Adult Entertainment Centers, Rap Parlors, Adults-Only Nightclubs or Adults-Only Saunas, where explicit sexual conduct is depicted and/or sexual activity is explicitly or implicitly encouraged or tolerated.

Adult Entertainment Business: Synonymous with "Adult Business," as defined herein.

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

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

Adults-Only Bookstore: An adults-only establishment having as a substantial or significant portion of its stock in trade, books, magazines, films for sale or viewing on premises by use of motion picture devices or other coin-operated means, and other periodicals which are distinguished or characterized by their principal emphasis on matters depicting, describing or relating to nudity, explicit sexual conduct (whether auto-erotic, heterosexual, homosexual or otherwise), bestiality or sadomasochistic activity. An establishment, having adults-only items as a substantial or significant portion of its stock, that sells or displays adults-only items for sale to patrons therein.

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[1] Established by Ordinance 02-8-4, 8/26/02

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

Adults-Only Sauna: An establishment or place primarily in the business of providing a steam bath and/or massage services, where explicit sexual conduct is depicted and/or sexual activity is explicitly or implicitly encouraged or tolerated.

Booth: Any enclosure that is specifically offered to patrons of an Adult Business for the private viewing of any adults-only item or movie. Said definition does not include enclosures that are used as private offices by any operator, employee or agent for attending to the tasks of their employment and are not offered for use by the public.

Cubicle: Synonymous with "booth," as defined herein.

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

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

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

Nudity: The display of the human male or female genitalia; pubic hair; buttocks; perineum; anal or pubic regions; female breast, at or below the areola thereof, with no covering or with a less than fully opaque covering; or, male genitalia, in a discernible turgid state, with or without covering.

Obscene: Any material or performance is obscene if: (1) the average person, applying contemporary adult community standards, would find that, taken as a whole, it appeals to the prurient interest; and (2) the average person, applying contemporary adult community standards, would find that it depicts or describes, in a patently offensive way, ultimate sexual acts or sadomasochistic sexual acts, whether normal or perverted, actual or simulated, or masturbation, excretory functions or lewd exhibition of the genitals; and (3) taken as a whole, it lacks serious literary, artistic, political or scientific value. [Statutory Reference: 720 ILCS 5/11-20]

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

Patron: For purposes of an Adult Business, as defined herein, any customer, patron or visitor to an Adult Business who is not employed by any operator of said establishment.

Rap Parlor: An establishment or place primarily in the business of providing non-professional conversation or similar services for adults, where explicit sexual conduct is depicted and/or sexual activity is explicitly or implicitly encouraged or tolerated.

Room: Synonymous with "booth," as defined herein.

Sadomasochistic Activity: Flagellation or torture by or upon a nude person; a person clad in

undergarments, a mask or bizarre costume. In addition, the condition of being fettered, bound or otherwise physically restrained with the intent to stimulate or arouse sexually the initiator and/or the recipient.

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

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

Underage: Any person under 18 years of age, the legally minimum age at which one can purchase or view adults-only items. (Statutory Reference: 720 ILCS 5/11-20)

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

44.02 **LICENSE**

A. Except as provided in Section 44.02-D herein, from and after the effective date of this Chapter 44 (insert date), no Adult Business shall be operated or maintained in the City without first obtaining a license to operate issued by the City.

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

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

D. All Adult Businesses existing at the time of the passage of this Chapter 44 must submit an application for a license within 90 days of the passage of this Chapter 44. If an application is not received within said 90 day period, then such existing Adult Business shall cease operations.

44.03 **APPLICATION FOR LICENSE**

A. Any person, partnership or corporation desiring to secure a license shall make application to the Administrator. The application shall be filed in triplicate with and dated by the Administrator. A copy of the application shall be distributed promptly by the Administrator to the Police Department.

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

1. Name and address, including all aliases.

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

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

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

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

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

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

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

9. The address of the Adult Business establishment to be operated by the applicant.

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

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

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

E. Failure or refusal of the applicant to give any information relevant to the investigation of the application or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this Chapter 44, shall constitute an admission by the applicant that he or she is ineligible for such license and shall be grounds for denial thereof by the Administrator.

44.04 STANDARDS FOR ISSUANCE OF LICENSE

A. To receive a license to operate an Adult Business, an applicant must meet the following standards:

1. If the applicant is an individual:

a. The applicant shall be at least 18 years of age.

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

c. The applicant shall not have been found to have previously violated this Chapter 44 within five years immediately preceding the date of the application.

2. If the applicant is a corporation:

a. All officers, directors and stockholders required to be named under Section 44.03-B-10 herein shall be at least 18 years of age.

b. No officer, director or stockholder required to be named under Section 44.03-B-10 herein shall have been convicted of, pleaded no contest or stipulated to the facts involving a felony or any crime involving moral turpitude, prostitution, obscenity or other crime of a sexual nature in any jurisdiction within five years immediately preceding the date of the application.

c. No officer, director or stockholder required to be named under Section 44.03-B-10 herein shall have been found to have previously violated this ordinance within five years immediately preceding the date of the application.

3. If the applicant is a partnership, joint venture or any other type of organization where two or more persons have a financial interest:

a. All persons having a financial interest in the partnership, joint venture or other type of organization shall be at least 18 years of age.

b. No persons having a financial interest in the partnership, joint venture or other type of organization shall have been convicted of, pleaded no contest or stipulated to the facts involving a felony or any crime involving moral turpitude, prostitution, obscenity or other crime of a sexual nature in any jurisdiction within five years immediately preceding the date of the application.

c. No person having a financial interest in the partnership, joint venture or other type of organization shall have been found to have violated any provision of this Chapter 44 within five years immediately preceding the date of the application.

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

44.05 **FEES**

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

44.06 **DISPLAY OF LICENSE**

The license shall be displayed in a conspicuous public place in the Adult Business such that it may be readily seen by a person entering the premises.

44.07 RENEWAL OF LICENSE

A. Every license issued pursuant to this ordinance will terminate on April 30 of each year unless sooner revoked, and must be renewed before operation is allowed in the following year. Any operator desiring to renew a license shall make application to the Administrator. The application for renewal must be filed no later than 60 days before the license expires. The application for renewal shall be filed in triplicate with and dated by the Administrator. A copy of the application for renewal shall be distributed promptly by the Administrator to the Police Department and to the operator. The application for renewal shall be upon a form provided by the Administrator and shall contain such information and data, given under oath or affirmation, as is required for an application for a new license.

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

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

44.08 REVOCATION OF LICENSE

A. The City Council shall revoke a license for any of the following reasons:

1. Discovery that false or misleading information or data was given on any application or material facts were omitted from any application.

2. The operator or any employee of the operator, violates any provision of this Chapter 44 or any rule or regulation adopted by the City pursuant to this Chapter 44; provided, however, that in the case of a first offense by an operator where the conduct was solely that of an employee, the penalty shall not exceed a suspension of 30 days if the City Council shall find that the operator had no actual or constructive knowledge of such violation and could not by the exercise of due diligence have had such actual or constructive knowledge.

3. The operator becomes ineligible to obtain a license.

4. Any cost or fee required to be paid by this Chapter 44 is not paid.

5. Any alcoholic liquor is served or consumed on the premises of the Adult Business.

6. Violation of any City ordinance, code or regulation and failure to pay the required fine or penalty or failure to cure the violations.

7. The transfer of a license or any interest in a license.

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

C. Any operator whose license is revoked shall not be eligible to receive a license for one year from the date of revocation. No location or premises for which a license has been issued shall be

used as an Adult Business for six months from the date of revocation of the license.

44.09 **EMPLOYEES**

It shall be unlawful for any Adult Business licensee or his Administrator or employee to employ in any capacity within the Adult Business any person who is not at least 18 years of age.

44.10 **PHYSICAL LAYOUT OF ADULT BUSINESS**

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

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

2. Construction: Every booth, room or cubicle shall meet the following construction requirements.

   a. Each booth, room or cubicle shall be separated from adjacent booths, rooms and cubicles and any non-public areas by a wall.

   b. Have at least one side totally open to a public lighted aisle so that there is an unobstructed view at all times of anyone occupying same.

   c. All walls shall be solid and without any openings, extended from the floor to a height of not less than six feet and be light colored, non-absorbent, smooth textured and easily cleanable.

   d. The floor must be light colored, non-absorbent, smooth textured and easily cleanable.

   e. The lighting level of each booth, room or cubicle, when not in use shall be a minimum of 10 foot candles at all times, as measured from the floor.

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

B. Any Adult Business as defined herein which features dancers or other entertainers or forms of entertainment, must comply with the following requirements:

1. All dancing or other entertainment shall occur on a platform intended for that purpose which is raised at least two feet from the level of the floor.

2. No dancing or other entertainment shall occur closer than 10 feet to any patron.

3. No dancer or other entertainer shall fondle or caress any patron and no patron shall fondle or caress any dancer or other entertainer.

4. No patron shall directly pay or give any gratuity or tip to any dancer or other entertainer and no dancer or other entertainer shall directly or indirectly solicit any pay or gratuity or tip from any patron.

44.11 RESPONSIBILITIES OF THE OPERATOR

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

B. The operator shall make the register of employees available immediately for inspection upon demand of a member of the Police Department at all reasonable times.

C. Every act or omission by an employee constituting a violation of the provisions of this Chapter 44 shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.

D. Any act or omission of any employee constituting a violation of the provisions of this Chapter 44 shall be deemed the act or omission of the operator for purposes of determining whether the operator's license shall be revoked, suspended or renewed.

E. No employee of an Adult Business shall allow any minor to loiter around or to frequent an Adult Business.

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

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

H. The operator shall insure compliance of the establishment and its patrons with the provisions of this Chapter 44.

44.12 EXCLUSIONS

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

44.13 PENALTIES AND PROSECUTION

A. Any person, partnership or corporation who is found to have violated this Chapter 44 shall be fined not less than $300 nor more than $1,000 per offense plus costs of prosecution incurred by the City including reasonable attorney fees and shall result in the revocation of any license.

B. Each violation of this Chapter 44 shall be considered a separate offense, and any violation continuing more than one day shall be considered a separate offense.

44.14 ENFORCEMENT

The Police Department shall have the authority to enter any Adult Business at all reasonable times to inspect the premises and enforce this Chapter 44.

APPENDIX A
MARENGO MUNICIPAL CODE DEFINITIONS

Abandoned Vehicle: Any vehicle in a state of disrepair rendering the vehicle incapable of being driven in its condition; or any vehicle that has not been moved or used for seven consecutive days or more and is apparently deserted; or any unlicensed vehicle.

Accessory Structure: A building the use of which is incidental to that of the principal building and which is located on the same lot.

Administrator: The chief administrative officer of the City. Administrator shall also mean the Administrator's designee. *Amended, 09-8-5*

Air Rifle: Includes any air gun, air pistol, spring gun, spring pistol, BB gun, pellet gun or any implement that is not a firearm which impels a projectile constructed of hard plastic, steel, lead, brass or any other hard material with a force that is reasonably expected to cause bodily harm or property damage.

Alcohol: 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: 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 a human being.

Antique Vehicle: Any motor vehicle or other vehicle 24 years of age or older.

Appliances: Including but not limited to ranges, refrigerators, dishwashers, washing machines, dryers, room air conditions, freezers and water heaters.

ASTM ES 13-89: Pursuant to Chapter 24, emergency standard performance specifications for safety covers and labeling requirements for all covers for swimming pools, spas and hot tubs.

Barrier: Pursuant to Chapter 24, a fence, wall, building wall or combination thereof which completely surrounds the swimming pool and obstructs access to the swimming pool.

Basement: A portion of any building located partly underground but having less than half of its clear floor to ceiling height below the average grade of the adjoining ground.

Beer: 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.

Boat: Any device used or capable of being used for navigation on water.

Bowling Alley: A recreational area or facility contained within a building and so constructed as to permit the public to engage in the recreational form commonly known as bowling and constructed primarily for use in connection with such recreational pursuit.

Building: Any residential or nonresidential support, shelter or enclosure of persons, animals or movable property of any kind, and which is permanently affixed to the land.

Building Commissioner: The Building Commissioner of the City or his authorized deputy, agent or representative. The Building Commission is also the Building Official.

Building Drain: That part of the lowest horizontal 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, beginning five feet outside the inner face of the building wall.

Building Sewer: The extension from the building drain to the public sewer or other place of disposal.

Cellar: A portion of a building located partly or wholly underground and having half or more than half of its clear floor to ceiling height below grade.

Central Business District: An area one-half block east and one-half block west of State Street from Grant Highway north to the first pair of Chicago & Northwestern Railway Company tracks, or as otherwise delineated by the City Zoning Map.

City: City of Marengo, Illinois.

City Council: The Mayor and City Council of the City of Marengo.

Civil Emergency: A riot or unlawful assembly characterized by the use of actual force or violence or any threat to use force if accompanied by immediate power to execute by three or more persons acting together without authority of law; or any natural disaster or manmade 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.

Clerk: The City Clerk of the City of Marengo.

Club: For purposes of Chapter 33 of this Code, a corporation organized under the laws of this State, not for pecuniary profit, solely for the promotion of some common object other than the sale or consumption of alcoholic liquors, kept, used and maintained by its members through the payment of annual dues, and owning, hiring or leasing a building or space in a building, of such extent and character as may be suitable and adequate for the reasonable and comfortable use and

accommodation of its members and their guests and provided with suitable and adequate kitchen and dining room space and equipment and maintaining a sufficient number of servants and employees for cooking, preparing and serving food and meals for its members and their guests. Such club shall file with the Local Liquor Control Commissioner at the time of its application for a license pursuant to Chapter 33 two copies of a list of names and residences of its members. Said list shall be supplemented every four months, during the term of the license, with the names and addresses of new members elected to the club. And, provided further, that its affairs and management are conducted by a board of directors, executive committee or similar body chosen by the members at their annual meeting and that no member or any officer, agent or employee of the club is paid, or directly or indirectly receives, in the form of salary or other compensation any profits from the distribution or sale of alcoholic liquor to the club or the members of the club or its guests introduced by members beyond the amount of such salary as may be fixed and voted at any annual meeting by the members or by its board of directors or other government body out of the general revenue of the club.

Code, This Code: The Marengo Municipal Code.

Combined Sewer: A sewer receiving both surface runoff and sewage.

Construction: Any site preparation, assembly, erection, substantial repair, alteration or similar action, but excluding demolition.

Construction Vehicle: Any vehicle used in, and that is hauling, picking up or delivering materials, equipment and related apparatus then being used in the construction, remodeling, repair, replacement, enlargement or addition of or to any improvement on a lawful site within the corporate limits of the City for which a building permit has been duly issued, and is then outstanding, by the City under the provisions of Chapter 24 of the Code.

Country Club: A recreational area with buildings or structures used in conjunction therewith for the primary use of members and their guests as the case may be, all of which is established for recreational and entertainment purposes and used in conjunction with recreational pursuits or games, e.g. golf, tennis, etc.

County: McHenry County.

Criminal Code: The Illinois Criminal Code of 1961, 730 ILCS 5/1-1 *et seq*., as amended.

Curfew: 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, except officials of any governmental unit and persons officially designated to duty in a civil emergency.

Demolition: Any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces or similar property.

Deputy Clerk: The duly appointed Deputy Clerk of the City.

Dwelling Unit: A single family attached and detached residence and duplex.

Easement: Land specifically or generally designed for public and/or quasi-public utilities and facilities, only, associated with requirements for sanitary sewer, potable water, storm drainage, gas, electric, telephone, cable television and service.

Employee Organization: Any organization of any kind or any agency or employee representation committee or plan which included in its membership City employees, and which exists for the purpose, in whole or in part, of dealing with the City concerning grievances, wages, rates of pay, hours and conditions of employment.

EPA: The Environmental Protection Agency; IEPA is the Illinois organization and USEPA is the federal organization

Extermination: The control and elimination of insects, rodents or other pests by eliminating their harborage places, by removing or making inaccessible material that may serve as their food; by poisoning, spraying, fumigating or trapping; or by any other recognized legal pest elimination methods.

Firearm: Any device, by whatever name known, which is designed to expel a projectile or projectiles by the action of an explosion, expansion of gas or escape of gas; excluding any pneumatic gun, spring gun or BB gun which expels a single globular projectile not exceeding .18 inch in diameter.

Fireworks: Any rocket, firecracker, torpedo, squib or other similar projectile, or anything containing any substance of an explosive nature, including but not limited to gun powder, gun cotton, giant powder, dynamite, nitroglycerine, fulminate of mercury or other explosives of a similar nature for blasting or other purposes. In addition, the definition for "fireworks" found in 425 ILCS 35/1, as amended, is incorporated into this Ordinance.

Flush-Mounted Sign: Any sign attached to or erected against any wall, awning canopy or marquee with the exposed face of said sign in a plane approximately parallel to the place of the wall, etc. and not projecting more than 18 inches. Such signs shall not be painted directly on any exterior wall. *Ord. 02-8-3*

Free Standing Sign: Any sign supported by one or more uprights, poles or braces placed in or upon the ground in a permanent manner. *02-8-3*

Garage Sale: For purposes of Section 31.01 of this Code, garage sales shall mean and include all sales entitled "garage sale," "lawn sale," "attic sale," "rummage sale," "flea market sale" or any

similar casual sale of tangible personal property which is advertised by any means whereby the public at large is or can be made aware of said sale.

Garbage: Any rejected or waste household food, offal, swill or carrion, and every accumulation of animal, fruit or vegetable matter that attends the preparation, use, cooking and dealing in, or storage of meats, fish, fowl, fruits or vegetable, and any other matter of any nature which are subject to decay, putrefaction and the generation of noxious or offensive gases or odor, or, which during or after decay, may serve as breeding or feeding material for flies or other germ-carrying insects.

Golf Course: A recreational area with or without club house facilities primarily for the use of members and their guests or the general public as the case may be, engaging in a form of recreation or game commonly known as golf.

Goods: For purposes of Section 31.01 of this Code, goods are meant to include any goods, warehouse merchandise or other property capable of being the object of a sale regulated in this Code.

Grant Street: U.S. Route 20.

Highway or Street: The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public or purposes of vehicle travel. Any street, alley or public way within the City.

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

Hot Tub: See definition for spa.

IDOT: Illinois Department of Transportation.

IEPA Regulations: Illinois Environmental Protection Agency 35 Administrative Code 653.

Illinois Compiled Statutes (ILCS): The 1999 edition of the Illinois Compiled Statutes and when later editions are published, the latest publication thereof.

Illinois Municipal Code: 65 ILCS 5/1 *et seq*.

Infestation: The presence within or around a dwelling unit of any insects, rodents or other pests.

In-ground pool: See definition for swimming pool.

Inoperable Motor Vehicle: Any motor vehicle from which, for a period of at least seven days, the engine, wheels or other parts have been removed, or on which the engine, wheels or other parts have been altered, damaged or otherwise so treated that the vehicle is incapable of being driven under its own motor power.

The term "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 service or repair operations nor to any motor vehicles that are kept within a building when not in use, to historic vehicles over 25 years of age, nor to a motor vehicle on the premises of a place of business engaged in wrecking or junking of motor vehicles, nor to any motor vehicle which has been rendered temporarily incapable of being driven under its own power by authorization of the Chief of Police.

Legal Guardian: A person appointed guardian or given custody of a minor by a Circuit Court of the State, but does not include a person appointed guardian or given custody of a minor under the Juvenile Court Act, 705 ILCS 405/1-1, as amended.

Let: To give another person the right to occupy any portion of a building or real estate or both. The act of "letting" shall be deemed to be a continuing act for so long as the person given the right to occupy the premises continues to do so. A further "letting" by any occupant or a portion of a building is, for the purpose of this Ordinance, also a "letting" by the owner or operator of the building.

Licensee: An organization, person or firm which has been issued a license, such as to operate a raffle.

Liquor Control Act: The Liquor Control Act of 1934, 235 ILCS 5/1-1 *et seq*., as amended.

Local Liquor Control Commissioner: The Mayor of the City.

May: May is permissive.

Minor: A person who is above the age of 11 years but not yet 18 years of age.

Motor Vehicle: Any vehicle which is propelled or drawn on land by a motor, such as, but not limited to, passenger cars, trucks, truck-trailers, semi-trailers, campers, go-carts, snowmobiles, amphibious craft on land, dune buggies or racing vehicles, but not including motorcycles.

Motorcycle: An unenclosed motor vehicle having a saddle for the use of the operator and two or three wheels in contact with the ground, including, but not limited to, motor scooters and minibikes.

Municipality: The City of Marengo.

Must: Must is mandatory.

Natural Barrier: A non-seasonal lake, pond or stream greater than 20 feet in width.

Natural Outlet: Any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.

Neighboring Residence: A one family dwelling or a single family townhouse not more than three stories in height situated on improved property within 500 feet of a residential swimming pool.

Noise: Any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

Noise Disturbance: Any sound which endangers or injures the safety or health of humans or animals, or annoys or disturbs a reasonable person of normal sensitivities, or endangers or injures personal or real property.

Noise Sensitive Zone: Any area designated pursuant to this Code for the purpose of ensuring exceptional quiet.

Noncombustible Waste: All other waste substance not capable of incineration or burning, including ashes, glass, metal, earthenware and the like.

Occupant: Any person, over one year of age, living in, sleeping in or having actual possession of a building or portion thereof.

Open Burning: The burning of any materials or substances outside of the confines of the dwelling or buildings located on the premises.

Operator: Any person having charge, care, management or control of any building or part thereof.

Owner: Any person who alone or jointly or severally with others shall have legal or equitable title to any building, the agent of said person or any person having management or control of the building or portion thereof, including, but not limited to a purchaser, mortgagee, receiver or lessee in possession of any building or portion thereof.

Parabolic or Dish Type Television Antenna: Any circular or similar dish shaped transmitting or receiving antenna for communications or for transmitting or receiving television signals from a satellite.

Parade: Any parade, march, ceremony, show, exhibition, pageant or procession of any kind, or any similar display, in or upon any street, park or other public place in the City.

Park or parking: For purposes of Chapter 15 of this Code, the standing of a vehicle, whether occupied or not, otherwise than when temporarily and actually engaged in loading and unloading merchandise or passengers.

Peddling: 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 the City or from house to house, whether at one place 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.

Person: Any natural individual, firm, partnership, trust, estate, club, association, not-for-profit organization, society, taxing body or corporation. As applied to partnerships or associations the word includes the partners or members thereof; as applied to corporations it includes the officers, agents or employees thereof who are responsible for the act referred to. The singular includes the plural, and the plural includes the singular. The masculine gender includes the feminine and neuter genders.

Plumbing: Gas pipes, gas burning equipment, water heating equipment, water pipes, garbage disposal units, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, wells, septic tanks, catch basins, drains, vents and any similar supplied fixtures, together with all connections to water, sewer or gas lines.

Population: The population determined by the most recent official federal, state or City census.

Powered Model Vehicle: Any self-propelled airborne, waterborne or land born plane, vessel or vehicle, which is not designed to carry persons, including, but not limited to, any model airplane, boat, car or rocket.

Premises: Any or part of a lot, plot or parcel or tract of land, including the buildings and structures, or part of a building or structure, thereon.

Property: Any real property within the City which is not a street of highway.

Public Employee or Employee: Any individual employed by the City but shall not include elected officials, members of boards, authorities and commissions, management employees who are involved directly in the determination of policy or who responsibly directed implementation thereof, supervisors, or any employee who acts as a representative of the City and any employee who, in the interest of the City has access to confidential collective bargaining information or who, as determined by the City Council, is a confidential employee.

Public Right-Of-Way: Any street, avenue, boulevard, highway, sidewalk or alley or similar place which is owned or controlled by a government entity.

Public Safety Emergency: Any condition wherein the service offered by a public utility or a unit of government has been interrupted, curtailed or damaged, an immediate, substantial and harmful threat to the public health and safety exists, and will continue if such condition is not immediately repaired. Without limiting the generality thereof, a threat to the public health and safety includes damage to telegraphic, telephonic, heating, cooling, lighting, power, electrical, water, sewerage, oil or gas equipment facilities, machinery or property of a hospital or other building providing inpatient health care services, a school, a nursing home or a government building.

Public Sewer: A sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

Public Space: any real property or structures thereon which are owned or controlled by a government entity.

Public Utility: Any corporation, company, association, joint stock company or association, firm, partnership or individual, their lessees, trustees or receivers appointed by any court whatsoever that owns, controls, operates or manages, with the State of Illinois, directly or indirectly, for public use, any plant, equipment or property used or to be used for or in connection with, or owns or controls any franchise, license, permit or right to engage in:

1. The transmission of telegraph or telephone messages between points within the State of Illinois;

2. The production, storage, transmission, sale, delivery or furnishing of heat, cold, light, power, electricity or water;

3. The conveyance of oil or gas by pipeline; and

4. The disposal of sewerage.

Public Works: The Public Works Department of the City.

Real Property Boundary: A line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person, but not including intrabuilding real property divisions.

Recreation Vehicle: A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational and vacation uses and/or vehicles with "RV" license plates. A recreation vehicle shall include, but not be limited to, the following: travel trailer, pick-up camper, motorized home, camping trailer.

Registered Solicitor: Any person who has obtained a valid certificate of registration as provided in this Code, and which certificate is in the possession of the solicitor on his person while engaged in soliciting.

Residence: Every separate living unit occupied for residential purposes by one or more persons, contained within any type of building or structure.

Residential: That which is situated on the premises of a detached single or a one-family townhouse, not more than three stories in height.

Restaurant: Any public place kept, used and maintained, advertised and held out to the public as a place 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.

Retail Sale: The sale for use or consumption and not for resale.

Sanitary Landfill: A type of operation in which refuse is deposited by plan in a pit or excavation of open land, is compacted by force applied by mechanical equipment and then is covered by a layer of earth, ashes or suitable covering material to a depth of at least two feet.

Sanitary Sewer: A sewer which carries sewage and to which storm, surface and ground waters are not intentionally admitted.

Sewage: A combination of the water carried wastes from business buildings, residences, institutions and industrial establishments, together with such ground, surface and storm waters as may naturally be present.

Sewage Works: All facilities for collecting, pumping, treating and disposing of sewage.

Sewer Treatment Plant: Any arrangement of devices and structures used for treating sewage.

Shall: Shall is mandatory

Sign and/or Signage: Any surface, object, device, display, structure, fabric or advertising symbol which may or may not contain words, figures, letters, printing, pictures, designs, symbols, fixtures, colors, illumination, projected images, forms shaped to resemble any human, animal, product or object, or combinations thereof, which is calculated by any means to direct or attract the attention of the public and used to advertise, announce, identify, describe, illustrate or display an object, person, institution, organization, business, product, service, activity, event, place or location, which may be constructed from material of any kind or character whatsoever, and placed on the ground or on any pole, building, structure, wall or thing whatsoever. The term “placed,” as used in this definition, shall include erecting, locating, constructing, posting, painting, printing, nailing, tying, gluing, carving, molding, weaving or other fastening, attaching, affixing or making visible directly or indirectly, in any manner whatsoever. For the purposes of this definition, the use of terms including, but not

limited to, attach, affix, place, locate, display, erect and construct shall be deemed to be synonymous. A sign shall be deemed to be an accessory use to a principal use. *02-8-3*

Sign Face: The surface or surfaces used for the display of a sign message as seen from any one direction, including the area of copy and all borders, but not the structural or framing supports lying outside the limits of such borders. Within this meaning, a single-face sign shall not have any copy on its reverse side, or its reverse side is not visible; a double-faced sign shall have the faces placed back to back; and a multi-faced sign has more than two visible faces, or is erected in a V-shape, or is otherwise deemed to be irregular. *02-8-3*

Sign, Garage Sale: Any temporary sign used in residential zoning districts to advertise the sale of used, unwanted household goods. *02-8-3*

Sign, Home Construction: Any temporary sign used in residential zoning districts to advertise the construction of a dwelling on a specific lot during the time of its construction. *02-8-3*

Sign, Name Plate: Any sign attached or otherwise affixed to a wall of a building that indicates the name of the occupant of the premises and/or the common address of the premises, limited to the name of the occupant, display of address numerals and street name. The placement of address numerals themselves on a building or dwelling, or mailbox and mailbox post, shall not be deemed a name plate sign.. *02-8-3*

Sign, New Development Marketing: Any temporary sign which advertises an impending development or subdivision within the corporate limits of the City that has received final plat approval to begin construction and is a development or subdivision under active marketing or construction with lots or dwelling units remaining to be sold. *02-8-3*

Sign, Political: Any temporary sign displayed in conjunction with an official election or referendum, used on behalf of candidates for elected public office or to advocate a position on referenda. *Ord. 02-8-3*

Sign, Residential Real Estate: Any temporary sign used to offer the sale, lease, sublease or rental of real property in a residential zoning district. *02-8-3*

Sign, Surface Area of: The entire area within a single continuous square or rectangular perimeter enclosing the extreme limit of a sign, but in no case shall this perimeter pass through or between any adjacent elements of the same. See also Sign Face. *02-8-3*

Sign, Temporary: Any sign designed, constructed or erected for display in such a manner so as to be for a limited and usually fixed duration of time, relating to an activity, event or circumstance that by its nature is ordinarily of a limited duration. *02-8-3*

Snowmobile: A self-propelled device designed for travel on snow or ice or natural terrain, steered by skis or runners, and supported in part by skis, belts or cleats.

Soliciting: Any one or more of the following activities:

1. Seeking to obtain orders for the purpose of goods, wares, merchandise, foodstuffs, services of any kind, character or description whatever, for any kind of consideration whatever; or

2. Seeking to obtain prospective customers for application or purchase of insurance of any type, kind or character; or

3. Seeking to obtain information on the background, occupation, economic status, social status, religious status, political status, attitude, viewpoints, occupants of a residence, telephone numbers, address furnishings, or the like of another person for the purpose of compiling information as raw data or refined data into a document, record book or directory to be sold or to be used wholly or in part for a commercial purpose; or

4. Seeking to obtain gifts for 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.

Solicitor: Any person who has obtained a valid license as provided in Section 35 of this Code, and which license is in the possession of the solicitor on his person while engaged in soliciting.

Spa - portable, non-portable, hot tub: A non-permanent structure intended for recreational bathing, in which all controls, water heating and water circulating equipment are an integral part of the product.

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

State: State of Illinois.

State Street: State Route 23

Storm Sewer or Storm Drain: A sewer which carries storm and surface waters and drainage, but excludes sewage and polluted industrial wastes.

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 or purposes of vehicle travel.

For purposes of Chapter 15 of this Code, that portion of the roadway or highway that is improved, designed or ordinarily used for vehicular travel, exclusive of the berm or shoulder.

Strike: Any concerted action in failing to report for duty, the willful absence from one's position, the stoppage of work (including a stoppage by reason of the expiration of a collective bargaining agreement), the interruption or interference with operation of the City, slow downs or the abstinence in whole or in part from the full, faithful and proper performance of the duties of employment.

Supervisor: Any individual who has authority to recommend hiring, firing, transferring, suspending, promoting and discharging employees; those who have authority to assign employees; and those who direct work, as well as adjust compensation of employees.

Supplied: Paid for, installed, furnished or provided by and under the control of the owner or operator at its own expense.

Swimming Pool: Any structure intended for swimming or recreational bathing that contains water over 24 inches deep. This includes in-ground, aboveground and on-ground swimming pools, hot tubs and spas.

Swimming pool - indoor: A swimming pool which is totally contained within a structure and surrounded on all four sides by walls of said structure.

Swimming pool - outdoor: Any swimming pool which is not an indoor pool.

Taxicab: For purposes of Chapter 36, any vehicle used to carry passengers for hire but not operating on a fixed route.

Telegraph Street: State Route 176.

Temporary Parking: With respect to Section 15.07 of this Code, the stationary placement of any mobile home, boat, trailer or recreation vehicle for a continuous period of less than 48 hours.

Through Vehicle: Any vehicle that traverses the roads of the City from the point of entrance to the point of exit without providing a legitimate service as described in Section 15.13 to a lawful location within the corporate limits of the City during the course of such traverse, other than a public utility vehicle engaged in a public service emergency.

Townhouse: A single family dwelling having one or more common wall with another single family dwelling, oriented so all exits open directly to the outside.

Trailer: With respect to Section 15.07 of this Code, every vehicle designed or utilized for the transportation of any boat, auto, snowmobile and the like, which does not have motor power but is designed to be drawn by another vehicle.

Treasurer: The City Treasurer of the City of Marengo.

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.

Vehicle: Every device, in, upon or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power, devices used exclusively upon stationary rails or tracks and snowmobiles as defined in the Illinois Snowmobile Registration and Safety Act (625 ILCS 40/1-1).

Unfair Practice: Any practice prohibited by Section 3.17-F of this Code.

Watercourse: A channel in which a flow of water occurs, either continuously or intermittently.

Wine: Any alcoholic beverage obtained by the fermentation of the natural contents of fruits, or vegetables, containing sugar, including such beverages when fortified by the addition of alcohol or spirits, as defined herein.

Zone Code: The zoning ordinance of the City, as amended.

Zoning Ordinance: The zoning ordinance of the City, as amended.