CHAPTER 24
BUILDING CODE

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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.

CHAPTER 25
WATER AND WASTEWATER DEPARTMENT

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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 *Amended, Ord. 14-9-5*

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 FAILURE TO INSTALL EQUIPMENT OR GRANT ACCESS: In the event a customer either (i) fails or refuses to install or maintain any equipment required by the City, or (ii) fails or refuses to grant access to the City's employed or contracted personnel to install or maintain any such equipment, the City may, at its discretion, take one or more of the following measures:

1. 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 costs of disconnection and reconnection, including administrative fees and postage costs, are paid by the customer. Under certain circumstances, such as no reasonable installation access from the meter to the power line, and at the discretion of the Coordinator, the City may waive the installation requirement.

2. Impose a fine pursuant to Section 25.49-B of this Code for each day of noncompliance with this Section.

3. As to the City's transponder installation program in Fiscal Year 2014-2015, the City shall extend a one month grace period starting on October

1, 2014, for those customers who have failed or refuse to have transponders installed. Commencing November 1, 2014, the City shall impose a surcharge on the customer's water bill. The surcharge shall be in an amount to cover any reasonable expected use of water at the property, as well as an administrative fee to compensate for the inefficiency and additional City costs created by the customer not adopting the required new transponder system at that particular property. Specifically, the surcharge shall be $20 per month ($60 per cycle). Beginning February 15, 2015, the surcharge shall be increased to $40 per month ($120 per cycle). Finally, commencing May 1, 2015, the City shall automatically proceed pursuant to the provisions of Section 25.18-F1 regarding shut off procedures.

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, 16-5-2, 15-6-1, 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:

July 2016 & 2017 billing rates are as follows:	Effective for meter readings taken 6/1/2016	Effective for meter readings taken 6/1/2017
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:	$3.00	$3.00
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:	$26.00	$26.00

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:

July 2016 & 2017 billing rates are as follows:	Effective for meter readings taken 6/1/2016	Effective for meter readings taken 6/1/2017
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:	$4.50	$4.50
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:.	$39.00	$39.00

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 in-

sured 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 in-

stalled 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 expected 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, 16-5-2, 15-6-1, 14-3-3, 11-8-2, 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.

July 2016 & 2017 billing rates are as follows:	**Effective for meter readings taken 6/1/2016**	**Effective for meter readings taken 6/1/2017**
For users **within** the City with metered City water:		
per 1,000 gallons of water used per quarter:	$8.10	$8.60
Debt service charge per quarter: Residential: Non-Residential: <50,000 gallons of usage per quarter Non-Residential: >50,000 gallons of usage per quarter	 $17.50 $42.50 $67.50	 $17.50 $42.50 $67.50
For non-metered users **within** the City*		
Basic user charge	$137.70	$ 146.20

Debt service charge per quarter: Residential: Non-Residential:	 $17.50 $67.50	 $17.50 $67.50
*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	$12.15	$12.90
Debt service charge per quarter Residential: Non-Residential:	 $26.25 To be negotiated	 $26.25 To be negotiated
Non-metered users **outside** the City:		
Residential & Non-Residential Charge	To be negotiated	To be negotiated
*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 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 27

CABLE/VIDEO SERVICE PROVIDER FEE[1]

27.01 Definitions
27.02 Cable/Video Service Provider Fee Imposed
27.03 Applicable Principles
27.04 No Impact on Other Taxes Due from Holder
27.05 Audits of Cable/Video Service Provider
27.06 Late Fees, Payments

27.01 DEFINITIONS

In addition to those terms defined in Appendix A of this Code, the following terms shall have the following meanings in this Chapter:

Cable service: As defined in 47 U.S.C. § 522(6).

Commission: The Illinois Commerce Commission.

Gross revenues: All consideration of any kind or nature, including, without limitation, cash, credits, property and in-kind contributions received by the holder for the operation of a cable or video system to provide cable service or video service within the holder's cable service or video service area within the City.

1. Gross revenues shall include the following:

   A. Recurring charges for cable or video service.

   B. Event-based charges for cable service or video service, including, but not limited to, pay-per-view and video-on-demand charges.

   C. Rental of set top boxes and other cable service or video service equipment.

   D. Service charges related to the provision of cable service or video service, including but not limited to activation, installation and repair charges.

   E. Administrative charges related to the provision of cable service or video service, including but not limited to service order and service termination charges.

   F. Late payment fees or charges, insufficient funds check charges and other charges assessed to recover the costs of collecting delinquent payments.

   G. A *pro* rata portion of all revenue derived by the holder or its affiliates pursuant to compensation arrangements for advertising or for promotion or exhibition of any

[1] Ordinance 07-11-2

products or services derived from the operation of the holder's network to provide cable service or video service within the City. The allocation shall be based on the number of subscribers in the City divided by the total number of subscribers in relation to the relevant regional or national compensation arrangement.

H. Compensation received by the holder that is derived from the operation of the holder's network to provide cable service or video service with respect to commissions that are received by the holder as compensation for promotion or exhibition of any products or services on the holder's network, such as a "home shopping" or similar channel, subject to paragraph 1-H herein.

I. In the case of a cable service or video service that is bundled or integrated functionally with other services, capabilities or applications, the portion of the holder's revenue attributable to the other services, capabilities or applications shall be included in the gross revenue unless the holder can reasonably identify the division or exclusion of the revenue from its books and records that are kept in the regular course of business.

J. The service provider fee permitted by 220 ILCS 5/21-801(b).

2. Gross revenues do not include any of the following:

A. Revenues not actually received, even if billed, such as bad debt, subject to 220 ILCS 5/21-801(c)(1)(vi).

B. Refunds, discounts or other price adjustments that reduce the amount of gross revenues received by the holder of the state-issued authorization to the extent the refund, rebate, credit or discount is attributable to cable service or video service.

C. Regardless of whether the services are bundled, packaged or functionally integrated with cable service or video service, any revenues received from services not classified as cable service or video service, including, without limitation, revenue received from telecommunication services, information services or the provision of directory or Internet advertising, including yellow pages, white pages, banner advertisement and electronic publishing or any other revenues attributed by the holder to non-cable service or non-video service in accordance with the holder's books and records and records kept in the regular course of business and any applicable laws, rules, regulations, standards or orders.

D. The sale of cable services or video services for resale in which the purchaser is required to collect the service provider fee from the purchaser's subscribers to the extent the purchaser certifies in writing that it will resell the service within the City and pay the fee permitted by 220 ILCS 5/21-801(b) with respect to the service.

E. Any tax or fee of general applicability imposed upon the subscribers or the transaction by a city, state, federal or any other governmental entity and collected by

the holder of the state-issued authorization and required to be remitted to the taxing entity, including sales and use taxes.

F. Security deposits collected from subscribers.

G. Amounts paid by subscribers to "home shopping" or similar vendors for merchandise sold through any home shopping channel offered as part of the cable service or video service.

3. Revenue of an affiliate of a holder shall be included in the calculation of gross revenues to the extent the treatment of the revenue as revenue of the affiliate rather than the holder has the effect of evading the payment of the fee permitted by 220 ILCS 5/21-801(b) which would otherwise be paid by the cable service or video service.

Holder: A person or entity that has received authorization to offer or provide cable or video service from the Commission pursuant to 220 ILCS 5/21-401.

Service: The provision of "cable service" or "video service" to subscribers and the interaction of subscribers with the person or entity that has received authorization to offer or provide cable or video service from the Commission pursuant to 220 ILCS 5/21-401.

Service provider fee: The amount paid under this Chapter and 220 ILCS 5/21-801 by the holder to a City for the service areas within its territorial jurisdiction.

Video service: Video programming and subscriber interaction, if any, that is required for the selection or use of such video programming services, and which is provided through wireline facilities located at least in part in the public right-of-way without regard to delivery technology, including Internet protocol technology. This definition does not include any video programming provided by a commercial mobile service provider defined in 47 U.S.C. § 332(d) or any video programming provided solely as part of, and via, service that enables users to access content, information, electronic mail or other services offered over the public Internet.

27.02 CABLE/VIDEO SERVICE PROVIDER FEE IMPOSED

A. FEE IMPOSED: A fee is imposed on any holder providing cable service or video service in the City.

B. AMOUNT OF FEE: The amount of the fee imposed shall be 5 percent of the holder's gross revenues.

C. NOTICE TO THE CITY: The holder shall notify the City at least 10 days prior to the date on which the holder begins to offer cable service or video service in the City.

D. HOLDER'S LIABILITY: The holder shall be liable for and pay the service provider fee to the City. The holder's liability for the fee shall commence on the first day of the calendar month following 30 days after receipt of the ordinance adopting this Chapter by the holder. The

ordinance adopting this Chapter shall be sent by first class mail, postage prepaid, to the address listed on the holder's application notice sent pursuant to 220 ILCS 5/21-401(b)(6) to the City.

E. PAYMENT DATE: The payment of the service provider fee shall be due on a quarterly basis, 45 days after the close of the calendar quarter. If mailed, the fee is considered paid on the date it is postmarked. Each payment shall include a statement explaining the basis for the calculation of the fee.

F. EXEMPTION: The fee imposed does not apply to existing cable service or video service providers that have an existing franchise agreement with the City in which a fee is paid.

G. CREDIT FOR OTHER PAYMENTS: An incumbent cable operator that elects to terminate an existing agreement pursuant to 220 ILCS 5/21-301(c) with credit for prepaid franchise fees under that agreement may deduct the amount of such credit from the fees that operator owes under Section 27.02-B.

27.03 APPLICABLE PRINCIPLES

All determinations and calculations under this Chapter shall be made pursuant to generally accepted accounting principles.

27.04 NO IMPACT ON OTHER TAXES DUE FROM HOLDER

Nothing contained in this Chapter shall be construed to exempt a holder from any tax that is or may later be imposed by the City, including any tax that is or may later be required to be paid by or through the holder with respect to cable service or video service. A state-issued authorization shall not affect any requirement of the holder with respect to payment of the City's simplified municipal telecommunications tax or any other tax as it applies to any telephone service provided by the holder. A state-issued authorization shall not affect any requirement of the holder with respect to payment of the local unit of government's 911 or E911 fees, taxes or charges.

27.05 AUDITS OF CABLE/VIDEO SERVICE PROVIDER

A. AUDIT REQUIREMENT: The City will notify the holder of the requirements it imposes on other cable service or video service providers to submit to an audit of its books and records. The holder shall comply with the same requirements the City imposes on other cable service or video service providers in its jurisdiction to audit the holder's books and records and to recompute any amounts determined to be payable under the requirements of the City. If all local franchises between the City and cable operator terminate, the audit requirements shall be those adopted by the City pursuant to the Local Government Taxpayers' Bill of Rights Act, 50 ILCS 45/1 *et seq*. No acceptance of amounts remitted should be construed as an accord that the amounts are correct.

B. ADDITIONAL PAYMENTS: Any additional amount due after an audit shall be paid within 30 days after the City's submission of an invoice for the sum.

27.06 LATE FEES, PAYMENTS

All fees due and payments which are past due shall be governed by ordinances adopted by the City pursuant to the Local Government Taxpayers' Bill of Rights Act, 50 ILCS 45/1 *et seq*.

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, 16-8-3, 15-11-1, 08-8-2*

The McHenry County Stormwater Management Ordinance, as most recently amended by the County of McHenry on April 5, 2016, is hereby adopted by reference and is in full force and effect within the City of Marengo shall be known as Chapter 29 in the Marengo Municipal Code.

29.02 McHENRY COUNTY STORMWATER MANAGEMENT ORDINANCE AMENDMENTS *Amended 16-8-3, 15-11-1, 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 incorporated and adopted by the City of Marengo with an effective date of August 22, 2016.

29.03 PERMIT FEES *Amended 15-11-1*

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
Resubmittals beyond the first resubmittal	$50/ submittal
Outside Consulting Review Services	Time and Material

A deposit fee pursuant to Chapter 20 of the Marengo Municipal Code may be required.

<u>All Other Development (intermediate, major, SFHA and wetlands)</u>

Review Fee, includes one resubmittal	$500
Resubmittals beyond the first resubmittal	$200/ submittal
Outside Consulting Review Services	Time and Material

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

McHenry County, Illinois

Stormwater Management Ordinance

January 20, 2004

Amended:
April 15, 2008
October 19, 2010
March 15, 2011
April 15, 2014
December 1, 2014
April 5, 2016

Copies of this document are available
for review or purchase at:

Department of Planning and Development
McHenry County Administration Building
667 Ware Road
Woodstock, Illinois

It is also available for download at:
www.mchenrycountyil.gov

Inquiries may be directed to:

stormwater@co.mchenry.il.us

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Notes to User

The McHenry County Stormwater Management Ordinance (this Ordinance) regulates development and substantial improvements to buildings in the floodplain throughout McHenry County, within incorporated and unincorporated areas alike. As you read through this Ordinance, you will notice that certain terms are underlined and the Ordinance uses numerous acronyms. Underlined terms are defined in Appendix 12 and acronyms are defined in Appendix 13.

Not all development is regulated by this Ordinance, but development that is regulated requires a stormwater management permit before construction is allowed to commence. Some development is regulated because of its size, such as: development that hydrologically disturbs 5,000 square feet or more; development that hydrologically disturbs 50% or more of a parcel; and development that results in an additional 20,000 square feet of impervious area since the original effective date of this Ordinance. Other development is regulated because of its location, regardless of its size. Examples include development that is located partially or completely in a flood hazard area or wetland.

The basic steps used to determine whether a particular project requires a stormwater management permit are listed below. The Permitting Flow Charts in Appendix 1 provide additional guidance. If you have any questions about this Ordinance or its applicability to a specific project, please contact the McHenry County Department of Planning and Development.

1. Determine whether your project meets the definition of development (see Appendix 12). If it does, go on to Step 2.
2. Determine whether your project is regulated development (see Article II, Section B). If it is, go on to Step 3.
3. Determine whether your project is exempted development (see Article II, Section C). If it is not, go on to Step 4.
4. Determine whether your project qualifies for a General Permit, which waives certain requirements of this Ordinance in order to streamline the permit process for specific types of routine projects (see Article III). If it does, follow the process described for that General Permit. If it does not, go on to Step 5.
5. Determine how your project is classified (see Article IV, Section A) and then go on to Step 6.
6. Determine which Application Requirements apply (see Article V). Then go on to Step 7.
7. Determine which Performance Standards apply (see Article VI). Then go on to Step 8.
8. Submit a complete stormwater management permit application to a Certified Community or to the McHenry County Department of Planning and Development, along with the required submittals.
9. Await the issuance of a stormwater management permit prior to commencing your project.

Refer to Appendix 12 for the definition of underlined terms or to Appendix 13 for a list of acronyms.
Refer to Appendix 1 for permitting flowcharts.

Article I

§15.60.010 Introduction, Authority and Purpose

A. Introduction

1. The McHenry County Comprehensive Stormwater Management Plan, adopted by the McHenry County Board on June 16, 1997 states, "To provide a consistent level of protection and to provide equity throughout the County, a program for consistent Countywide regulation and enforcement should be developed with standards established at the Countywide level and, where appropriate, modified at the watershed level to meet watershed specific needs. A Countywide regulatory program would involve development of a Countywide watershed development ordinance that applies to both incorporated and unincorporated areas. ... [T]he watershed development ordinance should be comprehensive and specify standards for stormwater drainage and detention, floodplain management, soil erosion and sedimentation control, and stream and wetland protection in a single document."

2. McHenry County has determined that uniform and consistent enforcement by municipalities that adopt the standards of the Stormwater Management Ordinance will enhance the effectiveness of the program. The County also understands that local conditions may sometimes require additional or more restrictive standards to meet the purpose of this Ordinance. In those instances where the requirements of this Ordinance are not stipulated in a municipal ordinance or are more restrictive than municipal requirements, this Ordinance shall prevail. In some cases, the requirements of this Ordinance are more restrictive than Federal or State minimum standards. A municipality has the right to enact more restrictive standards than the minimum standards of this Ordinance.

B. Authority

1. This Ordinance is enacted pursuant to the powers granted to McHenry County by 55 ILCS 5/5-1041, 1042, 1049, 1062, 1063, 1104, 12003, 15001 & 40001 *et seq.*, (County) and by 65 ILCS 5/1-2-1, 11-12-12, 11-30-2, 11-30-8, 11-31-2 and 615 ILCS 5/5 *et seq.* including 18g.

2. This Ordinance establishes minimum standards and may be superseded by more restrictive Federal, State, or other local regulations.

C. Purpose

1. The purpose of this Ordinance is to establish reasonable rules and regulations for <u>floodplain</u> and <u>stormwater management</u> in order to:

   a. Protect and preserve the quality and environmental values of land and water resources in McHenry County;

   b. Encourage <u>development</u> in a manner that promotes the orderly, sustainable and cost-effective utilization of land and water resources;

   c. Minimize the impact of <u>development</u> on <u>flood</u> hazards, <u>erosion</u>, and water quality;

   d. Minimize the need for additional expenditure of public funds for <u>flood</u> control projects, <u>repairs</u> to flood damaged public facilities and utilities, and flood related emergency operations;

e. Minimize additional disruption of governmental services and the economy due to flooding and drainage problems;

f. Maintain eligibility for the NFIP by equaling or exceeding Federal floodplain development regulations (the NFIP is codified as 44 CFR 59-79, as amended) thereby making federally subsidized flood insurance available to residents in participating communities;

g. Protect the hydrologic, hydraulic, water quality, aquatic habitat, recreation and other beneficial functions of streams, ponds, lakes, wetlands, and flood storage areas;

h. Protect the quantity and quality of groundwater resources;

i. Meet the requirements of The Rivers, Lakes and Streams Act, Resources, 615 ILCS 5/1 *et. seq.*;

j. Minimize harm due to periodic flooding including loss of life and property and threats and inconveniences to public health, safety and welfare;

k. Protect buildings and improvements to buildings from flood damage;

l. Facilitate the permitting of sound maintenance of channels and existing stormwater management systems; and

m. Require the regular, planned maintenance of new stormwater management systems.

Article II

§15.60.020 Scope of Regulation

A. Jurisdiction and Administration

1. This Ordinance applies throughout McHenry County, within incorporated and unincorporated areas.

2. The administration and enforcement of this Ordinance shall be performed by:

   Certified Communities, within their respective jurisdictions; and,

   The MCSC, its agents, employees and assignees in all other areas of McHenry County.

3. A list of Certified Communities may be obtained from the McHenry County Department of Planning and Development.

B. Regulated Development

1. Refer to the Regulated Development Flowchart in Appendix 1.

2. No person, firm, corporation or governmental agency, unless specifically exempted, shall commence any regulated development without first obtaining a stormwater management permit. Unless it is specifically exempted in Article II, Section C, any activity that meets any of the following criteria, is considered regulated development:

   a. Any development that is located partially or completely in a flood hazard area; or

   b. Any development located partially or completely within the boundary of a wetland or waters; or

   c. Any development that hydrologically disturbs 5,000 square feet or more; or

   d. Any development that hydrologically disturbs 50% or more of a parcel; or

   e. Any development that results in an additional 20,000 square feet of impervious area since the effective date of this Ordinance; or

   f. Any development on a lot or parcel of land platted after December 1, 2014 that results in impervious area exceeding the design parameters of an existing stormwater management facility; or

   g. Any development that is part of a larger common plan of development that, as a whole, would constitute regulated development.

C. Exempted Development

1. Development that consists solely of the following activities shall be exempt from the requirements of this Ordinance, upon review and verification by the Enforcement Officer:

   a. Maintenance of existing buildings outside the floodplain;

   b. Maintenance of existing buildings within the floodplain that does not constitute a substantial improvement;

   c. Maintenance of existing roads and trails;

   d. Other maintenance activities;

   e. Gardening and landscaping that does not involve filling, grading, or the construction of berms;

f. Tillage and similar agricultural practices that do not involve filling, grading or the construction of levees;

g. Improvements undertaken pursuant to a written NRCS Conservation Plan, when the improvements are not located within a flood hazard area, WOTUS, or IWMC;

h. Demolition and accompanying restoration, including the removal of bridges and culverts, provided that:

(1) Natural land contours are restored;

(2) The disturbed area is less than 1 acre; and

(3) Appropriate soil erosion and sediment control practices are utilized;

i. Installation, repair or replacement of an onsite waste disposal system, well, sewer or water service line, or other utility service line serving one existing building, provided that:

(1) The activity is not located partially or completely in a flood hazard area or a wetland;

(2) The disturbed area is less than 1 acre;

(3) The activity does not result in an increase in ground elevation; and

(4) Appropriate soil erosion and sediment control practices are utilized.

D. Reduced Standards for Specific Types of Development

1. Regulated development that received one or more of the approvals set forth in a through e below prior to June 1, 2004 shall be exempt from the Buffer Areas Performance Standards of this Ordinance and may be exempt from the Runoff Rate Reduction and Watershed Specific Requirements of this Ordinance, upon review and by the Enforcement Officer that the regulated development is consistent with the prior approval. An applicant's written exemption request shall itemize each Ordinance provision for which an exemption is requested.

a. Annexation agreement

b. Final plat of subdivision

c. Planned unit development

d. Replat of an industrial subdivision

e. Replat of a commercial subdivision

2. Mining Development that received a conditional use permit prior to June 1, 2004 shall be exempt from the Buffer Areas Performance Standards of this Ordinance and shall be exempt from the Compensatory Storage Requirements of this Ordinance for fill outside the floodway, upon review and authorization by the Enforcement Officer. The Enforcement Officer may give credit toward meeting the Compensatory Storage Requirements for excavation prior to June 1, 2004 and after September 30, 1981, which was the effective date of the first FIRM in McHenry County. An applicant's written exemption request shall itemize each Ordinance provision for which an exemption is requested.

3. A Public Road Development in a floodway shall be exempt from the BFE determination requirements of this Ordinance, provided IDOT/DOH issues a Floodway Construction Permit for the Public Road Development.

4. Portions of a development site that do not drain offsite may be exempt from the Soil Erosion and Sediment Control Performance Standards of this Ordinance.

TABLE 1 Regulation of Routine Projects

Project Type	Exempt	General Permit	Individual Permit
Building Maintenance	Refer to Appendix 12: Maintenance of Existing Buildings	N/A	Refer to Appendix 12: Substantial Improvement
New Single Family Home	N/A	Refer to Article III, Section B: General Permit 2	All Other Development Regulated by Article II, Section B
Road Maintenance	Refer to Appendix 12: Maintenance of Roads and Trails	Refer to Article III, Section A: General Permit 1	All Other Development Regulated by Article II, Section B
Trails	Refer to Appendix 12: Maintenance of Roads and Trails	Refer to Article III, Section A: General Permit 1	All Other Development Regulated by Article II, Section B
Driveways	Refer to Appendix 12: Other Maintenance Activities	Refer to Article III, Section A: General Permit 1	All Other Development Regulated by Article II, Section B
Parking Lots	Refer to Appendix 12: Other Maintenance Activities	N/A	All Other Development Regulated by Article II, Section B
Culverts, Storm Sewers, and Drain Tiles	Refer to Appendix 12: Other Maintenance Activities	Refer to Article III, Section A: General Permit 1	All Other Development Regulated by Article II, Section B
Bridges	Refer to Appendix 12: Other Maintenance Activities	Refer to Article III, Section A: General Permit 1	All Other Development Regulated by Article II, Section B
Dredging	Refer to Appendix 12: Other Maintenance Activities	Refer to Article III, Section A: General Permit 1	All Other Development Regulated by Article II, Section B
Removal of an Obstruction	Refer to Appendix 12: Other Maintenance Activities	Refer to Article III, Section A: General Permit 1	All Other Development Regulated by Article II, Section B
Stormwater Management Facilities	Refer to Appendix 12: Other Maintenance Activities	N/A	All Other Development Regulated by Article II, Section B
Gardening and Landscaping	Refer to Article II, Section C: Exempted Development	N/A	All Other Development Regulated by Article II, Section B

Refer to Appendix 12 for the definition of underlined terms or to Appendix 13 for a list of acronyms.
Refer to Appendix 1 for permitting flowcharts.

Project Type	Exempt	General Permit	Individual Permit
Tillage and Similar Agricultural Practices	Refer to Article II, Section C: Exempted Development	N/A	All Other Development Regulated by Article II, Section B
Implementing a NRCS Conservation Plan	Refer to Article II, Section C: Exempted Development	N/A	All Other Development Regulated by Article II, Section B
Demolition	Refer to Article II, Section C: Exempted Development	N/A	All Other Development Regulated by Article II, Section B
Onsite Waste Disposal Systems and Wells	Refer to Article II, Section C: Exempted Development	Refer to Article III, Section A: General Permit 1	All Other Development Regulated by Article II, Section B
Sewer and Water Service Lines	Refer to Article II, Section C: Exempted Development	N/A	All Other Development Regulated by Article II, Section B
Underground and Overhead Utilities	Refer to Appendix 12: Other Maintenance Activities	Refer to Article III, Section A: General Permit 1	All Other Development Regulated by Article II, Section B
Seawalls	N/A	Refer to Article III, Section A: General Permit 1	All Other Development Regulated by Article II, Section B
Shoreline and Streambank Stabilization	N/A	Refer to Article III, Section A: General Permit 1	All Other Development Regulated by Article II, Section B
Boat Docks	N/A	Refer to Article III, Section A: General Permit 1	All Other Development Regulated by Article II, Section B
Signposts, Poles Fencing, and Guardrails	N/A	Refer to Article III, Section A: General Permit 1	All Other Development Regulated by Article II, Section B
Decks	N/A	Refer to Article III, Section A: General Permit 1	All Other Development Regulated by Article II, Section B
Pools	N/A	Refer to Article III, Section A: General Permit 1	All Other Development Regulated by Article II, Section B
Material Storage	N/A	Refer to Article III, Section A: General Permit 1	All Other Development Regulated by Article II, Section B
Wetland Restoration and Enhancement	N/A	Refer to Article III, Section A: General Permit 1	All Other Development Regulated by Article II, Section B

Article III

§15.60.030 General Permits

General Permits waive certain requirements of this Ordinance in order to streamline the permit process for specific types of routine projects. The General Permits listed in this Article may be issued by MCSC or a Certified Community, provided that the regulated development meets the Applicability criteria, the Terms and Conditions for the specific type of project, and the Authorization requirements.

TABLE 2 Summary of General Permit 1

Type of Regulated Development	Applicability	Authorization	Terms and Conditions
Underground and Overhead Utilities	A.1	A.2	A.3.a, A.3.b
Storm Sewer Outfalls, Drain Tile Outfalls, and Outlet Channels	A.1	A.2	A.3.a, A.3.c
Maintenance of Existing Roads and Bridges	A.1	A.2	A.3.a, A.3.d
Sidewalks, Trails, Driveways, and Patios	A.1	A.2	A.3.a, A.3.e
Boardwalks	A.1	A.2	A.3.a, A.3.f
Seawalls	A.1	A.2	A.3.a, A.3.g
Other Shoreline and Streambank Protection	A.1	A.2	A.3.a, A.3.h
Minor Non-Commercial Boat Docks	A.1	A.2	A.3.a, A.3.i
Signposts, Poles, Fencing, and Guardrails	A.1	A.2	A.3.a, A.3.j
Minor Modification of Culverts, Storm Sewers, and Drain Tiles	A.1	A.2	A.3.a, A.3.k
Decks	A.1	A.2	A.3.a, A.3.l
Topsoil and Sand Restoration	A.1	A.2	A.3.a, A.3.m
Pools	A.1	A.2	A.3.a, A.3.n
Replacement Onsite Waste Disposal Systems	A.1	A.2	A.3.a, A.3.o
Material Storage	A.1	A.2	A.3.a, A.3.p
Dredging	A.1	A.2	A.3.a, A.3.q
Wetland Restoration and Enhancement	A.1	A.2	A.3.a, A.3.r

A. General Permit Number 1 – Authorizing Routine Projects

1. Applicability

   a. This General Permit Number 1 only applies to regulated developments identified in this Section, which result in less than 20,000 square feet of hydrologically disturbed area, except where the Terms and Conditions for Specified Development set forth in Paragraph 3 below explicitly state otherwise.

   b. This General Permit Number 1 applies to regulated development within flood hazard areas, except where the Terms and Conditions for Specified Development set forth in Paragraph 3 below explicitly state otherwise.

   c. This General Permit Number 1 applies to IWMC impacts less than or equal to 0.10 acre.

   d. This General Permit Number 1 applies to regulated development within WOTUS when a permit or letter of no objection has been obtained from the USACE.

   e. This General Permit Number 1 does not apply to regulated developments which would be required to meet the Stormwater Storage Requirements of this Ordinance.

   f. This General Permit Number 1 does not apply to regulated developments which would adversely impact drainage patterns on adjoining property or increase flood heights on adjoining property.

2. Authorization

   a. Applicants seeking authorization by General Permit Number 1 shall demonstrate an ownership interest in the subject property, or written authorization by the property owner to proceed with the development, and shall submit a stormwater management permit application with the required supporting information to the Enforcement Officer prior to commencing a proposed regulated development. The following information is required in support of the stormwater management permit application:

      (1) A description and depiction of the proposed regulated development demonstrating that it meets the conditions of the General Permit;

      (2) All applicable consultations, waivers, approvals, and permits from Federal, State, and local authorities shall be submitted; and

      (3) Payment of the stormwater management permit fee.

   b. If the Enforcement Officer determines that the proposed regulated development complies with the terms and conditions of General Permit Number 1, the Enforcement Officer shall notify the applicant in writing and shall schedule a meeting at the development site for photographic documentation of the site conditions. If the Enforcement Officer determines that the regulated development does not comply with the terms and conditions of General Permit Number 1, the Enforcement Officer shall notify the applicant in writing and provide instructions on the procedures to seek authorization under an individual permit.

c. No part of a regulated development shall be authorized by a General Permit, unless the entire regulated development meets the terms and conditions of one or more General Permits.

d. Regulated development not specified in, or not meeting the terms and conditions of, a General Permit shall require an individual permit.

e. MCSC and Certified Communities may authorize regulated development under General Permit Number 1.

f. Any regulated development authorized by this General Permit Number 1 shall be completed within 2 years of the date of authorization.

3. Terms and Conditions for Specified Development

a. All specified regulated development

(1) Disturbance of vegetation shall be kept to a minimum during construction to prevent erosion and sedimentation. The Enforcement Officer may add requirements or conditions as necessary to control soil erosion and sedimentation.

(2) Any drain tile serving adjoining properties that is damaged as a part of regulated development authorized by this General Permit shall be repaired.

(3) This General Permit Number 1 does not authorize the operation of equipment within a channel. To the extent possible, all in-stream work shall be conducted during low-water conditions.

(4) This General Permit Number 1 authorizes temporary channel crossings, when necessary, provided that the temporary channel crossing meets the following requirements:

i. Temporary approach roads shall be 0.5 foot or less above existing grade;

ii. Fill within the channel shall be at or below existing grade and shall be composed of non-erosive material, such as rip-rap or gravel; and

iii. The temporary channel crossing, including temporary approach roads, shall be removed within 90 days after installation, unless the Enforcement Officer grants an extension of time.

(5) Except as specified in Paragraph 2 above and in these Terms and Conditions for Specified Development of this General Permit Number 1, the Application Requirements and Performance Standards of this Ordinance are waived for regulated development authorized by this General Permit Number 1.

b. Underground and overhead utilities – To be authorized by this General Permit Number 1, underground and overhead utilities installation shall meet the following criteria.

(1) The construction of the utility shall not result in any increase in ground elevations within a flood hazard area.

(2) The construction of the utility shall not involve the placement of above ground structures in a flood hazard area other than supporting towers for

overhead utilities, well casings, and watertight openings necessary for a water supply system or sanitary sewer line.

All above ground openings for new and replacement water supply systems and wells within a flood hazard area shall be watertight or elevated to the FPE. When the BFE has not yet been determined according to the Flood Hazard Areas Performance Standards of this Ordinance, the BFE may be approximated by adding 2 feet to the highest adjacent grade.

(3) All above ground openings for new and replacement sanitary sewer lines within a flood hazard area shall be watertight below the FPE. When the BFE has not yet been determined according to the Flood Hazard Areas Performance Standards of this Ordinance, the BFE may be approximated by adding 2 feet to the highest adjacent grade.

(4) In the case of underground stream crossings, the top of the pipe or encasement shall be buried a minimum of 3 feet below the existing stream bed.

(5) Overhead utilities and associated supporting towers shall be non-obstructive to flood flows, shall not be placed below the ordinary high water mark, and shall be designed not to catch debris within a flood hazard area. If attached to an existing bridge, the utility shall be constructed above the low chord elevation.

(6) In IWMC, any excavation shall be backfilled with soil excavated from the trench in the same stratification in which it was removed.

(7) A contingency plan for frac-out shall be required for any utility proposed to be installed by directional boring.

c. Storm sewer outfalls, drain tile outfalls, and outlet channels – To be authorized by this General Permit Number 1, storm sewer outfalls, drain tile outfalls, and outlet channels shall meet the following criteria.

(1) The outfall shall not project riverward or lakeward of the existing adjacent natural bank slope or bulkhead.

(2) Construction of outfalls and outlet channels shall not result in an increase in ground elevation within a flood hazard area.

(3) The velocity of the discharge shall not exceed the scour velocity of the channel soil, unless channel erosion would be prevented by the use of rip-rap or other design measures.

(4) Outlets from drainage ditches shall not be opened to a stream until the ditch is vegetated or otherwise stabilized to minimize stream sedimentation.

(5) Bank erosion shall be prevented by aprons, energy dissipaters, or drop structures as necessary.

d. Maintenance of existing roads and bridges – To be authorized by this General Permit Number 1, maintenance of existing roads and bridges shall meet the following criteria.

(1) Rehabilitative maintenance, such as milling and overlaying, that does not increase the impervious area and does not increase the surface elevation.

Maintenance also includes increasing the surface elevation with the following limitations:

i. Resurfacing outside flood hazard areas;

ii. Resurfacing within flood prone areas;

iii. Resurfacing within the flood fringe, provided the difference between the elevation of the road or bridge surface after resurfacing and the elevation of the road or bridge surface on the effective date of this Ordinance is not more than two inches.

(2) Repair, not including in-kind replacement, of an existing bridge outside the designated floodway.

e. Sidewalks, trails, driveways, and patios – To be authorized by this General Permit Number 1, sidewalks, trails, driveways, and patios shall be built at or below existing grade within a flood hazard area.

f. Boardwalks – To be authorized by this General Permit Number 1, boardwalks shall meet the following criteria.

(1) This General Permit Number 1 does not apply to boardwalks within a designated floodway.

(2) The construction of the boardwalk shall not result in any increase in existing ground elevations within a flood hazard area.

(3) The boardwalk shall be anchored to prevent lateral movement.

(4) The boardwalk shall be non-obstructive to flood flows and designed not to catch debris.

g. Seawalls – To be authorized by this General Permit Number 1, construction of seawalls shall meet the following criteria.

(1) The length of shoreline or streambank to be protected shall not exceed 500 feet.

(2) The seawall shall be properly anchored to resist anticipated forces of current and wave action.

(3) The seawall shall not extend higher than the ordinary high water mark, unless the height of the new seawall matches the height of the existing seawall or existing seawalls on adjacent properties.

(4) Eroded areas on the landward side of the seawall may be backfilled, provided the backfill is not placed higher than the top of the seawall.

(5) The seawall shall be located so that the modified cross-sectional area of a channel does not decrease the cross-sectional area of the natural channel upstream and downstream of the development site. The Enforcement Officer may waive this requirement where a new seawall would tie into existing seawalls upstream and downstream of the development site, or where a new seawall is constructed no more than 6 inches riverward of the existing seawall.

(6) In the case of seawalls on lakes, the seawall shall be constructed at or landward of the water line as determined by the normal pool elevation. The

Enforcement Officer may waive this requirement where a new seawall would tie into existing seawalls on adjacent properties, or where a new seawall is constructed no more than 6 inches lakeward of the existing seawall.

h. Other shoreline and streambank protection – To be authorized by this General Permit Number 1, construction of shoreline and streambank protection shall meet the following criteria.

(1) Where vegetative streambank and shoreline protection is not used, only the following structural materials may be utilized: stone and concrete riprap, cellular blocks, fabric-formed concrete, gabion baskets, rock and wire mattresses, sand/cement filled bags, geotechnical fabric materials, and treated timber (excluding creosote treated railroad ties, utility poles, and other timber).

(2) The length of shoreline or streambank to be protected shall not exceed 1,000 feet. Where non-vegetative (structural) protection is utilized, the length of shoreline or streambank stabilization to be protected shall not exceed 500 feet. Vegetative and non-vegetative protection may be combined, but in no case shall non-vegetative protection exceed 500 feet in total length.

(3) All material utilized shall be properly sized or anchored to resist anticipated forces of current and wave action. The *Illinois Urban Manual* (www.aiswcd.org/IUM) or other references approved by the Enforcement Officer may be used for proper material sizing.

(4) Materials shall be placed in a way that would not cause erosion or the accumulation of debris on properties adjacent to or opposite the project.

(5) Materials shall be placed so that the modified cross-sectional area of a channel conforms to that of the natural channel upstream and downstream of the development site or the bank may be graded to obtain a flatter slope and to lessen the quantity of material required.

(6) In the case of gabion structures and similar protection measures on lakes, the structure shall be constructed at or landward of the water line as determined by the normal pool elevation.

(7) This General Permit Number 1 does not authorize in-stream work performed beyond the toe of the slope, with the exception of naturalized grade control that does not result in a loss of conveyance.

i. Minor non-commercial boat docks – To be authorized by this General Permit Number 1, construction of minor non-commercial boat docks shall meet the following criteria.

(1) The boat dock shall not project more than 50 feet into a waterway, and in no instance greater than ¼ of the width of the waterway.

(2) The width of the boat dock shall not be greater than 10 feet.

(3) For L-shaped or T-shaped docks, the length of that portion parallel to the shoreline shall not exceed 50% of the landowner's shoreline frontage, nor be greater than 50 feet in length.

(4) Docks shall be aligned so as not to cross the straight-line projection of property lines into the waterway or come within 10 feet of the straight-line projection of the property line.

(5) Seasonal shore stations/boat lifts shall be located adjacent to a boat dock or seawall and shall not cross the straight-line projection of the property lines.

(6) The boat dock shall be securely anchored to prevent its detachment and becoming a floating hazard during times of high water or winds.

(7) This General Permit Number 1 does not authorize any accessory structures or improvements to a minor non-commercial boat dock, such as non-fabric roofs and elevated decks.

(8) Non-floating boat docks shall be constructed in a manner which will minimize obstruction of flow.

j. Signposts, poles, fencing, and guardrails – To be authorized by this General Permit Number 1, signposts, poles, fencing, and guardrails shall meet the following criteria.

(1) No fencing shall be placed within a floodway.

(2) No fill except posts, poles, and supports shall be placed within the flood hazard area.

(3) Signposts, poles, fencing, and guardrails shall be non-obstructive to flood flows.

k. Minor modification of culverts, storm sewers, and drain tiles – To be authorized by this General Permit Number 1, minor modification of culverts, storm sewers and drain tiles shall meet the following criteria.

(1) This General Permit Number 1 does not authorize modifications to the size, shape, and material of culverts within a floodway.

(2) This General Permit Number 1 does not authorize modifications to the size, shape, and material of culverts where a building within 500 feet upstream of the culvert is located within a mapped Zone AE, A, AH, or AO floodplain on the FEMA FIRM.

(3) This General Permit Number 1 does not authorize modifications to the size, shape, and material of culverts where a building within 500 feet upstream of the culvert is located within a mapped Flood of Record area on the USGS-Hydrologic Investigation Atlas Flood of Record Map.

(4) This General Permit Number 1 does not authorize culvert extensions within a designated floodway.

(5) Modifications to the size, shape, and material of a culvert, storm sewer, or drain tile shall maintain 90-125% of the capacity of the existing culvert, storm sewer, or drain tile. Minor adjustment of pipe invert elevations to correct an adverse slope shall be allowed without consideration of the resulting increase in pipe capacity. Calculations prepared by a licensed professional engineer shall be submitted demonstrating compliance with this condition.

(6) Culvert extensions shall not exceed the lesser of 40 feet or 100% of the original pipe length and shall not result in a change in alignment or a reduction in pipe size.

l. Decks – To be authorized by this General Permit Number 1, decks shall meet the following criteria.

(1) The construction of the deck shall not result in any increase in existing ground elevations within a flood hazard area.

(2) If either the existing building or proposed deck is within a flood hazard area, the deck shall be constructed as a stand-alone structure and shall not be attached to an existing building.

(3) The deck shall not be enclosed.

(4) The deck shall be anchored to prevent lateral movement.

(5) The deck must be non-obstructive to flood flows and designed not to catch debris.

(6) The deck shall be designed to allow automatic entry and exit of floodwaters.

m. Topsoil and sand restoration – To be authorized by this General Permit Number 1, topsoil and sand restoration shall meet the following criteria.

(1) Topsoil may be placed within a flood hazard area for the purpose of restoring the natural ground elevation and stabilizing an erosion control problem or establishing vegetative cover.

(2) Topsoil may be placed within a flood hazard area for the purpose of restoring pre-subsidence ground elevations to an area that primarily experiences subsidence due to flooding. The restoration fill shall not exceed pre-subsidence ground elevations.

(3) Up to 1 cubic yard of sand per lineal foot may be placed for the purpose of restoring a beach within a flood hazard area.

(4) The length of beach restoration shall not exceed 1000 feet.

(5) This General Permit Number 1 does not authorize the placement of sand for the purpose of creating a new beach or expanding an existing beach.

n. Pools – To be authorized by this General Permit Number 1, pools shall meet the following criteria.

(1) This General Permit Number 1 does not authorize the installation of above ground pools within a flood hazard area.

(2) This General Permit Number 1 does not authorize fill within a flood hazard area.

(3) Spoil materials shall be hauled away from the development site.

(4) Disturbance of vegetation shall be kept to a minimum during construction to prevent erosion and sedimentation.

(5) Appropriate soil erosion and sediment control practices shall be utilized.

o. Replacement onsite waste disposal systems – To be authorized by this permit, replacement onsite waste disposal systems shall meet the following criteria.

(1) Replacement onsite waste disposal systems may be installed in the flood hazard area below the BFE, provided that no reasonable alternative exists, as determined by the Enforcement Officer, and provided that the system has a watertight holding tank and all mechanical and electrical components and above ground openings of the system below the BFE are watertight. When the BFE has not yet been determined according to the Flood Hazard Areas Performance Standards of this Ordinance, the BFE may be approximated by adding two feet to the highest adjacent grade.

(2) Fill within a flood hazard area shall be the minimum necessary for construction.

p. Material storage – To be authorized by this General Permit Number 1, material storage shall meet the following criteria.

(1) This General Permit Number 1 does not apply within a flood hazard area.

(2) The design shall minimize exposure of pollutants to precipitation and stormwater runoff.

q. Dredging – To be authorized by this General Permit Number 1, dredging shall meet the following criteria.

(1) This General Permit Number 1 applies to dredging channels and ponds.

(2) This General Permit Number 1 does not apply to the construction of a new channel or water body; all work shall be for the purpose of re-establishing the natural or original designed condition.

(3) Spoil materials shall be spread thinly (less than 0.1 foot) and incorporated into existing cultivated areas, or shall be hauled away from the development site.

(4) Temporary stockpiles greater than 100 cubic yards and temporary stockpiles remaining in place more than 7 days shall not be located in flood hazard areas and shall be non-obstructive to flood flows. Temporary stockpile areas shall not occupy more than 20,000 square feet in total.

(5) Channel dredging projects shall not exceed 0.5 mile. The hydrologic disturbance limit of 20,000 square feet is waived for the area of channel dredging.

r. Wetland restoration and enhancement – To be authorized by this General Permit Number 1, wetland restoration and enhancement shall meet the following criteria.

(1) This General Permit Number 1 authorizes wetland restoration and enhancement on any public or private land, including:

i. The removal of accumulated sediments;

ii. Restoration of eroded areas and grade stabilization;

iii. Installation, removal and maintenance of small water control structures, dikes and berms; and

iv. Other related activities.

(2) This General Permit Number 1 may be used to relocate aquatic habitat types on the development site.

(3) This General Permit Number 1 does not authorize:

i. Fill within flood hazard areas, except that which would restore the development site to the natural condition;

ii. The relocation or channelization of a linear waterway such as a river, stream, or creek;

iii. The conversion of a stream or creek to another aquatic use, such as the creation of an impoundment for waterfowl habitat; or

iv. The conversion of natural wetlands to another aquatic use.

(4) The abandonment or removal of drain tiles shall be annotated on a drain tile survey for any restoration and enhancement activities involving the abandonment or removal of drain tiles.

B. **General Permit Number 2 – Authorizing Single Family Homes**

1. Applicability

a. This General Permit Number 2 only applies to regulated developments involving the construction or reconstruction of a single family residence resulting in less than 1 acre of hydrologically disturbed area.

b. This General Permit Number 2 does not apply to regulated development within flood hazard areas.

c. This General Permit Number 2 does not apply to regulated development within IWMC or WOTUS.

d. This General Permit Number 2 does not apply to regulated developments which would be required to meet the Stormwater Storage Requirements of this Ordinance.

e. This General Permit Number 2 does not apply to regulated developments which would adversely impact drainage patterns on adjoining property or increase flood heights on adjoining property.

2. Authorization

Applicants seeking authorization by General Permit Number 2 shall demonstrate an ownership interest in the subject property, or written authorization by the property owner to proceed with the development, and shall submit a stormwater management permit application with the required supporting information to the Enforcement Officer prior to commencing the proposed regulated development. The following information is required for authorization by General Permit Number 2.

a. A development plan shall be submitted showing the proposed regulated development with all other relevant information, including but not limited to:

(1) Property lines;

(2) Buildings and other structures;

(3) Easements;

(4) Utility lines, culverts, onsite waste disposal systems, and wells;

(5) Existing and proposed ground elevations sufficient to depict the proposed work and how it ties into existing ground elevations;

(6) Existing and proposed impervious areas;

(7) Areas of temporary disturbance;

(8) Placement of spoil materials;

(9) Details of construction;

(10) Dimensions of the proposed regulated development;

(11) The type and location of all soil erosion and sediment control measures;

(12) Specifications for seeding or other methods of stabilization;

(13) The McHenry County *Standard Soil Erosion and Sediment Control Notes* in Appendix 2;

(14) All components of the stormwater management system, including the overland flow path, drain tiles, storm sewers, and water quality protection measures; and

(15) The McHenry County *Standard Drain Tile Notes* in Appendix 3;

(16) The location of any flood hazard area on the development site and extending 100 feet beyond the development site, based on available maps and studies; and

(17) The location of all WOTUS and IWMC, extending 100 feet beyond the development site, based on available maps and studies.

b. For regulated development disturbing 20,000 square feet or more, the development plan shall be prepared by a licensed professional engineer and include the following additional information:

(1) A benchmark referenced to NAVD88;

(2) Existing contours extending 100 feet beyond the development site with a maximum contour interval of 1 foot;

(3) Existing spot elevations demonstrating drainage patterns;

(4) Top of foundation and lowest entry elevation of all existing buildings within 100 feet of the development site;

(5) All existing impervious areas such as roadways, structures, parking lots, driveways, sidewalks, pathways, trails;

(6) The existing stormwater management system including storm sewers, drain tiles, culverts, and inlets on the development site and 100 feet beyond the development site. Information regarding the invert and rim elevations, pipe sizes, pipe lengths, and material type shall be provided;

(7) Existing utilities including sanitary sewer, water main, onsite waste disposal system, well, or any other utilities that exist on the site and 100 feet beyond the development site. On development sites where an infiltration facility is proposed, existing water supply wells shall be shown 200 feet beyond the development site. Information regarding the invert and rim elevations, pipe sizes, pipe lengths, and material type shall be provided;

(8) Location and limits of all existing and proposed deed or plat restrictions;

(9) Existing trees and vegetation areas on the development site;

(10) Proposed contours throughout the development site with a maximum contour interval of 1 foot;

(11) Proposed spot elevations demonstrating drainage patterns;

(12) Top of foundation, lowest floor, low opening elevation, and floodproofing elevations of all proposed structures adjacent to a stormwater management facility or along an overland flow path;

(13) All proposed impervious areas such as roadways, structures, parking lots, driveways, sidewalks, pathways, trails;

(14) The proposed stormwater management system including pipes, drain tiles, culverts, and inlets on the development site. Information regarding the invert and rim elevations, pipe sizes, pipe lengths, and material type shall be provided;

(15) Proposed utilities including sanitary, storm, water main, onsite waste disposal system, well, or any other utilities on the site. Information regarding the invert and rim elevations, pipe sizes, pipe lengths, and material type shall be provided;

(16) Design details for proposed stormwater management system including, but not limited to major and minor stormwater systems; and

(17) Cross-sections for overland flow paths, sufficient to demonstrate compliance with the freeboard requirements of this Ordinance.

c. All applicable consultations, waivers, approvals, and permits from Federal, State, and local authorities shall be submitted.

d. Payment of the stormwater management permit fee.

e. If the Enforcement Officer determines that the proposed regulated development complies with the terms and conditions of General Permit Number 2, the Enforcement Officer shall notify the applicant in writing. If the Enforcement Officer determines that the regulated development does not comply with the terms and conditions of a General Permit Number 2, the Enforcement Officer shall notify the applicant in writing and provide instructions on the procedures to seek authorization under an individual permit.

f. No part of a regulated development shall be authorized by a General Permit, unless the entire regulated development meets the terms and conditions of one or more General Permits.

g. Regulated development not specified in, or not meeting the terms and conditions of, a General Permit shall require an individual permit.

h. MCSC and Certified Communities may authorize regulated development under General Permit Number 2.

i. Except as specified in this Paragraph 2 and in the Terms and Conditions for Specified Development set forth in Paragraph 3 below of this General Permit Number 2, the Application Requirements and Performance Standards of this Ordinance are waived for regulated development authorized by a General Permit Number 2.

j. Any regulated development authorized by this General Permit shall be completed within 2 years of the date of authorization.

3. Terms and Conditions for Specified Development

a. Disturbance of vegetation shall be kept to a minimum during construction to prevent erosion and sedimentation. The Enforcement Officer may add requirements or conditions as necessary to control soil erosion and sedimentation.

b. All concentrated stormwater discharges from a regulated development shall be conveyed into an existing channel, storm sewer, or overland flow path and shall not result in flood damage at the development site or upstream of the development site.

c. The diversion of stormwater runoff shall be prohibited unless no reasonable alternative exists, as determined by the Enforcement Officer. The diversion of stormwater runoff shall not result in flood damage at the development site, upstream of the development site or on downstream adjoining properties.

d. Appropriate pre-treatment shall be provided for stormwater runoff directed to new or existing Class V injection wells.

e. Appropriate pre-treatment shall be provided for stormwater runoff directed to infiltration based practices in areas designated as High or Moderately High Potential for Aquifer Recharge/Contamination on the McHenry County Sensitive Aquifer Recharge Areas Map.

C. Letters of Understanding

The McHenry County Board may enter into Letters of Understanding with various agencies that perform regulated development activities in McHenry County. The purpose of a Letter of Understanding is to streamline the stormwater management permit process for routine and minor projects related to the restoration or enhancement of natural areas or for regulated development that makes natural areas accessible to the public. A Letter of Understanding shall describe the terms and conditions for specific regulated development activities to ensure compliance with the purpose and intent of this Ordinance. A Letter of Understanding will be issued after notice and opportunity for public review and comment, and approval from IDNR/OWR and FEMA, if required by law. Once a Letter of Understanding has been issued, the Letter of Understanding shall authorize any regulated development by the named agency which meets the terms and conditions of the Letter of Understanding, until the Letter of Understanding expires or is terminated by action of the McHenry County Board. Certified Communities may adopt and enforce any Letter of Understanding issued by McHenry County within the community's jurisdiction. Non-compliance with the requirements and standards of a Letter of Understanding constitutes a violation of this Ordinance and is subject to the Violation and Penalty standards of this Ordinance.

Article IV

§15.60.040 Stormwater Management Permit Provisions

A. Development Classification

1. Refer to the Development Classification Flowchart in Appendix 1.
2. The Enforcement Officer shall make the determination regarding the classification of a regulated development.
3. All regulated development requiring a stormwater management permit, except regulated development authorized by a General Permit, shall be classified as a Minor, Intermediate, Major, Public Road, or Mining Development.
4. Regulated development located partially or completely within a flood hazard area shall also be classified as a Flood Hazard Area Development.
5. Regulated development located partially or completely within WOTUS or IWMC shall also be classified as a Wetland and Waters Development.
6. Regulated development located partially or completely within a watershed or sub-watershed, for which additional or more restrictive standards have been adopted by MCSC or a Certified Community, shall also be classified as a Watershed Specific Area Development.
7. To the extent that a regulated development fits multiple classifications, it shall comply with all applicable requirements for each classification.

B. Development Phasing

In order to preclude inappropriate phasing of development to circumvent the intent of this Ordinance, the requirements of this Ordinance shall apply all regulated development within the contiguous property, unless waived by the Enforcement Officer.

C. Approval Prior to Permitting

1. Prior to the issuance of stormwater management permit, the applicant may request conditional approval of: a BFE determination, floodway delineation, IWMC boundary determination, or any other component of a regulated development. A request for conditional approval shall include the information required for the component of regulated development by the Application Requirements of this Ordinance. The Enforcement Officer shall review the component of regulated development based on conformance with the Performance Standards of this Ordinance.
2. Earth change approval for a regulated development may be granted by the Enforcement Officer prior to the issuance of a stormwater management permit. The Earth change approval is subject to the following conditions:
   a. An Earth Change Plan shall be submitted demonstrating that the proposed grading would meet the applicable Performance Standards of this Ordinance;
   b. No impervious areas shall be created;
   c. No fill shall be placed in flood hazard areas;
   d. No regulated development may occur within IWMC or WOTUS;
   e. No regulated development may occur in areas for which Federal and/or State permits are required, unless the applicable permits have been obtained;

f. All regulated development shall be completed at the risk of the applicant;

g. Additional conditions may be specified by the Enforcement Officer, depending on development site characteristics; and

h. Earth change approval may be revoked by the Enforcement Officer at any time for non-compliance with the requirements of this Ordinance or the conditions of the earth change approval.

D. Fees and Application Review Times

1. A fee schedule shall be established by separate resolution of McHenry County.

2. A separate fee schedule may be established by Certified Communities.

3. Stormwater management permit applications shall be reviewed within 15 business days of receipt to determine if the Application Requirements of this Ordinance have been met. A complete application package shall be approved or denied within 45 business days of the latest item submitted.

E. Permit Terms and Extensions

1. The term of a stormwater management permit shall be from the issue date to the expiration date. The term of a stormwater management permit shall be:

a. The lesser of 2 years or the term of the building permit for General Permits and for Minor, Intermediate, and Public Road Developments;

b. The lesser of 3 years or the term of the building permit for Major Developments; or

c. The lesser of 10 years or the term of the conditional use permit for Mining Development.

2. A permit extension may be requested in writing by the applicant if the regulated development is not completed within the term of the stormwater management permit. The Enforcement Officer may extend the permit for the time periods listed below. Permit extension requests may not be made prior to 90 days of the permit expiration date.

a. The permit term for General Permits and for Minor, Intermediate, and Public Road Developments may be extended for 6 months at a time.

b. The permit term for Major Developments and Mining Developments may be extended for 12 months at a time.

3. The Enforcement Officer may amend or add special conditions to the permit at the time of the extension, such as updating the terms of a performance guarantee by revising the estimated cost to complete construction.

4. A stormwater management permit shall be terminated without the possibility of an extension if the actual start of construction is not commenced within 180 days after the issue date of the stormwater management permit and if any activity related to a building authorized by the stormwater management permit is not in compliance with the most recent version of:

a. The FIS;

b. The FIRM;

c. The NFIP regulations; and

d. The Flood Hazard Areas Performance Standards of this Ordinance.

5. A stormwater management permit may be terminated during its term or a permit extension may be denied for reasons including, but not limited to:

a. Noncompliance with any condition of the permit;

b. The applicant's failure to disclose fully all relevant facts in the application process or the applicant's misrepresentation of any relevant facts at any time;

c. The regulated development is not commenced within 2 years after the issue date of the stormwater management permit;

d. The regulated development is suspended or abandoned for a period of 6 months after commencing the regulated development.

F. Permit Conditions

1. Special Conditions may be added to a permit by the Enforcement Officer to clarify the purpose or authorization granted by the stormwater management permit. Special conditions may also specify other restrictions and constraints of the regulated development.

2. Development plans bearing the approval stamp of the Enforcement Officer shall be retained at the development site throughout the duration of construction activities.

3. A deed or plat restriction required as part of a stormwater management permit shall not be modified without the approval of the Enforcement Officer.

Article V

§15.60.050 Application Requirements

A. Enforcement Officer Authority

The Enforcement Officer shall make the determination as to whether the submitted documentation demonstrates compliance with this Ordinance.

B. Property Interest

The applicant shall demonstrate an ownership interest in the subject property, or written authorization by the property owner to proceed with the development.

C. Basic Submittal

The following requirements apply to all regulated development, except regulated development authorized by a General Permit.

1. A stormwater management permit application shall be submitted.
2. A development plan shall be submitted showing the proposed regulated development with all other relevant information, including but not limited to:
   a. Property lines;
   b. Buildings and other structures;
   c. Easements;
   d. Utility lines, culverts, onsite waste disposal systems, and wells;
   e. Existing and proposed ground elevations sufficient to depict the proposed work and how it ties into existing ground elevations;
   f. Existing and proposed impervious areas;
   g. Areas of temporary disturbance;
   h. Placement of spoil materials;
   i. Details of construction;
   j. Dimensions of the proposed regulated development;
   k. The location of any flood hazard area on the development site and extending 100 feet beyond the development site, based on available maps and studies, unless a BFE determination is required by this Ordinance; and
   l. The location of all WOTUS and IWMC, extending beyond the development site, based on available maps and studies, unless a Wetland Determination Report is required by this Ordinance.
3. For regulated development that does not include a new building and would not change existing ground elevations, the development plan may be sketched on an aerial photograph showing 2 foot contour interval topographic mapping and the applicant's written agreement that: "The finished ground elevations shall match existing ground elevations and all spoil material shall be removed from the development site" which shall be depicted on the aerial photograph as a note.

4. All applicable consultations, waivers, approvals, and permits from Federal, State, and local authorities shall be submitted.

5. Payment of the stormwater management permit fee.

D. Soil Erosion and Sediment Control Submittal

In addition to other applicable Application Requirements, the following requirements apply to all regulated development, except regulated development authorized by a General Permit.

1. A development plan shall be submitted demonstrating compliance with the Soil Erosion and Sediment Control Performance Standards of this Ordinance. The development plan shall include:

   a. The type and location of all soil erosion and sediment control measures. If the regulated development will be constructed in phases, the development plan shall specify all control measures necessary for each phase;

   b. Detail drawings for all soil erosion and sediment control measures;

   c. Specifications for seeding or other methods of stabilization; and

   d. The McHenry County Standard Soil Erosion and Sediment Control Notes in Appendix 2.

2. For regulated development disturbing 1 acre or more, the development plan shall be submitted with the following additional information:

   a. A narrative description of the existing land cover and soil survey data for the development site and adjacent areas;

   b. A narrative description of the proposed temporary and permanent soil erosion and sediment control practices, including a narrative describing how flood hazard areas, wetlands, waters and buffer areas will be protected from erosion and sedimentation;

   c. A schedule of construction activities including, but not limited to, clearing and grading, installation of stabilized construction entrances, disposal of construction waste, stockpiling, and inspection and maintenance of all soil erosion and sediment control practices;

   d. Data and calculations used to size, locate, design, and maintain all soil erosion and sediment control practices, where applicable, and for the design of temporary stream crossings; and

   e. Identification of person(s) or entity having legal responsibility for installation, maintenance, and removal of erosion and sediment control practices during construction and after regulated development is completed.

3. All applicable consultations, waivers, approvals, and permits from Federal, State, and local authorities shall be submitted including, but not limited to:

   a. Coverage by the IEPA under General NPDES Permit No. ILR10; and

   b. A permit from the road authority for development in a public right-of-way.

E. Runoff Control Submittal

In addition to other applicable Application Requirements, the following requirements apply to all regulated development, except regulated development authorized by a General Permit.

1. Refer to the Runoff Control Submittal Flowchart in Appendix 1.

2. For Minor Development the following documentation shall be submitted demonstrating compliance with the Runoff Control Performance Standards of this Ordinance.

   a. A development plan shall be submitted that depicts:

      (1) All applicable components of the stormwater management system, including the overland flow path, drain tiles, storm sewers, and water quality protection measures; and

      (2) Includes the McHenry County *Standard Drain Tile Notes* in Appendix 3.

   b. As applicable, design calculations prepared by a licensed professional engineer shall be submitted. When required, the design calculations shall demonstrate that the Runoff Control Performance Standards of this Ordinance have been met for the following components:

      (1) Overland flow paths;

      (2) Drain tiles; and

      (3) Storm sewers.

3. For Intermediate, Major, Public Road, or Mining Development, the development plans and supporting calculations shall be prepared by a licensed professional engineer and shall meet the Minor Development Runoff Control Submittal requirements set forth in Paragraph E.2 above and the following additional requirements:

   a. A statement shall be submitted, which is signed by the licensed professional engineer that prepared the development plans, rendering an opinion that the development plans meet the minimum requirements of this Ordinance;

   b. A development plan shall be submitted that depicts:

      (1) A benchmark referenced to NAVD88;

      (2) Existing utilities including sanitary sewer, water main, onsite waste disposal system, well, or any other utilities that exist on the site and 100 feet beyond the development site. On development sites where an infiltration facility is proposed, existing water supply wells shall be shown 200 feet beyond the development site. Information regarding the invert and rim elevations, pipe sizes, pipe lengths, and material type shall be provided;

      (3) Location and limits of all existing and proposed deed or plat restrictions;

      (4) Existing trees and vegetation areas on the development site;

      (5) Proposed contours throughout the development site with a maximum contour interval of 1 foot;

      (6) Proposed spot elevations demonstrating drainage patterns;

(7) Top of foundation, lowest floor, low opening elevation, and floodproofing elevations of all proposed structures within a flood hazard area, adjacent to a stormwater management facility; or along an overland flow path;

(8) All proposed impervious areas such as roadways, structures, parking lots, driveways, sidewalks, pathways, and trails;

(9) Proposed stormwater management system including pipes, drain tiles, culverts, and inlets on the development site. Information regarding the invert and rim elevations, pipe sizes, pipe lengths, and material type shall be provided;

(10) Proposed utilities including sanitary, storm, water main, onsite waste disposal system, well, or any other utilities on the development site. Information regarding the invert and rim elevations, pipe sizes, pipe lengths, and material type shall be provided;

(11) Design details for proposed stormwater management system including, but not limited to, major and minor stormwater systems, stormwater management facilities, water quality protection measures, overflow structures, and control structures including restrictor size and invert; and Cross-sections for overland flow paths and stormwater management facilities sufficient to demonstrate compliance with the freeboard requirements of this Ordinance;

c. Runoff data and calculations for the development site and tributary areas, if a stormwater management system is necessary for the development site to meet the requirements of this Ordinance. The data and calculations may include the following, as applicable:

(1) A narrative identifying the procedures, assumptions, and data used in hydrologic and hydraulic calculations for sizing both major and minor stormwater systems;

(2) A schematic diagram of the existing and proposed hydrologic and hydraulic calculations;

(3) Delineation of tributary areas to each overland flow path, inlet and stormwater management facility;

(4) Time of concentration calculations;

(5) Runoff Curve Number and runoff coefficient calculations for existing and proposed conditions;

(6) Rainfall depth and distribution data;

(7) Storm sewer and inlet design calculations;

(8) Hydraulic grade line and high water surface elevations for design storm events;

(9) Assumptions or calculations utilized to determine tailwater conditions for the development site;

(10) Digital copies of the hydrologic and hydraulic models; and

(11) Other calculations necessary to demonstrate compliance with this Ordinance;

d. Stormwater management facility data and calculations for the development site and tributary areas, if stormwater storage is necessary for the development site to meet the requirements of this Ordinance. The data and calculations shall include the following:

(1) A narrative identifying the procedures, assumptions, and data used in hydrologic and hydraulic calculations to determine the post-development allowable release rate and related stormwater storage volume;

(2) A tabular summary of existing, allowable, and proposed release rates for design storm events;

(3) A tabular summary of required and proposed stormwater storage volumes for design storm events;

(4) Elevation versus storage area data for the stormwater management facility;

(5) Elevation versus discharge curve data for the control structure of the stormwater management facility;

(6) Elevation versus time data for the stormwater management facility;

(7) Calculations demonstrating that the overflow structure is sized to meet the requirements of this Ordinance;

(8) Assumptions or calculations utilized to determine tailwater conditions for the development site; and

(9) Seeding and/or planting specifications for detention within IWMC;

e. Infiltration facility data including the following development site specific information, prepared by a qualified professional, if the applicant proposes an infiltration facility to meet the Stormwater Storage Requirements of this Ordinance;

(1) Infiltration rate; and

(2) Seasonal high groundwater elevation;

f. Pre-treatment measures for infiltration facilities, Class V injection wells, and infiltration-based water quality treatment practices;

g. A narrative describing how the development site utilizes the strategies in the Runoff Volume Reduction Hierarchy of this Ordinance, if applicable;

h. Watershed specific design data, if applicable;

i. A recorded deed or plat restriction, if applicable; and

j. A recorded maintenance plan, if applicable.

4. For regulated development required to meet the Stormwater Storage Requirements of this Ordinance, as-built plans shall be submitted with a certificate stating that stormwater management facilities were constructed in substantial conformance with the approved development plans.

5. All applicable consultations, waivers, approvals, and permits from Federal, State, and local authorities shall be submitted including, but not limited to documentation of IEPA receipt of a Class V injection well inventory.

F. Flood Hazard Area Submittal

In addition to other applicable Application Requirements, the following requirements apply to all Flood Hazard Area Development, except regulated development authorized by a General Permit.

1. Refer to the Flood Hazard Area Submittal Flowchart in Appendix 1.
2. A statement shall be submitted, which is signed by the licensed professional engineer that prepared the development plans, rendering an opinion that the development plans meet the minimum requirements of this Ordinance;
3. A development plan and calculations shall be submitted demonstrating compliance with the Flood Hazard Areas Performance Standards of this Ordinance. The development plan shall include:
   a. A benchmark referenced to NAVD88;
   b. A delineation of the existing and proposed BFE on the development site with the source of the BFE noted;
   c. Mapped limits of the flood hazard area per the appropriate source;
   d. A delineation of the floodway on the development site;
   e. Identification of any public bodies of water;
   f. Top of foundation, lowest floor, low opening elevation, and floodproofing elevations of all proposed buildings within a flood hazard area;
   g. Details of floodproofing measures, such as material specifications, construction methods, and calculations; and
   h. Notes limiting the usage of enclosed areas below the BFE.
4. A BFE determination prepared by a licensed professional engineer, if necessary to meet the Flood Hazard Areas Performance Standards of this Ordinance. The BFE determination shall include the following:
   a. A narrative identifying the procedures, assumptions, and data used in the existing and proposed hydrologic and hydraulic calculations;
   b. A tabular summary of existing and proposed flows, flood elevations, and velocities for all storm events up to and including the base flood event;
   c. A schematic diagram of the existing and proposed hydrologic and hydraulic calculations;
   d. An exhibit delineating all tributary areas for the hydrologic and hydraulic calculations;
   e. Time of concentration calculations for existing and proposed conditions;
   f. Runoff Curve Number calculations for existing and proposed conditions;
   g. Rainfall depth and distribution data;

h. An exhibit locating all cross-sections utilized within the hydrologic and hydraulic calculations;

i. Hydraulic grade line and water surface elevations for all storm events up to and including the base flood event;

j. Analyses of alternative transition sections;

k. Assumptions or calculations utilized to determine tailwater conditions for the development site;

l. Digital copies of the hydrologic and hydraulic models; and

m. Other calculations necessary to demonstrate compliance with this Ordinance.

5. Floodplain fill and compensatory storage calculations prepared by a licensed professional engineer, if compensatory storage is necessary for the development site to meet the requirements of this Ordinance. The data and calculations shall include the following:

   a. Cross-sections showing the areas of fill and excavation;

   b. A plan view delineating the location of cross-sections;

   c. A tabular summary of fill and excavation volumes; and

   d. As applicable, as-built plans and a certificate stating that compensatory storage areas were constructed in substantial conformance with the approved development plans.

6. For revisions to FIRM(s) necessary to meet the Flood Hazard Areas Performance Standards of this Ordinance, the following information shall be submitted:

   a. All hydrologic and hydraulic calculations;

   b. All LOMC applications with supporting documentation; and

   c. A recorded deed or plat restriction for any offsite increase in the water surface profile.

7. For any repair, reconstruction, rehabilitation, addition, or other activity to a building in a floodplain, a substantial improvement determination shall be submitted. The data and calculations shall include:

   a. A detailed and complete cost estimate;

   b. Supporting documentation for the cost estimate, including data from recognized cost estimating manuals or contractor bids;

   c. A signed and notarized market value determination form; and

   d. A calculation of the cumulative percentage of individual damages, repairs, reconstructions, rehabilitations, additions, improvements, and maintenance.

8. For buildings required to meet the Building Protection Requirements of this Ordinance, an Elevation Certificate, a Floodproofing Certificate, or a similar instrument shall be submitted demonstrating compliance with this Ordinance.

9. All applicable consultations, waivers, approvals, and permits from Federal, State, and local authorities shall be submitted including, but not limited to permits from

IDNR/OWR for floodway construction, dam safety, or development within a public body of water.

G. Wetlands, Waters and Buffer Area Submittal

In addition to other applicable Application Requirements, the following requirements apply to all Wetland and Waters Development, except regulated development authorized by a General Permit.

1. Refer to the Wetlands, Waters and Buffer Area Submittal Flowchart in Appendix 1.
2. A development plan shall be submitted demonstrating compliance with the Wetlands and Waters Performance Standards and the Buffer Area Performance Standards of this Ordinance. The development plan shall include a delineation of all WOTUS, IWMC, and buffer areas on the development site.
3. A Letter of No Impact or a Wetland Determination Report, prepared by a wetland specialist, shall be submitted for all WOTUS and IWMC on the development site, if applicable.
4. All applicable consultations, waivers, approvals, and permits from Federal, State, and local authorities shall be submitted including, but not limited to:
   a. A Jurisdictional Determination and a Letter of No Objection from the USACE;
   b. A permit from the USACE;
   c. Documentation that the regulated development is in compliance with the IDNR's Endangered Species Consultation Program [520 ILCS 10/11];
   d. Documentation that the regulated development is in compliance with the U.S. Fish and Wildlife Service's consultation program under the Endangered Species Act; and
   e. A Natural Resources Information (NRI) report or letter prepared by the McHenry-Lake County Soil and Water Conservation District.
5. For regulated development within the buffer area of WOTUS or IWMC, the following additional information shall be submitted:
   a. A narrative describing the current condition of the buffer area, including the existing plant community(s) present and a list of the plant species characterized individually as native or non-native;
   b. Calculations for determining the existing and proposed buffer area impacted by the development;
   c. The size, location, and design details for any BMPs proposed for mitigating buffer impacts; and
   d. Calculations demonstrating that the required buffer area is provided by varying the buffer width.
6. For regulated development adjacent to IWMC, but not impacting the IWMC, wetland hydrology calculations shall also be submitted.
7. For IWMC impacts, the following additional information prepared by a wetland specialist shall be submitted:

a. A mitigation plan;

b. Performance standards and a recorded maintenance plan for onsite mitigation of a IWMC impact; and

c. A receipt for payment into a Wetland Bank or the MCSC Wetland Restoration Fund.

8. For Category IV IWMC impacts, a narrative describing the benefits of the IWMC impacts to the aquatic environment shall also be submitted. The narrative shall be prepared by a wetland specialist.

9. For Category V temporary IWMC impacts, a restoration plan prepared by a wetland specialist shall be submitted.

10. A recorded maintenance plan and a recorded deed or plat restriction shall be submitted for the wetlands, waters and buffer areas within or adjacent to a regulated development disturbing 5 acres or more, a Mining Development, or any regulated development involving a subdivision of land.

11. For buffer averaging, a recorded deed or plat restriction shall be submitted for the wetlands, waters and buffer areas.

Article VI

§15.60.060 Performance Standards

A. Soil Erosion and Sediment Control

TABLE 3 Applicability of Soil Erosion and Sediment Control Performance Standards

Type of Development	Basic Requirements A.1	Requirements for Development Disturbing 1 acre or More A.2	Channel Requirements A.3	Inspections and Maintenance Requirements A.4	Notification Requirements A.5	Special Precautions A.6
General Permit	Waived*	N/A	Waived*	Waived*	Waived*	Waived*
Minor	X	N/A	If Channel Construction Included	X	X	X
Intermediate	X	N/A	If Channel Construction Included	X	X	X
Major	X	X	If Channel Construction Included	X	X	X
Public Road	X	If Dev ≥ 1 ac	If Channel Construction Included	X	X	X
Mining	X[5]	If Dev ≥ 1 ac	If Channel Construction Included	X	X	X
Flood Hazard Area	X	If Dev ≥ 1 ac	If Channel Construction Included	X	X	X
Wetland	X	If Dev ≥ 1 ac	If Channel Construction Included	X	X	X

* Refer to the Performance Standards and Terms and Conditions of Specified Development of the specific General Permit.

5. Requirements may be waived by the Enforcement Officer for portions of the development site that do not drain offsite.

1. Basic Requirements

The following requirements apply to all regulated development, except regulated development authorized by a General Permit. Specific requirements may be waived by the Enforcement Officer for portions of the development sitethat do not drain offsite.

a. Control measures shall meet the minimum standards and specifications of the *Illinois Urban Manual* (www.aiswcd.org/IUM) unless stated otherwise in this Ordinance.

b. Soil disturbance shall be conducted in such a manner as to minimize erosion. Areas of the development site that are not to be disturbed shall be protected from construction traffic or other disturbance until final stabilization is achieved.

c. Soil stabilization measures shall consider the time of year, development site conditions and the use of temporary or permanent measures.

d. Stabilization by seeding shall include topsoil placement and fertilization, as necessary.

e. Native seed mixtures shall include rapid-growing annual grasses or small grains to provide temporary soil stabilization.

f. Offsite property shall be protected from erosion and sedimentation. Velocity dissipation devices shall be placed at concentrated discharge locations and along the length of any outfall channel, as necessary to prevent erosion.

g. Sediment control measures shall be installed prior to the disturbance of tributary areas.

h. Stabilization of disturbed areas shall be initiated immediately whenever any clearing, grading, excavating or other earth disturbing activities have permanently ceased on any portion of the development site, or temporarily ceased on any portion of the development site and will not resume for a period exceeding 14 calendar days. Stabilization of disturbed areas shall be initiated within 1 working day of permanent or temporary cessation of earth disturbing activities and shall be completed as soon as possible, but not later than 14 calendar days from the initiation of stabilization work in an area. Exceptions to these time frames are specified below:

   (1) Where the initiation of stabilization measures is precluded by snow cover, stabilization measures shall be initiated as soon as practicable; and

   (2) In areas where construction activity has temporarily ceased and will resume after 14 days, a temporary stabilization method may be used.

i. Disturbance of steep slopes shall be minimized. Areas or embankments having slopes steeper than 3:1 shall be stabilized with staked in place sod, erosion control blanket in combination with seeding, or an equivalent control measure.

j. The interior side slopes of all stormwater management facilities shall be stabilized with staked in place sod, erosion control blanket in combination with seeding, or an equivalent control measure. The control measure shall be installed between the design high water level and the bottom of the facility in a dry bottom stormwater management facility, or between the design high water level and the normal water level for all other stormwater management facilities.

k. Perimeter control measures shall be provided downslope and perpendicular to the flow of runoff from disturbed areas, where the tributary area is greater than 5,000 square feet, and where runoff will flow in a sheet flow manner. Perimeter erosion control shall also be provided at the base of soil stockpiles. Acceptable perimeter control measures include:

   (1) Silt fences meeting the standards and specifications of the *Illinois Urban Manual* (www.aiswcd.org/IUM) or *AASHTO Standard Specification 288-00*;

(2) A vegetated filter strip, meeting the following standards:

i. A minimum width of 25 feet perpendicular to the flow of runoff; and

ii. Vegetation consists of native plants, turf grass, or other plants that cover 70% or more of the ground surface; or

(3) An equivalent control measure. The Enforcement Officer may allow agricultural crops as a perimeter control measure, if such measures are projected to control erosion as well as other typical perimeter controls. The appropriateness of agricultural crops as a perimeter control measure depends on development site specific considerations, such as the ground slope, type of crop, and the distance to the nearest channel or adjacent property.

l. The stormwater management system shall be protected from erosion and sedimentation downslope from disturbed areas. Inlet protection that reduces sediment loading, while allowing runoff to enter the inlet shall be required for all storm sewers. Check dams, or an equivalent control measure, shall be required for all channels. Filter fabric inlet protection and straw bale ditch checks are not acceptable control measures.

m. If dewatering services are used, discharges shall be routed through an effective sediment control measure (e.g., sediment trap or an equivalent control measure). The Enforcement Officer shall be notified prior to the commencement of dewatering activities.

n. All temporary soil erosion and sediment control measures shall be removed within 30 days after final stabilization of the development site is achieved or after the temporary measures are no longer necessary. Trapped sediment shall be removed and disturbed areas shall be permanently stabilized.

o. Stockpiled soil and materials shall be removed from flood hazard areas at the end of each work day. Soil and materials stockpiled in IWMC or buffer areas shall be placed on timber mats, or an equivalent control measure.

p. Effective control measures shall be utilized to minimize the discharge of pollutants from the development site. At a minimum, control measures shall be implemented in order to:

(1) Minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash water; and

(2) Minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, vehicle fluids, sanitary waste, and other materials present on the development site to precipitation and to stormwater.

q. Adequate receptacles shall be provided for the depositing of all construction material debris generated during the development process. The applicant shall not cause or permit the dumping, depositing, dropping, throwing, discarding or leaving of construction material debris upon or into any development site, channel, or IWMC. The development site shall be maintained free of construction material debris.

r. Where regulated development is allowed within a buffer area, construction fencing shall be installed a minimum of 1 foot outside the WOTUS or IWMC and all other regulated development shall be limited to the non-WOTUS or non-IWMC side of the construction fence. This requirement shall not apply to regulated development involving impacts to or enhancement of WOTUS or IWMC.

s. The Enforcement Officer may require additional or alternate soil erosion and sediment control measures, based on development site specific considerations and the effectiveness of the installed control measures.

2. Requirements for Development Disturbing 1 Acre or More

In addition to the Basic Requirements, the following requirements apply to Major Development, Public Road Development and Mining Development disturbing 1 acre or more.

a. Meet the requirements of IEPA General NPDES Permit No. ILR10, if applicable.

b. A stabilized construction entrance shall be located at any point where traffic will be exiting a development site to a public right-of-way, street, alley or parking area. Any sediment or soil reaching an improved public right-of-way, street, alley or parking area shall be removed by scraping or street cleaning as accumulations warrant and transported to a controlled sediment disposal area.

c. Structural control measures shall be utilized, when necessary, to treat wash water, divert flows from exposed soils, store flows or otherwise limit runoff and the discharge of pollutants from exposed areas of the development site. Such practices may include: earth dikes, drainage swales, sediment traps, check dams, subsurface drains, pipe slope drains, level spreaders, storm drain inlet protection, rock outlet protection, reinforced soil retaining systems, gabions, and sediment basins.

d. Unless otherwise specified in this Ordinance or in the *Illinois Urban Manual* (www.aiswcd.org/IUM), the structural practices shall be designed for a storm event equal to or greater than a 25 year, 24 hour storm.

e. Sediment traps and sediment basins shall be appropriately sized and designed to facilitate periodic removal of sediment, and located with regard to the size of the tributary area:

(1) Runoff from disturbed areas with more than 1 but fewer than 5 acres of tributary area shall be routed to a sediment trap, or an equivalent control measure;

(2) Runoff from disturbed areas with a tributary area of 5 acres or more shall be routed to a sediment basin with a perforated filtered riser pipe, or an equivalent control measures; and

(3) Sediment basins shall have both a permanent pool (dead storage) and additional volume (live storage). Each volume shall, at a minimum, be equal to the amount of runoff from a 2 year, 24 hour storm over the onsite hydrologically disturbed tributary area. The live storage volume may be determined using the Detention Volume vs. Percent Impervious Chart in Appendix 6 and the developed condition percent impervious area. The available sediment volume below the normal water level shall be in addition to the dead storage volume and shall be sized for the estimated sediment

load generated from the development site over the duration of the construction period. For construction periods exceeding 1 year, the 1 year sediment load may be utilized with an annual sediment removal schedule.

3. Channel Requirements

In addition to other applicable Soil Erosion and Sediment Control Performance Standards, the following requirements apply to regulated development below the ordinary high water mark of channels.

a. Land disturbance in channels shall be avoided, where possible. The following requirements shall be met when land disturbance below the ordinary high water mark of channels cannot be avoided:

(1) Disturbance shall be timed to occur during low-flow or no-flow conditions;

(2) Equipment shall only cross channels at permanent bridges or culverts, except when a temporary channel crossing meets the following criteria:

i. Fill within the channel shall be composed of non-erosive material, such as rip-rap or gravel; and

ii. The temporary channel crossing, including temporary approach roads, shall be removed within 1 year after installation, unless the Enforcement Officer grants an extension of time.

(3) Temporary cofferdams may be required by the Enforcement Officer and shall be constructed of non-erosive material; and

(4) The disturbed area, including bed and banks, shall be stabilized with staked in place sod, erosion control blanket in combination with seeding, or an equivalent control measure no more than 48 hours after disturbance is completed or interrupted.

b. New or relocated channels shall be constructed in dry conditions. All construction, including stabilization, shall be completed prior to diversion of water into the new or relocated channel.

4. Inspection and Maintenance Requirements

The following requirements apply to all regulated development, except regulated development authorized by a General Permit.

a. Development plans bearing the approval stamp of the Enforcement Officer shall be retained at the development site throughout the duration of construction activities and shall be annotated with field changes.

b. Disturbed areas that have not been finally stabilized and areas used for storage of materials that are exposed to precipitation shall be inspected for evidence of, or the potential for, pollutants entering the drainage system. Structural control measures identified in the plans shall be observed to ensure that they are operating correctly. Discharge locations shall be inspected to evaluate whether soil erosion and sediment control measures are effective in preventing significant impacts to receiving waters. Locations where vehicles enter or exit the development site shall be inspected for evidence of offsite sediment tracking. Such inspections shall be performed at the intervals stated in Paragraph 4.c below.

c. For regulated development disturbing 1 acre or more, a qualified inspector (provided by the applicant) shall inspect the development site at the following intervals:

(1) Upon completion of installation of soil erosion and sediment control measures (including perimeter controls and diversions), prior to proceeding with any other earth disturbance or grading;

(2) After stripping and clearing;

(3) After rough grading;

(4) After final grading;

(5) After seeding and landscaping;

(6) After final stabilization and landscaping, prior to removal of sediment controls;

(7) At least once every 7 calendar days; and

(8) Within 24 hours of the end of a storm that is 0.5 inch or greater rain event or a discharge due to snowmelt.

(9) Inspections may be reduced to once per month when construction activities have ceased due to frozen conditions. Weekly inspections will recommence when construction activities are conducted, or if there is 0.5 inch or greater rain event, or a discharge due to snowmelt occurs.

d. For regulated development disturbing less than 1 acre, an inspector (provided by the applicant) shall inspect the development site at intervals 1, 3, 4, 6, 7 and 8 of the above list.

e. Inspections may be reduced to once per month when construction activities have ceased due to frozen ground conditions. Weekly inspections shall resume when construction activities resume, within 24 hours of the end of a storm that is 0.5 inch or greater, or when snowmelt results in a discharge from the development site.

f. Inspection reports shall be retained at the development site throughout the duration of construction activities, and made available to the Enforcement Officer upon request. The reports shall include:

(1) The scope of the inspection;

(2) The name and signature of the inspector;

(3) Qualifications of the qualified inspector, if required;

(4) The date of the inspection;

(5) Observations relating to the conditions and effectiveness of control measures; and

(6) Corrective actions taken to address deficiencies.

g. All temporary and permanent erosion and sediment control measures shall be maintained in an effective working condition throughout the duration of construction activities. Deficiencies shall be identified through regular inspections, summarized in inspection reports, and repaired or replaced

immediately. The Enforcement Officer shall be notified of any Incidence of Noncompliance filed with the IEPA and whenever an ineffective control measure needs to be replaced with an alternative control measure.

5. Notification Requirements

The following requirements apply to all regulated development, except regulated development authorized by a General Permit.

a. To facilitate inspections by the Enforcement Officer and to ensure compliance with the stormwater management permit, and this Ordinance, the applicant shall notify the Enforcement Officer within 2 working days of the construction stages specified below:

(1) For regulated development disturbing 1 acre or more:

i. Prior to the start of construction;

ii. Upon completion of installation of soil erosion and sediment control measures (including perimeter controls and diversions), prior to proceeding with any other earth disturbance or grading;

iii. After stripping and clearing,

iv. After rough grading;

v. After final grading;

vi. After seeding and landscaping; and

vii. After final stabilization and landscaping, prior to removal of sediment controls.

viii. If stripping, clearing, grading and/or landscaping are to be done in phases or areas, the applicant shall give notice at the completion of each of the above work stages in each phase or area.

(2) For regulated development disturbing less than 1 acre, notifications are required at stages i, ii, iv, and vii of the above list.

6. Special Precautions

a. If at any stage of the construction, the Enforcement Officer determines that the nature of the regulated development is such that further work authorized by an issued stormwater management permit is likely to imperil any property, public way, IWMC, WOTUS, buffer area, or stormwater management system, the Enforcement Officer may require, as a condition of allowing the work to be continued, that reasonable special precautions be taken to avoid the likelihood of such peril. Special precautions may include, but shall not be limited to: constructing a more level exposed slope; constructing additional drainage facilities, berms, or terraces; compaction, or cribbing; temporary or permanent stabilization; or hiring a professional consultant to recommend corrective actions.

b. Where it appears that damage may occur due to incomplete grading at the development site, work may be stopped and the applicant required to install temporary structures, or take such other measures as may be required to protect adjoining property or the public safety prior to the advent of seasonal rains or

winter shut-down. For regulated development disturbing 1 acre or more, or where unusual site conditions prevail, the Enforcement Officer may require that the operations be conducted in specific stages, so as to insure the completion of protective measures or devices.

B. Runoff Control

1. Basic Requirements

The following requirements apply to all regulated development, except regulated development authorized by a General Permit.

a. All concentrated stormwater discharges from a development site shall be conveyed into an existing channel, storm sewer, or overland flow path and shall not result in flood damage at the development site or upstream of the development site.

b. The diversion of stormwater runoff shall be prohibited unless no reasonable alternative exists, as determined by the Enforcement Officer. The diversion of stormwater runoff shall not result in flood damage at the development site, upstream of the development site, or on downstream adjoining properties.

c. Within a development site, streets, blocks, lots, deed or plat restrictions, parks and other public grounds shall be located in such a manner as to preserve natural streams and channels.

d. Stormwater management facilities within subdivisions, Planned Unit Developments, and manufactured home parks with 5 or more parcels platted after December 1, 2014 shall be located within an outlot.

e. The development plans and plats for subdivisions, Planned Unit Developments, and manufactured home parks shall show the BFE, as well as the limits of flood hazard areas, public bodies of water, WOTUS, IWMC, and buffer areas.

f. The plats for subdivisions, Planned Unit Developments, and manufactured home parks shall include a signed statement by a licensed professional engineer that accounts for changes in the drainage of surface water in accordance with the Plat Act (765 ILCS 205/2).

g. The plats for subdivisions, Planned Unit Developments, and manufactured home parks shall specify the minimum low opening elevation for each lot adjacent to an overland flow path, the minimum lowest adjacent grade for each lot adjacent to a flood hazard area, and the maximum impervious area allowed on each lot for the provided stormwater storage volume.

h. The stormwater management system for a regulated development shall be functional prior to the issuance of a certificate of occupancy or a certificate of completion for any building which is part of the regulated development.

i. A community shall not approve any preliminary Planned Unit Development or Plat of Subdivision, unless the Planned Unit Development or Plat is subject to meeting the minimum standards of this Ordinance.

j. A community shall not approve any final Planned Unit Development or Plat of Subdivision, unless the Planned Unit Development or Plat meets the minimum standards of this Ordinance.

k. A final Planned Unit Development or Plat of Subdivision with an area greater than 5 acres platted after December 1, 2014 shall state the maximum impervious area allowed for each lot or parcel of land based on the design of the stormwater management system.

l. Pursuant to State law, a property owner of a parcel being subdivided adjacent to a State or County right-of-way shall notify the highway authority of the proposed subdivision in writing, and request that the highway authority provide, at the cost of the highway authority or otherwise provided by law, the amount of additional capacity in any stormwater detention facility to be constructed in the subdivision for the future availability of the highway authority for meeting stormwater detention requirements of any future public construction on the highway.

m. A maintenance plan shall be recorded for the stormwater management system. The Enforcement Officer may waive this requirement for Minor and Intermediate Development.

2. Overland Flow Paths

In addition to other applicable Runoff Control Performance Standards, the following requirements apply to all regulated development, except regulated development authorized by a General Permit.

a. An overland flow path shall be provided for all areas of a development site. The overland flow path shall convey floodwaters for all storm events up to and including the base flood event without flood damage at the development site or upstream of the development site. Where the tributary area is less than 20 acres, the storm sewers and inlets may be sized for the base flood event in lieu of providing an overland flow path.

b. An overland flow path serving more than one property shall be protected from obstructions, such as fencing, landscaping, or storage sheds through a deed or plat restriction. The Enforcement Officer may waive the requirement for a deed or plat restriction where an increase in flood heights on upstream adjoining properties is unlikely to result from obstruction of the overland flow path.

c. The overland flow path shall be designed to:

(1) Ensure the freeboard requirement of this Ordinance is met;

(2) Prevent an increase flood heights on upstream adjoining properties; and

(3) Prevent flood damage at the development site.

d. The overland flow path shall be designed using a model or technique identified in Appendix 5 of this Ordinance or otherwise approved by MCSC, based on the flow rate for:

(1) The base flood event considering all onsite and offsite tributary areas; or

(2) Conveyance of a minimum of 1 cfs per acre of tributary area.

e. The minimum low opening elevation for a new building that is located adjacent to an overland flow path and has not been wet floodproofed according to the Building Protection Standards of this Ordinance, shall meet the following freeboard requirement:

(1) At least 0.5 foot above the BFE where the tributary area is 20 acres or less; or

(2) At least 1.0 foot above the BFE where the tributary area is between 20 and 100 acres; or

(3) At least 2.0 feet above the BFE where the tributary area is 100 acres or more.

f. Modification of an existing overland flow path shall not result in increased flood heights on upstream adjoining properties or flood damage at the development site.

3. Drain Tiles

In addition to other applicable Runoff Control Performance Standards, the following requirements apply to all regulated development, except regulated development authorized by a General Permit.

a. Drain tiles disturbed during regulated development shall be reconnected by those responsible for their disturbance, unless the development plans specify abandonment of the drain tiles.

b. All abandoned drain tiles within disturbed areas shall be removed in their entirety.

c. Drain tiles within the disturbed area of a development site shall be replaced, bypassed around the development site or intercepted and connected to the stormwater management system for the development site. The size of the replaced or bypassed drain tile shall be equivalent to the existing drain tile.

d. Existing drain tiles shall be protected from an adverse tailwater condition due to a new stormwater management system.

e. Observation wells, or similar structures for inspecting and maintaining drain tiles, shall be installed at any point where an existing drain tile flows into or out of a development site. Maintenance access shall be provided to the observation well through a deed or plat restriction for regulated development disturbing 5 acres or more.

f. Concentrated discharges from a development site shall be connected to an existing drain tile, where possible; however, the primary outlet from the development site shall be a surface discharge and the drain tile connection shall be designed as a secondary, low flow outlet. When no reasonable alternative exists, the Enforcement Officer may approve the connection of a concentrated discharge from a development site to an existing drain tile as the primary outlet, provided the existing drain tile is located within a deed or plat restriction to the point it discharges into a channel.

g. A drain tile survey shall locate existing farm and storm drain tiles by means of slit trenching or other appropriate methods performed by an experienced subsurface drainage consultant. A drain tile survey shall include the following as applicable on a topographic map:

(1) The location of each slit trench identified to correspond with the tile investigation report and field staked at no less than 50 foot intervals;

(2) The location of each drain tile with a flow direction arrow, tile size and any connection to adjoining properties;

(3) A summary of the tile investigation report showing trench identification number, tile size, material and quality, percentage of the tile filled with water, percentage of restrictions caused by sediment; depth of ground cover and tile system classification; and

(4) The name, address and phone number of the person or consultant responsible for the drain tile survey.

h. The Enforcement Officer may accept a drain tile map prepared by a drainage district or other reliable source in lieu of a drain tile survey. The drain tile survey requirement shall be waived for any Minor Development and the Enforcement Officer may waive the drain tile survey requirement for an Intermediate Development, Major Development, Public Road Development or Mining Development, provided the applicant submits a narrative and supporting evidence indicating to the satisfaction of the Enforcement Officer that drain tiles are not likely to be present within the development site. This evidence may consist of:

(1) Soil maps;

(2) Historic aerial photographs;

(3) Historic topographic maps; and

(4) Wetland maps.

4. Storm Sewers

In addition to other applicable Runoff Control Performance Standards, the following requirements apply to all regulated development, except regulated development authorized by a General Permit.

a. Storm sewers shall not connect to sanitary sewers.

b. Energy dissipation devices shall be provided at the outlets of all storm sewer systems to minimize erosion.

c. New storm sewers serving new regulated development shall be designed by a licensed professional engineer for the 10 year critical duration storm as a minimum. The storm sewer design shall be based on full flow conditions, unless detailed calculations demonstrate the hydraulic grade line would not exceed the ground elevation. The Enforcement Officer may waive this requirement when storm sewers are not necessary for the development site to meet the requirements of this Ordinance.

d. New inlets shall be designed to prevent ponding in streets from exceeding 0.5 foot during the 100 year storm and to prevent ponding in parking lots from exceeding 1.0 foot during the 100 year storm. Ponding depth shall be measured at the inlet. The Enforcement Officer may waive this requirement when storm sewers are not necessary for the development site to meet the requirements of this Ordinance.

e. The minimum full flow velocity for new storm sewers serving new regulated development shall be 2.5 feet per second. The maximum full flow velocity for new storm sewers serving new regulated development shall be 8.0 feet per second.

The Enforcement Officer may waive this requirement when storm sewers are not necessary for the development site to meet the requirements of this Ordinance.

f. The minimum storm sewer size shall be 12 inches for storm sewers serving more than one property. The Enforcement Officer may waive this requirement when storm sewers are not necessary for the development site to meet the requirements of this Ordinance.

g. New storm sewers serving more than one property shall be located in a deed or plat restriction of sufficient size to maintain and re-construct the storm sewer. The Enforcement Officer may waive the requirement for a deed or plat restriction where an increase in flood heights on upstream adjoining properties is unlikely to result from the lack of maintenance of the storm sewer.

5. Runoff Rate Reduction

In addition to other applicable Runoff Control Performance Standards, the following requirements apply to all regulated development required to provide stormwater storage.

a. Stormwater Storage Requirements

(1) Stormwater storage shall be required for a regulated development that creates 20,000 square feet or more new impervious area, unless the conditions of i, ii, or iii are met:

i. 1.0 acre or less of new impervious area is created; and

(a) The total impervious area including the proposed development would not exceed 10% of the contiguous property; and

(b) The applicant demonstrates to the satisfaction of the Enforcement Officer that the development will not result in flood damage at the development site, upstream of the development site, or on downstream adjoining properties; or

ii. The total impervious area including the proposed development would not exceed 5% of the contiguous property; and

(a) An agricultural conservation easement or other conservation easement is recorded over sufficient undeveloped area that the total impervious area may not exceed 5% of the contiguous property. The easement shall be granted to McHenry County or a Certified Community. The easement may be temporary, but the term of the easement shall run until the stormwater storage waiver is no longer necessary, for reasons such as the removal of new impervious area or the installation of a stormwater management facility; and

(b) The applicant demonstrates to the satisfaction of the Enforcement Officer that the development will not result in flood damage at the development site, upstream of the development site, or on downstream adjoining properties; or

iii. The regulated development is a Public Road Development and less than 1.5 acres of new impervious area is created.

(2) Linear impervious areas, such as a widened road, driveways and public recreational trails, which are less than 12.4 feet wide (1.5 acres per lineal mile) may be excluded when calculating the new impervious area to determine whether stormwater storage is required. This exclusion shall apply only when determining whether stormwater storage is required and not to the design of a stormwater management facility in cases where stormwater storage is required.

b. Allowable Release Rates

(1) The allowable release rates for a development site shall be calculated based on the hydrologically disturbed area of the regulated development, except that the allowable release rate for a Public Road Development involving an existing linear impervious surface shall be based on the new impervious area, rather than the hydrologically disturbed area.

(2) Release rates for a detention facility shall not exceed the lesser of the following:

i. 0.04 cubic feet per second per acre for the 2 year, 24 hour storm and 0.15 cubic feet per second per acre for the 100 year, 24 hour storm;

ii. More restrictive release for the 2 year and 100 year storm rates, if adopted by the MCSC or a Certified Community; or

iii. The existing conditions peak runoff rate.

(3) The allowable release rates for a detention facility shall be utilized for the design of an infiltration facility, unless the Enforcement Officer approves a design based on the infiltration rate of the underlying soil, as determined by a qualified professional. In such a case, the Enforcement Officer may add special conditions to the approval, such as a performance guarantee or a design factor of safety.

c. Runoff Rates and Storage Volume

(1) The required stormwater storage volume may be determined by:

i. The Detention Volume vs. Percent Impervious Chart in Appendix 6 for stormwater management facilities with a tributary area less than 10 acres, provided that the allowable release rates are 0.04 cubic feet per second per acre for the 2 year storm and 0.15 cubic feet per second per acre for the 100 year storm; or

ii. A licensed professional engineer using a model or technique identified in Appendix 5 of this Ordinance or otherwise approved by MCSC or IDNR/OWR.

(2) Runoff calculations for all offsite tributary areas may be based on either the anticipated future land use conditions or existing land use conditions. Anticipated future land use conditions shall be based on future land use and existing offsite stormwater management facilities. Existing land use conditions shall be based on existing land use and existing offsite stormwater management facilities.

(3) Compensatory storage for flood storage volume lost in a depressional storage area may either be:

i. Added to the required 2 year stormwater storage volume; or

ii. Replaced as a new depressional storage area.

(4) The Enforcement Officer may waive the requirement to add compensatory storage volume to the required detention storage volume if accessing the compensatory storage volume would:

i. Require a control structure with a diameter smaller than the minimum diameter; or

ii. Result in a dewatering time that exceeds the maximum dewatering time.

(5) Any regulated development that results in impervious area exceeding the design parameters of an existing detention or infiltration facility shall either expand the existing stormwater management facility, or include a control measure designed to reduce the additional volume of runoff from the regulated development, such as a rain garden or the replacement of existing impervious pavement with permeable pavement.

d. Stormwater Management Facilities

(1) Basic Requirements

The following requirements apply to the stormwater management facilities for all regulated development required to meet the Stormwater Storage Requirements of this Ordinance.

i. Offsite runoff may be bypassed around a proposed stormwater management facility.

ii. Stormwater management facilities shall be sized for the runoff from any public road improvements required as part of the regulated development.

iii. Stormwater management facilities shall be designed to dewater within 72 hours following the end of the design storm.

iv. A stable overflow shall be provided for each stormwater management facility. The overflow shall be capable of passing the unattenuated inflow from the 100 year critical duration storm from the entire tributary area without increasing flood heights on upstream adjoining properties or resulting in flood damage at the development site, based on runoff calculations meeting the Runoff Rates and Storage Volume Standards of this Ordinance. The overflow elevation shall be at or above the 100 year design high water elevation.

v. A minimum freeboard of one 1 foot shall be provided above the design high water surface elevation of the 100 year flow through the overflow.

vi. Stormwater management facilities serving more than one property shall be located in a deed or plat restriction with access to the stormwater management facility from the public right-of-way. The

Enforcement Officer may waive the requirement for a deed or plat restriction where an increase in flood heights on upstream properties is unlikely to result from the lack of maintenance of the stormwater management facility.

(2) Detention Facilities

In addition to other applicable Stormwater Management Facility Standards, the following requirements apply to detention facilities for all regulated development required to meet the Stormwater Storage Requirements of this Ordinance.

i. Single pipe outlets shall have a minimum inside diameter of 12 inches. Control structures such as orifices, weirs, and perforated risers may be used to meet the allowable release rates. Outlet pipes and control structures shall be designed to minimize the need for maintenance and prevent tampering.

ii. Control structures shall have a minimum diameter of 4 inches when a single pipe outlet or an orifice plate is used to restrict the outflow from a detention facility. If a smaller diameter is necessary to meet the allowable release rates, the control structure shall be designed to prevent clogging.

iii. Detention facilities shall be designed with appropriate tailwater conditions, as approved by the Enforcement Officer.

iv. Inlets to the detention facility shall be located as far from the outlet as possible. Paved low flow channels shall not be allowed between inlets and the outlet.

v. The side slopes at the shoreline of wet bottom and wetland detention facilities (from at least 6 inches below to at least 6 inches above normal water level) shall be no steeper than 10:1 to prevent shoreline erosion due to wave action and fluctuating water levels. Above shoreline areas, or in dry detention facilities, the maximum side slope shall be 4:1.

vi. Wet bottom detention facilities with a permanent pool depth greater than 3 feet shall include a safety shelf with a minimum 8 foot width that is no more than 1 foot below normal water level.

(3) Online Detention

In addition to other applicable Stormwater Management Facility Standards, the following requirements apply to online detention facilities for all regulated development required to meet the Stormwater Storage Requirements of this Ordinance.

i. Online detention shall not be allowed on perennial streams.

ii. Online detention shall not be allowed in HQAR.

iii. Online detention shall not be allowed where the offsite to onsite tributary area ratio is greater than 10:1, except for regulated development that provides a watershed benefit. Online detention shall not be allowed where the tributary area is greater than 640

acres, except for regulated development that provides a watershed benefit.

iv. The release rates shall be 0.04 cubic feet per second per acre of the total tributary area at the elevation created by impoundment of the required 2 year stormwater storage volume, and 0.15 cubic feet per second per acre of the total tributary area at the elevation created by impoundment of the required 100 year stormwater storage volume. The release rate and required stormwater storage volume shall be calculated using the 24 hour storm. These standards may be modified by the Enforcement Officer to prevent an increase in the existing condition peak discharge rate or to prevent frequent overflow from the online detention facility.

v. Compensatory storage shall be provided for the volume of flood storage lost due to fill and stormwater storage within a flood hazard area. The compensatory storage volume shall be in addition to the required detention volume.

vi. Meet IDNR/OWR and USACE requirements for modifications to a channel to accommodate online detention, if applicable.

vii. An impoundment of a channel shall be designed to allow the migration and movement of present or potentially present indigenous species that require access upstream and downstream of the impoundment as part of their life cycle.

(4) Detention Within WOTUS and IWMC

In addition to other applicable Stormwater Management Facility Standards, the following requirements apply to detention facilities located within WOTUS or IWMC.

i. Detention within WOTUS shall meet the requirements of the USACE, if applicable.

ii. Detention within IWMC shall require IWMC mitigation, unless the detention facility is vegetated according to the standards of the *Native Plant Guide for Streams and Stormwater Facilities in Northeastern Illinois* (NRCS, et al.) and the pre-development IWMC is comprised of:

(a) Farmed wetlands;

(b) Non-farmed wetlands that are not HQAR covered by at least 85% of one or more of the following species:

(i) Reed canary grass (*Phalaris arundinacea*)

(ii) Purple loosestrife (*Lythrum salicaria*)

(iii) Common reed (*Phragmites australis*)

(iv) Buckthorn (*Rhamnus spp.*)

(c) Non-farmed wetlands that are not HQAR with a FQI of 7 or less; or

(d) Open water that is not HQAR.

(5) Infiltration Facilities

In addition to other applicable Stormwater Management Facility Standards, the following requirements apply to infiltration facilities for all regulated development required to meet the Stormwater Storage Requirements of this Ordinance.

i. The underlying soils shall have an infiltration rate of at least 0.5 inch per hour. The development site specific infiltration rate shall be determined by a qualified professional and approved by the Enforcement Officer.

ii. The bottom of the infiltration facility shall be at least 4 feet above the seasonal high groundwater elevation. The development site specific seasonal high groundwater elevation shall be determined by a qualified professional and approved by the Enforcement Officer.

iii. The design high water level of the facility shall be at least 200 feet from water supply wells and onsite waste disposal systems.

iv. The design high water level of the facility shall be at least 10 feet from any building foundation.

v. Pre-treatment shall be provided to prevent obstruction of the infiltration facility.

vi. Runoff from the following areas shall not be routed to an infiltration facility:

(a) Areas subject to frequent winter deicing; and

(b) Other areas where precipitation will be exposed to potential contaminants.

vii. The maximum side slope shall be 4:1.

6. Runoff Volume Reduction Hierarchy

In addition to other applicable Runoff Control Performance Standards, the following requirements apply to Major Development, Public Road Development and Mining Development disturbing 1 acre or more.

a. The applicant shall choose one or more strategy from the following hierarchy to minimize the increase in runoff volume from the development site:

(1) Preservation of natural features of the development site (e.g. natural storage and infiltration characteristics, floodplains, wetlands, prairies and woodlands);

(2) Preservation of the existing natural streams, channels and drainageways;

(3) Minimization of impervious surfaces created at the development site (e.g. narrowing road width, minimizing driveway length and width, clustering homes and shared driveways);

(4) Conveyance of stormwater in open vegetated channels;

(5) Natural landscaping as an alternative to turf grass;

(6) Structural measures that provide water quality and quantity control;

(7) Structural measures that provide only quantity control.

7. Water Quality Protection

In addition to other applicable Runoff Control Performance Standards, the following requirements apply to all regulated development, except regulated development authorized by a General Permit.

a. Water quality treatment shall be provided for stormwater runoff from increased impervious areas.

(1) On highly impervious development sites, such as multi-family residential and non-residential developments, water quality treatment devices shall be designed to remove both floatable and settleable pollutants from as much of the stormwater runoff from increased impervious areas as possible. This requirement may be met by directing as much stormwater runoff from increased impervious areas as possible through a hydrodynamic separator, or into a catch basin fitted with a hooded outlet cover. Alternate treatment methods providing a similar or higher level of water quality treatment may be approved by the Enforcement Officer.

(2) In Public Road Developments, the stormwater management system shall be designed to direct as much stormwater runoff from increased impervious areas as possible through a vegetated swale, across a vegetated filter strip, or into a catch basin before being discharged from the development site. Alternate treatment methods providing a similar or higher level of water quality treatment may be approved by the Enforcement Officer.

b. Appropriate pre-treatment shall be provided for stormwater runoff directed to new or existing Class V injection well.

c. Appropriate pre-treatment shall be provided for stormwater runoff directed to infiltration based practices in areas designated as High or Moderately High Potential for Aquifer Recharge/Contamination on the McHenry County Sensitive Aquifer Recharge Areas Map.

8. Watershed Specific Requirements

In addition to other applicable Runoff Control Performance Standards, the following requirements apply to Watershed Specific Area Development, except, regulated development authorized by a General Permit.

a. Crystal Lake Watershed Specific Requirements

(1) The boundary of the Crystal Lake Watershed is generally depicted in Appendix 9. Any area of land along the watershed boundary that can be shown to be outside of the Crystal Lake Watershed shall not be subject to the Crystal Lake Watershed Specific Requirements.

(2) Any regulated development that hydrologically disturbs more than 20,000 square feet of land within the Crystal Lake Watershed shall comply with the following requirements in addition to the other applicable requirements of this Ordinance:

i. The regulated development shall incorporate runoff volume reduction practices to infiltrate, evaporate, or transpire at least 95%

of the annual stormwater runoff volume from hydrologically disturbed areas.

ii. Perform an evaluation of the development site and field testing practices in accordance with Chapter 2.1 of the City of Crystal Lake - Crystal Lake Watershed Stormwater Management Design Manual.

iii. Design the development site in accordance with sections 3.4-3.7 and section 5.1 of the City of Crystal Lake - Crystal Lake Watershed Stormwater Management Design Manual (http://www.crystallake.org/home/showdocument?id=230).

b. McHenry County Watershed Plans are listed in Appendix 10 for reference only. Recommendations from these plans may be the basis for additional Watershed Specific Requirements upon amendment of this Ordinance by the McHenry County Board.

C. Flood Hazard Areas

1. A development is located in a flood hazard area if any of the following criteria are met:

a. If any portion of the development site is within a mapped Flood of Record area on the USGS-Hydrologic Investigation Atlas Flood of Record Map;

b. If any portion of the development site is within a closed contour of a depressional storage area;

c. If any portion of the development site is within a channel that has a tributary area greater than 100 acres;

d. If any portion of the development site is within a mapped Zone AE, A, AH or AO floodplain on the FEMA FIRM;

e. If any portion of the development site is outside a mapped Zone AE, but is below the BFE; or

f. If any portion of the development site is below the BFE determined by the simplified methods for estimating the BFE described in the FEMA publication *Managing Floodplain Development in Approximate Zone A Areas.*

2. Determining the BFE and Limits of a Flood Prone Area

a. The BFE shall be determined utilizing one of the following methodologies:

(1) Adding 3 feet to the Flood of Record indicated on the USGS-Hydrologic Investigation Atlas;

(2) Adding 0.5 foot to the surface overflow of a depressional storage area. Where a smaller depressional storage area exists within a larger depressional storage area, the BFE shall be based on the highest surface overflow; or

(3) The BFE may be determined by a licensed professional engineer using a model or technique identified in Appendix 5 of this Ordinance or otherwise approved by MCSC or IDNR/OWR.

b. The limits of a flood prone area shall be the projection of the BFE onto the development site topography.

3. Determining the BFE and Limits of a Zone AE Floodplain

   a. The BFE shall be determined utilizing the following hierarchy as it applies to the development site:

      (1) The 1 Percent Annual Chance elevation from the Summary of Stillwater Elevations table in the FIS (for non-riverine flood sources);

      (2) The Regulatory 1 Percent Annual Chance Flood Water Surface Elevation from the Floodway Data Table in the FIS (for a development site located at a cross-section);

      (3) The 1 Percent Annual Chance Flood Elevation at the development site scaled onto the Flood Profile in the FIS; or

      (4) The BFE may be determined by a licensed professional engineer using a model or technique identified in Appendix 5 of this Ordinance or otherwise approved by MCSC or IDNR/OWR.

   b. The limits of a Zone AE floodplain shall be the projection of the BFE onto the development site topography. The Building Protection Standards for Flood Hazard Areas of this Ordinance apply to a building within a mapped Zone AE floodplain until a LOMC is obtained from FEMA.

4. Determining the BFE and Limits of a Zone A Floodplain

   a. The BFE shall be determined utilizing one of the following methodologies:

      (1) For regulated developments less than 50 lots and 5 acres, the Enforcement Officer may approve the use of the simplified methods for estimating the BFE described in the FEMA publication *Managing Floodplain Development in Approximate Zone A Areas*; or

      (2) The BFE shall be determined by a licensed professional engineer using a model or technique identified in Appendix 5 or otherwise approved by MCSC or IDNR/OWR.

   b. The limits of a Zone A floodplain shall be the projection of the BFE onto the development site topography. The Building Protection Standards for Flood Hazard Areas of this Ordinance apply to a building within a mapped Zone A floodplain until a LOMC is obtained from FEMA.

5. Determining the BFE and Limits of a Zone AH Floodplain

   a. The BFE shall be determined utilizing one of the following methodologies:

      (1) The elevation noted on the FIRM; or

      (2) The BFE may be determined by a licensed professional engineer using a model or technique identified in Appendix 5 of this Ordinance or otherwise approved by MCSC or IDNR/OWR.

   b. The limits of a Zone AH floodplain shall be the projection of the BFE onto the development site topography. The Building Protection Standards for Flood Hazard Areas of this Ordinance apply to a building within a mapped Zone AH floodplain until a LOMC is obtained from FEMA.

6. Determining the BFE and Limits of a Zone AO Floodplain

   a. The BFE shall be determined utilizing one of the following methodologies:

      (1) The depth noted on the FIRM plus the highest adjacent grade;

      (2) At least 2 feet above the highest adjacent grade if no depth is noted on the FIRM; or

      (3) The BFE may be determined by a licensed professional engineer using a model or technique identified in Appendix 5 of this Ordinance or otherwise approved by MCSC or IDNR/OWR.

   b. The limits of a Zone AO floodplain shall be the projection of the BFE onto the development site topography. The Building Protection Standards for Flood Hazard Areas of this Ordinance apply to a building within a mapped Zone AO floodplain until a LOMC is obtained from FEMA.

7. Determining the Limits of Floodways

   a. The designated floodway boundary shall be as depicted on the FIRM. The non-designated floodway boundary shall match the floodplain boundary as depicted on the FIRM. The location of the floodway boundary shall be scaled onto the development plan using references common to both the FIRM and the development plan. IDNR/OWR shall determine the exact location of the floodway boundary wherever an interpretation is needed, including non-designated floodways not depicted on the FIRM.

   b. Any area of land that can be shown to be higher than the BFE and is located within the boundary of a designated or non-designated floodway is considered a floodway until a LOMR has been obtained from FEMA to revise the floodway boundary.

8. Basic Requirements

   The following requirements apply to all regulated development in a flood hazard area, except regulated development authorized by a General Permit, and where these requirements are modified in the Public Flood Control Project Standards of this Ordinance.

   a. Regulated development within a flood hazard area, including both permanent and temporary measures, shall meet the following criteria:

      (1) Regulated development shall not result in increased flood damage at the development site or upstream of the development site.

      (2) Any water surface profile increase shall:

         i. Be contained within the banks of the water body; or

         ii. Be contained within the development site, property in which the applicant has an ownership interest, or a deed or plat restriction; or

         iii. Not exceed 0.1 foot upstream flood height increase for the base flood event, except as allowed by the Bridge and Culvert standards of this Ordinance.

(3) Any increase in average channel velocity shall:

i. Not exceed the scour velocity of the predominant soil type of the channel; or

ii. Provide stabilization measures to prevent increased scour and erosion.

b. Any regulated development involving a channel modification, fill, stream maintenance, or a levee, shall not decrease the flood carrying capacity of the flood hazard area.

c. All regulated development in a flood hazard area shall meet IDNR/OWR requirements for floodway construction, dam safety, and public bodies of water, if applicable.

d. A LOMC from FEMA shall be required, with concurrence from IDNR/OWR, for any regulated development that:

(1) Increases the water surface profile by 0.1 foot or more in a floodplain for the base flood event;

(2) Increases the water surface profile by more than 0.0 foot in a floodway for the base flood event;

(3) Revises the boundary of a floodplain for a future building by the placement of fill;

(4) Revises the boundary of a floodway; or

(5) Establishes the BFE for a regulated development equal to or exceeding 50 lots or 5 acres.

e. A CLOMR is required prior to issuance of a stormwater management permit when a regulated development within a floodplain would increase flood heights more than 0.1 foot, or when a regulated development within a floodway would increase flood heights more than 0.0 foot. Once a CLOMR has been issued by FEMA, with concurrence from IDNR/OWR, the Enforcement Officer may allow filling, the construction or reconstruction of bridges and culverts, and similar regulated development within the floodplain necessary to obtain the LOMR.

9. Additional Standards for Designated Floodways

a. The only development in a designated floodway which will be allowed is an appropriate use, which will not cause a rise in the BFE, and which will not create a damaging or potentially damaging increase in flood heights or velocity or be a threat to public health and safety and welfare or impair the natural hydrologic and hydraulic functions of the floodway or channel, or permanently impair existing water quality or aquatic habitat. Construction impacts shall be minimized by appropriate mitigation methods as called for in this Ordinance. Only those appropriate uses listed in 17 Ill. Adm. Code Part 3708 will be allowed. The approved appropriate uses are as follows:

(1) Flood control structures, dikes, dams and other public works or private improvements relating to the control of drainage, flooding, erosion or water quality or habitat for fish and wildlife.

(2) Structures or facilities relating to the use of, or requiring access to, the water or shoreline, such as pumping and treatment facilities, and facilities and improvements related to recreational boating, commercial shipping and other functionally water dependent uses.

(3) Storm and sanitary sewer relief outfalls.

(4) Underground and overhead utilities.

(5) Recreational facilities such as playing fields and trail systems, including any related fencing (at least 50% open when viewed from any one direction) built parallel to the direction of flood flows, and including open air pavilions and toilet facilities (4 stall maximum) that will not block flood flows nor reduce floodway storage.

(6) Detached garages, storage sheds, or other non-habitable accessory buildings that will not block flood flows nor reduce floodway storage.

(7) Bridges, culverts, roadways, sidewalks, railways, runways and taxiways and any modification thereto.

(8) Parking lots built at or below existing grade where either:

i. The depth of flooding at the base flood event will not exceed 1.0 foot; or

ii. The depth of flooding can be greater than 1.0 foot for parking lots used for short-term outdoor recreational use facilities, provided the applicant agrees to restrict access during overbank flooding events and agrees to accept liability for all damage caused by vehicular access during all overbank flooding events.

(9) Designated floodway regrading, without fill, to create a positive non-erosive slope toward a channel.

(10) Floodproofing activities to protect previously existing lawful buildings including the construction of water tight window wells, elevating buildings, or construction of floodwalls around residential, commercial or industrial principal buildings where the outside toe of the floodwall shall be no more than 10-feet away from the exterior wall of the existing building, and which are not considered substantial improvements to the building.

(11) The replacement, reconstruction, or repair of a damaged building, provided that the outside dimensions are not increased and provided that the Building Protection Standards are met if the replacement, reconstruction, or repair is a substantial improvement or if the building is considered substantially damaged.

(12) Modifications to an existing building that would not increase the enclosed floor area of the building below the BFE, and which will not block flood flows, including but not limited to, fireplaces, bay windows, decks, patios and second story additions. Substantial improvements shall meet the Building Protection Standards.

b. Appropriate uses do not include the construction or placement of any new buildings, fill, building additions, buildings on stilts, excavation or channel modifications done to accommodate otherwise non-appropriate uses in the floodway, fencing (including landscaping or planting designed to act as a fence) and storage of materials except as specifically defined above as an appropriate use.

c. Development of an appropriate use will be considered permissible provided that the development meets the following criteria:

(1) All effective designated floodway conveyance lost due to the development will be replaced for all flood events up to and including the base flood event. In calculating effective designated floodway conveyance, the following factors shall be taken into consideration:

i. $K = (1.486/n)(AR2/3)$

where "n" is Manning's roughness factor, "A" is the effective flow area of the cross-section, and "R" is the ratio of the area to the wetted perimeter.

ii. The same Manning's "n" value shall be used for both existing and proposed conditions unless a recorded maintenance agreement with a federal, state, or local unit of government can assure the proposed conditions will be maintained or the land cover is changing from a vegetative to a non-vegetative land cover.

iii. Transition sections shall be provided and used in calculations of effective designated floodway conveyance. The following expansion and contraction ratios shall be used (unless alternate ratios are approved by IDNR/OWR) for excavations in the designated floodway, between cross-sections with rapid expansions and contractions, and when matching the designated floodway boundary on an adjoining property:

(a) Water will expand no faster than at a rate of 1 horizontal foot for every 4 feet of the flooded stream's length.

(b) Water will contract no faster than at a rate of 1 horizontal foot for every 1 foot of the flooded stream's length.

(c) Water will not expand or contract faster than 1 vertical foot for every 10 feet of flooded stream's length.

(d) All cross-sections used in the calculations shall be located perpendicular to the flood flows.

(e) In the design of excavations in the designated floodway, erosion or scour protection shall be provided on land upstream and downstream of proposed transition sections.

10. Public Health Protection Standards

The following requirements apply to all regulated development in a flood hazard area, except regulated development authorized by a General Permit.

TABLE 4 Minimum Elevation Standards for Public Health Protection

Type of Flood Hazard Area	Storage of Materials Outside a Building C.10.a	Water Supply Systems C.10.b	Sanitary Sewers C.10.b	Wells C.10.c	New Onsite Waste Disposal Systems C.10.d	Replacement Onsite Waste Disposal Systems C.10.d	Wastewater Treatment Plants C.10.e
Flood Prone Area	Waived	Waived	Waived	Waived	Waived	Waived	FPE
Floodplain: Flood Fringe and Floodway	BFE	FPE	FPE	FPE	N/A	Waived	FPE

a. No regulated development in a floodplain shall include the outside storage of chemicals, explosives, buoyant materials, fertilizers, flammable liquids, pollutants, or other hazardous or toxic materials below the BFE.

b. New and replacement water supply systems and sanitary sewer lines in a floodplain shall consist of watertight construction below the FPE.

c. The wellhead for new wells in a floodplain shall be elevated to the FPE to prevent floodwaters from entering the well. The Enforcement Officer may provide an approximate BFE for the purpose of well protection.

d. New onsite waste disposal systems, such as septic systems, shall not be installed in the floodplain. Replacement onsite waste disposal systems may be installed in the flood hazard area below the BFE if no reasonable alternative exists, as determined by the Enforcement Officer, and provided that the system has a watertight holding tank and all mechanical and electrical components and above ground openings of the system below the BFE are watertight.

e. Wastewater treatment plants in a flood hazard area shall be equipped with watertight openings below the FPE. These facilities shall be located to avoid impairment to the facility or contamination of floodwaters during the base flood.

11. Building Protection Standards for Flood Hazard Areas

The following requirements apply to: all new buildings, building additions, and substantial improvements located within a floodplain; and to all new buildings and building additions in a flood prone area after December 1, 2014 that increase total enclosed area below the BFE by more than 600 square feet. These requirements apply to a building within a mapped floodplain until a LOMC is obtained from FEMA.

a. Basic Requirements

(1) A building may be constructed in a flood hazard area, provided that it meets the FPE and lowest floor elevation requirements listed in Table 5 by utilizing an acceptable protection measure listed in Table 6. Lowest floor elevation requirements do not apply to buildings utilizing dry floodproofing as the flood protection measure.

(2) All building protection measures shall meet the Standards for Flood Protection Measures in this Ordinance.

(3) An elevation certificate or a floodproofing certificate shall be required for any building, building addition, or substantial improvements to a building within a floodplain. The elevation certificate or a floodproofing certificate shall be prepared on forms published by FEMA, except for small accessory buildings, the Enforcement Officer may allow alternate documentation that the constructed building complies with the Building Protection Standards for Flood Hazard Areas of this Ordinance.

TABLE 5 Building Protection Standards for Flood Hazard Areas

Type of Building	Type of Flood Hazard Area	Flood Protection Elevation (feet above BFE)	Lowest Floor Elevation (feet above BFE)[6]
Residential	Flood Prone Area	2	2
	Floodplain	2	2
Attached Garage	Flood Prone Area	0.5	0.5
	Floodplain	0.5	0.5
Accessory	Flood Prone Area	2	<BFE
	Floodplain	2	0.5
Small Accessory	Flood Prone Area	0.5	<BFE
	Floodplain	0.5	<BFE
Non-Residential	Flood Prone Area	2	2
	Floodplain	2	2
Agricultural	Flood Prone Area	2	<BFE
	Floodplain	2	<BFE

6. This requirement does not apply to dry floodproofed buildings.

TABLE 6 Acceptable Measures for Flood Protection

Type of Building	Type of Flood Hazard Area	Construction on Permanent Fill C.11.b(1)	Elevation on Crawl Space, Stilts, Piles, Walls, etc. C.11.b(2)	Dry Floodproofing C.11.b(3)	Wet Floodproofing C.11.b(4)
Residential	Flood Prone Area	YES	YES	YES	NO
	Floodplain	YES	YES	NO	NO
Attached Garage	Flood Prone Area	YES	YES	YES	NO
	Floodplain	YES	YES	NO	NO
Accessory	Flood Prone Area	YES	YES	YES	YES
	Floodplain	YES	YES	YES	NO
Small Accessory	Flood Prone Area	YES	YES	YES	YES
	Floodplain	YES	YES	YES	YES
Non-Residential	Flood Prone Area	YES	YES	YES	NO
	Floodplain	YES	YES	YES	NO
Agricultural	Flood Prone Area	YES	YES	YES	YES
	Floodplain	YES	YES	YES	YES

b. Standards for flood protection measures:

(1) Elevation on permanent fill

A building elevated on fill shall meet the following criteria:

i. The lowest floor (including basement) shall be at or above the lowest floor elevation shown in Table 5, based on the type of building and the type of flood hazard area;

ii. Fill shall be placed following the FEMA guidelines for ensuring that buildings placed on fill (FEMA Technical Bulletin 10-01, or current guidelines) are reasonably safe from flooding, except where the requirements of this Ordinance exceed FEMA guidelines;

iii. All building components shall be constructed of flood damage-resistant materials up to the FPE shown in Table 5, based on the type of building and the type of flood hazard area;

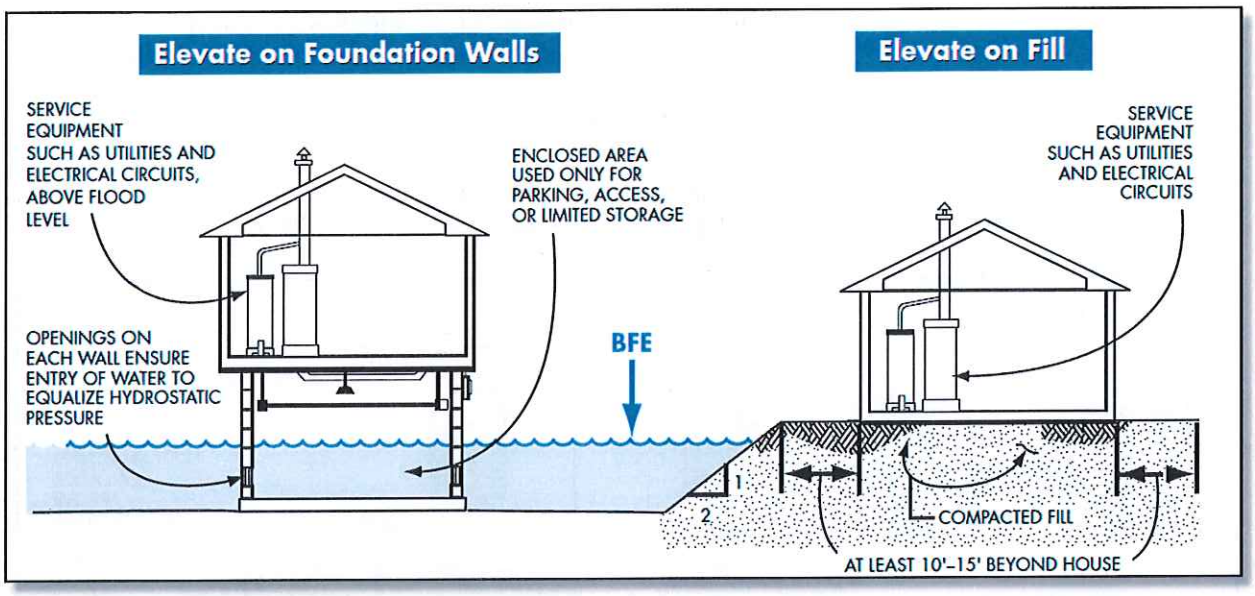
iv. Manufactured homes, recreational vehicles or travel trailers installed on a site for more than 180 consecutive days shall be elevated to or above the FPE; and shall be anchored to resist flotation, collapse, or lateral movement by being tied down in accordance with the Rules and Regulations for the Illinois Mobile Home Tie-Down Act issued pursuant to 77 Ill. Adm. Code Part 870; and recreational vehicles or travel trailers shall be required to meet the elevation and anchoring requirements above unless:

(a) They are on site for fewer than 180 consecutive days; and,

(b) They are fully licensed and ready for highway use. A recreational vehicle or travel trailer is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utility and service devices, and has no permanently attached additions.

FIGURE 1

How to Elevate Your Floodplain Building
(IDNR *Floodplain Management in Illinois Quick Guide*, 2001)



(2) Elevation on a crawl space, stilts, piles, walls, etc.

A building elevated on a crawl space, stilts, piles, etc., shall meet the following criteria:

i. The lowest floor (including basement) shall be at or above the lowest floor elevation shown in Table 5, based on the type of building and the type of flood hazard area;

ii. The lowest inside grade shall not be below the existing and proposed lowest adjacent grade;

iii. The building or improvements may be elevated on stem walls or may be elevated on a crawl space, stilts, piles, walls, or other foundation that is permanently open to floodwaters and not subject to damage by hydrostatic pressures of the base flood.

iv. The permanent openings shall meet all of the following criteria:

(a) The bottom of the permanent openings shall be no more than 1 foot above the lowest adjacent grade;

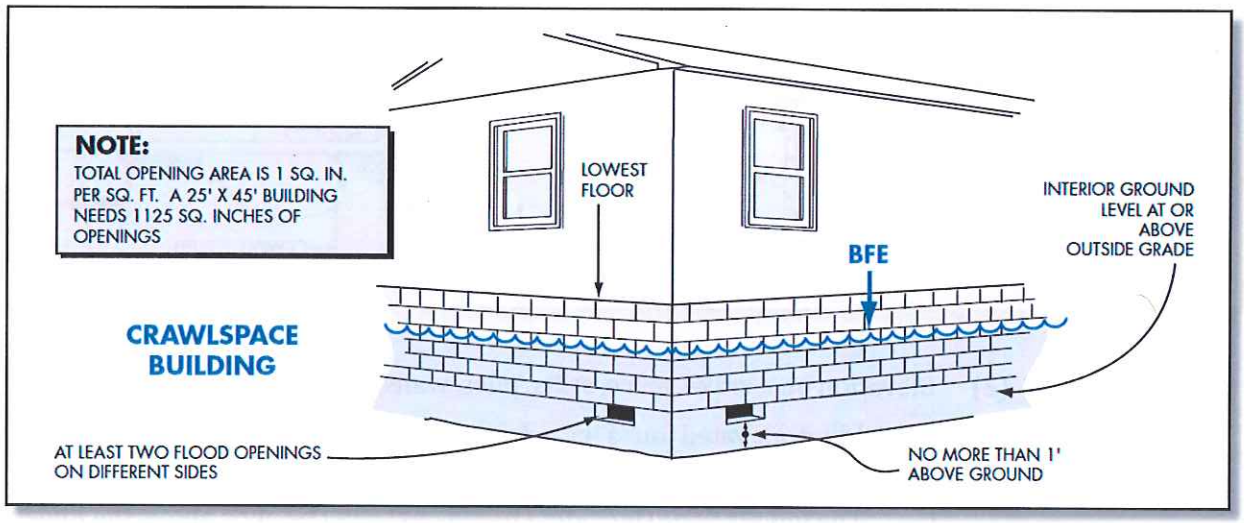
(b) The total net area shall be provided below the BFE and consist of a minimum of 2 openings for each enclosed area with each opening of an enclosed area on a different exterior wall;

(c) Any louvers, screens, or other opening covers shall not block or impede the automatic flow of floodwaters into and out of the enclosed area; and

(d) The openings shall have a total net area of not less than 1 square inch for every 1 square foot of enclosed area subject to flooding below the BFE, unless the building is equipped with engineered openings meeting the FEMA guidelines for openings in foundation walls and walls of enclosures (FEMA Technical Bulletin 1-08, or current guidelines), except where the requirements of this Ordinance exceed FEMA guidelines;

FIGURE 2

Enclosures Below the BFE
(IDNR *Floodplain Management in Illinois Quick Guide*, 2001)



v. The foundation and supporting members shall be anchored and aligned in relation to flood flows and adjoining structures so as to minimize exposure to known hydrodynamic forces such as current, waves, ice and floating debris;

vi. All building components below the FPE shown in Table 5 shall be constructed of flood damage-resistant materials;

vii. All electrical, heating, ventilating, plumbing, and air conditioning equipment and utility meters shall be located at or above the FPE shown in Table 5;

viii. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPE shown in Table 5;

ix. The areas below the FPE shown in Table 5 may only be used for the parking of vehicles, building access or storage in an area other than a basement;

x. All interior storage within a building in the floodplain shall be elevated at least 0.5 feet above the BFE;

xi. Manufactured homes, recreational vehicles or travel trailers installed on a site for more than 180 consecutive days shall be elevated to or above the FPE; and shall be anchored to resist flotation, collapse, or lateral movement by being tied down in accordance with the Rules and Regulations for the Illinois Mobile Home Tie-Down Act issued pursuant to 77 Ill. Adm. Code Part 870; and

xii. Recreational vehicles or travel trailers shall be required to meet the elevation and anchoring requirements above unless:

(a) They are on site for fewer than 180 consecutive days; and,

(b) They are fully licensed and ready for highway use. A recreational vehicle or travel trailer is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utility and service devices, and has no permanently attached additions.

(3) Dry floodproofing

A building that is dry floodproofed shall meet the following criteria:

i. Dry floodproofing shall be provided to the FPE shown in Table 5.

ii. Dry floodproofing shall follow current FEMA guidelines, except where the requirements of this Ordinance exceed FEMA guidelines; and

(4) Wet floodproofing

A building that is wet floodproofed shall meet the following criteria:

i. The building shall not be used for human habitation;

ii. All building components below the FPE shown in Table 5 shall be constructed with flood damage-resistant materials;

iii. The building shall be anchored to prevent flotation, collapse, or lateral movement;

iv. All electrical, heating, ventilating, plumbing, and air conditioning equipment and utility meters shall be located at or above the FPE shown in Table 5;

v. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPE shown in Table 5; and

vi. The permanent openings shall meet all of the following criteria:

(a) The bottom of the permanent openings shall be no more than 1 foot above the lowest adjacent grade;

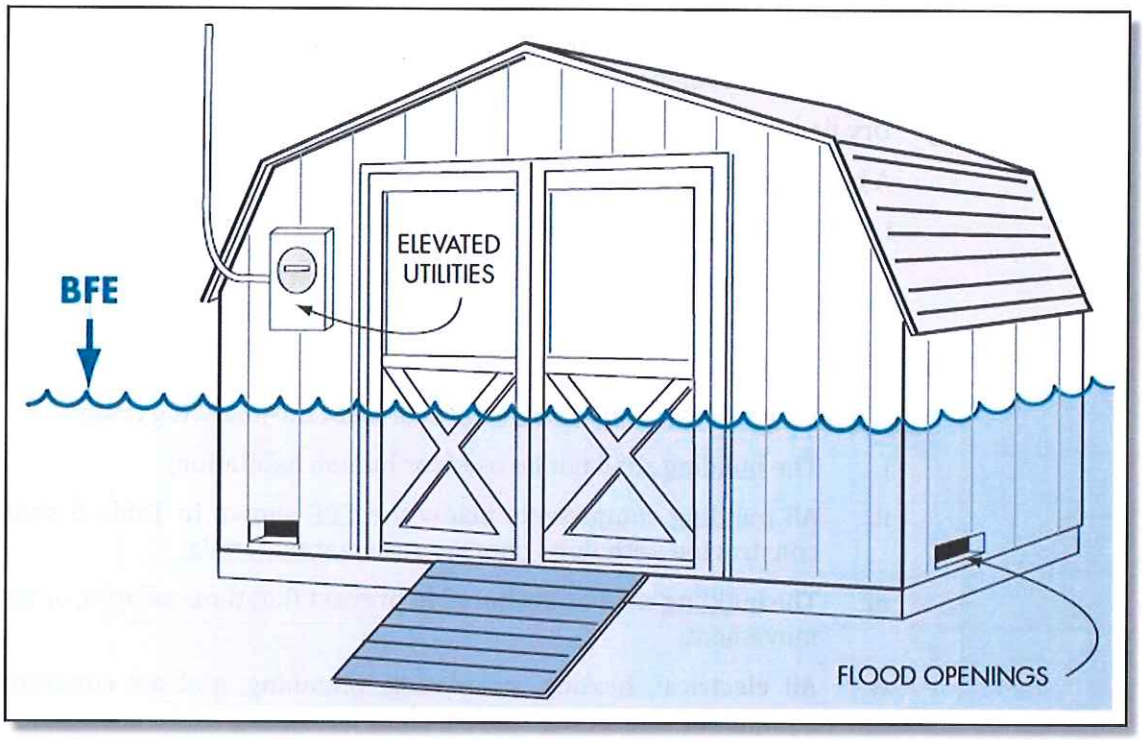
(b) The total net area shall be provided below the BFE and consist of a minimum of 2 openings for each enclosed area with each opening of an enclosed area on a different exterior wall;

(c) Any louvers, screens, or other opening covers shall not block or impede the automatic flow of floodwaters into and out of the enclosed area; and

(d) The openings shall have a total net area of not less than 1 square inch for every 1 square foot of enclosed area subject to flooding below the BFE, unless the building is equipped with engineered openings meeting the FEMA guidelines for openings in foundation walls and walls of enclosures (FEMA Technical Bulletin 1-08, or current guidelines), except where the requirements of this Ordinance exceed FEMA guidelines.

FIGURE 3

Accessory Structures
(IDNR *Floodplain Management in Illinois Quick Guide*, 2001)



12. Substantial Improvement Standards

In addition to other applicable Flood Hazard Area Performance Standards, the following requirements apply to any repair, reconstruction, rehabilitation, addition, or other activity to a building within a floodplain.

a. Determining substantial improvement

The repair or improvement of a building shall be considered a substantial improvement if either of the following criteria is met:

(1) The cost of a single project or the value of damage caused by a single event equals or exceeds 50 percent of the market value of the building before the improvement or repair is started; or

(2) The cumulative cost of two or more projects requiring a building permit or a stormwater management permit over a 5 year period equals or exceeds 50 percent of the market value of the building tracked on a percentage basis for each project.

b. Determining the cost

(1) A detailed and complete cost estimate shall be prepared by the applicant on a form provided by McHenry County. The cost estimate may exclude items not considered a permanent part of the building (i.e., plans, surveys, or permits), but shall include the cost of:

i. Damages of any origin, regardless of the actual repair work; and

ii. Maintenance of existing buildings that was or will be part of a larger project requiring a building permit or a stormwater management permit.

(2) The cost estimate shall be based on pre-damage costs, if applicable.

(3) The cost of all materials shall be equal to the actual or estimated fair market value of the materials. Where materials or servicing equipment are donated or discounted below normal market value, the cost shall be adjusted to fair market value.

(4) The cost of all labor shall be equal to the actual or estimated fair market value of the labor. Where volunteer or discounted labor is involved, the cost of the labor shall be adjusted to fair market value.

c. Determining the market value

(1) A signed and notarized market value determination shall be prepared on a form provided by McHenry County. The market value may be determined by:

i. Multiplying the current tax assessed value of the building by three. The current tax assessed value shall exclude:

(a) The value of the land; and

(b) The value of any other buildings or exterior improvements on the land; or

ii. A certified appraisal prepared by a state licensed appraiser, completed within the previous two years, and based on the comparable sales method;

iii. An estimate prepared and sealed by a licensed architect; or

iv. An alternate approach, approved by the Enforcement Officer, provided that the building does not have a tax assessed value and the cost estimate is clearly less than 50 percent of the market value.

(2) The market value shall be based on the value prior to any construction or damages, if applicable.

d. Determining the cumulative percentage

(1) The percentage for each individual project shall be determined by dividing the cost of the project (at the time the project was completed, including the full cost of any damage, if applicable) by the value of the structure (at the time the project was completed, or prior to any damage, if applicable); and

(2) Adding the percentages of each individual project.

e. Substantial improvements to buildings shall meet the Building Protection Standards for Flood Hazard Areas of this Ordinance.

13. Compensatory Storage Volume Standards

The following requirements apply to all regulated development resulting in flood storage volume lost or displaced due to the placement of fill, materials, or structures in a flood hazard area, or due to draining a depressional storage area, except regulated development authorized by a General Permit or specifically exempted below.

TABLE 7 Compensatory Storage Exemptions

Type of Flood Hazard Area	Fill Less than 5 Cubic Yards C.13.a(1)	Replacement Septic Systems and Wells C.13.a(2)	Floodproofing Habitable Buildings C.13.a(3)	Artificially Created Storage C.13.a(4)	All Other Regulated Development C.13.b
Flood Prone Area	Exempt	Exempt	Exempt	Exempt	Not Exempt
Floodplain: Flood Fringe	Exempt	Exempt	Exempt	Exempt	Not Exempt
Floodplain: Designated or Non-Designated Floodway	Not Exempt	Not Exempt	Exempt	Exempt	Not Exempt

a. Compensatory storage exemptions

(1) Compensatory storage may be waived through a written waiver by the Enforcement Officer for up to 5 cubic yards of fill within the flood fringe or a flood prone area. This waiver may only be exercised one time per parcel. The Enforcement Officer may deny the waiver for reasons including, but not limited to:

i. A determination that the fill would create a damaging or potentially damaging increase in flood heights or velocity; or

ii. That a parcel has been subdivided to qualify for more than one waiver.

(2) Compensatory storage shall not be required for replacement onsite waste disposal systems within the flood fringe or a flood prone area. The applicant shall demonstrate to the satisfaction of the Enforcement Officer that no reasonable alternative location exists outside of the flood hazard area and that the fill volume is the minimum necessary.

(3) Compensatory storage shall not be required for the floodproofing of existing lawful habitable residential or commercial buildings within 10 feet of the outside face of the building.

(4) Compensatory storage shall not be required to replace the loss of artificially created storage due to a reduction in upstream head loss caused by a bridge, culvert, storm sewer, or constructed embankment.

TABLE 8 Required Compensatory Storage Ratios

Type of Flood Hazard Area	Regulated Development without As-Builts[7]	Regulated Development with As-Builts	Public Road Development
Riverine Floodplain	1.5:1	1.2:1	Minimum 1:1
Riverine Flood Prone Area	1.5:1	1.2:1	Minimum 1:1
Non-Riverine Floodplain	1:1	1:1	1:1
Non-Riverine Flood Prone Area	1:1	1:1	1:1

7. As-built plans shall be required for any regulated development resulting in 100 cubic yards or more of fill in a flood hazard area.

b. Compensatory storage requirements

(1) Compensatory storage volume shall be provided below the BFE and above the normal water level.

(2) As-built plans shall be required for any regulated development resulting in 100 cubic yards or more of fill in a flood hazard area. The Enforcement Officer may require as-built plans for regulated development resulting in smaller amounts of fill in a flood hazard area based on development site specific considerations.

(3) For regulated development in a riverine flood hazard area:

i. Hydraulically equivalent compensatory storage volume shall be provided at ratios at least equal to:

(a) 1.5 times the flood storage volume lost or displaced; or

(b) 1.2 times the flood storage volume lost or displaced, provided that as-built plans are submitted.

ii. For a Public Road Development that cannot reasonably provide the compensatory storage volume required by this Ordinance:

(a) The hydraulically equivalent compensatory storage volume required at a minimum 1:1 ratio may be waived by the

Enforcement Officer as long as the total compensatory storage ratio is at least equal to 1:1. The waiver shall be the minimum necessary to afford relief. Any compensatory storage within a designated floodway shall be approved by IDNR/OWR.

(b) The additional compensatory storage volume required beyond a 1:1 ratio may be waived by the Enforcement Officer. The waiver shall be the minimum necessary to afford relief.

iii. Any additional compensatory storage volume required beyond a 1:1 ratio may be provided above or below the 10 year flood elevation.

iv. The compensatory storage area shall be located in close proximity to the fill area and shall drain freely and openly to the channel.

(4) For regulated development in a non-riverine flood hazard area:

i. The compensatory storage volume shall be at least equal to the flood storage volume lost or displaced; and

ii. The compensatory storage volume lost by filling or draining a depressional storage area shall be based on the critical duration storm.

14. Public Flood Control Project Standards

The Flood Hazard Area Performance Standards of this Ordinance shall be considered met for any public flood control project that meets all the following criteria.

a. Flood heights shall not be increased outside a deed or plat restriction for all flood events up to and including the base flood event.

b. The improvements shall be owned and maintained by a public agency. A land stewardship corporation, or similar entity, may own and maintain the improvements, provided that a public agency executes an agreement with the corporation to take over ownership, operation, and maintenance if the corporation dissolves or fails to meet its obligations.

c. A CLOMR and a LOMC from FEMA shall be required, with approval from IDNR/OWR, for any regulated development that:

(1) Increases the water surface profile by 0.1 foot or more in a floodplain for any storm event up to and including the base flood event;

(2) Revises the boundary of a floodplain by the placement of fill; or

(3) Revises the boundary of a floodway.

15. Standards for On-Stream Structures Built for the Purpose of Backing Up Water

a. Any water surface profile increase shall:

(1) Be contained within the banks of the water body; or

(2) Be contained within the development site, property in which the applicant has an ownership interest, or a deed or plat restriction; or

(3) Not exceed 0.1 foot upstream flood height increase for all events up to and including the base flood event.

b. All dams and impoundment structures shall meet the applicable requirements of 17 Ill. Adm. Code Part 3702 (Construction and Maintenance of Dams).

c. If the proposed activity involves a modification of the channel or floodway to accommodate an impoundment, it shall be demonstrated that:

(1) The impoundment is determined to be in the public interest by providing flood control, public recreation, or regional stormwater detention;

(2) The impoundment will not prevent the migration of indigenous fish species, which require access to upstream areas as part of their life cycle, such as for spawning;

(3) The impoundment will not cause or contribute to degraded water quality or habitat conditions. Impoundment design should include gradual bank slopes, appropriate bank stabilization measure, and a pre-sedimentation basin; and

(4) A nonpoint source control plan has been implemented in the upstream watershed to control the effects of sediment runoff as well as minimize the input of nutrients, oil and grease, metals and other pollutants. If there is more than one municipality in the upstream watershed, the municipality in which the impoundment is constructed should coordinate with upstream municipalities to ensure comprehensive watershed control.

16. Bridge and Culvert Standards

a. Designated Floodways

(1) New bridges and culverts

i. Any water surface profile increase shall:

(a) Be contained within the banks of the water body; or

(b) Be contained within the development site, property in which the applicant has an ownership interest, or a deed or plat restriction; or

ii. The proposed structure shall not result in an increase of upstream flood stages greater than 0.1 foot for all flood events up to and including the base flood event; and

iii. If the proposed construction will increase upstream flood stages greater than 0.1 foot within a designated floodway, the applicant shall contact IDNR/OWR to obtain a permit for a dam or waiver.

(2) Reconstruction or modification of existing bridges, culverts and approach roads

i. The bridge or culvert and roadway approach reconstruction or modification shall be constructed with no more than 0.1 foot increase in backwater over the existing flood profile for all flood frequencies up to and including the base flood event, if the existing bridge or culvert is not a source of flood damage.

ii. If the existing bridge or culvert and roadway approach is a source of flood damage to buildings in the upstream floodplain, the applicant's

engineer shall evaluate the feasibility of redesigning the structure to reduce the existing backwater, taking into consideration the effects on flood stages on upstream and downstream properties.

iii. The determination as to whether or not the existing crossing is a source of flood damage and should be redesigned must be prepared in accordance with 17 Ill. Adm. Code Part 3708 (Floodway Construction in Northeastern Illinois) and submitted to IDNR/OWR for review and concurrence before a permit is issued.

b. Non-Designated Floodways and Flood Prone Areas

(1) New bridges and culverts

i. Documentation must be provided that the proposed crossing will not cause demonstrable flood damage; and

ii. Any water surface profile increase shall:

(a) Be contained within the banks of the water body; or

(b) Be contained within the development site, property in which the applicant has an ownership interest, or a deed or plat restriction; or

iii. In urban areas, the water surface profile increase would not exceed 0.5 foot at the structure, nor 0.1 foot at a point 1000 feet upstream of the structure, for all flood events up to and including the base flood event, as determined by the horizontal projection of the increase and the slope of the hydraulic grade line for the existing and proposed conditions hydraulic models; or

iv. In rural areas, the water surface profile increase would not exceed 1.0 foot at the structure, nor 0.5 foot at a point 1000 feet upstream of the structure, for all flood events up to and including the base flood event, as determined by the horizontal projection of the increase and the slope of the hydraulic grade line for the existing and proposed conditions hydraulic models; and

v. Any increase in the average channel velocity would not be beyond the scour velocity of the predominant soil type of the channel; or

vi. Increased scour, erosion and sedimentation would be prevented by the use of rip-rap or other design measures.

(2) Reconstruction or modification of existing bridges, culverts and approach roads

i. The reconstruction (including approach roads) shall be no more restrictive to normal and flood flows than the existing bridge or culvert crossing; and

ii. Documentation must be provided that the existing crossing has not caused demonstrable flood damage. In the case of public projects, certification by a District Engineer of the Department of Transportation's Division of Highways, a County Engineer (if a registered professional engineer), or a Municipal Engineer (if a

registered professional engineer) that the existing crossing has not caused demonstrable flood damage will be adequate documentation.

D. Wetlands and Waters

1. Minimization of Impacts

All reasonable measures shall be taken to avoid and minimize impacts to wetlands, streams, ponds and lakes.

2. Jurisdictional Determination

a. The applicant shall obtain a Jurisdictional Determination from the USACE for any regulated development that impacts wetlands or waters or is adjacent to wetlands or waters. This requirement may be waived by the Enforcement Officer when the USACE issues a Letter of No Objection for the regulated development.

b. Impacts to WOTUS shall be mitigated according to the requirements of the USACE.

c. Impacts to IWMC shall be mitigated according to the requirements of this Ordinance. No IWMC impacts shall be allowed without a clear purpose and need for the regulated development and without demonstrating the measures taken to avoid and minimize IWMC impacts to the satisfaction of the Enforcement Officer.

3. Boundary Determination Requirements

The following requirements apply to all regulated development within or adjacent to IWMC, except regulated development authorized by a General Permit.

a. A Letter of No Impact prepared by a wetland specialist may be accepted by the Enforcement Officer, in lieu of a Wetland Determination Report, when a field investigation by the wetland specialist reveals the closest wetland or waters to a regulated development is clearly beyond the limits of the required buffer. A Letter of No Impact shall include:

(1) The date of the field investigation;

(2) A written description of the development site closest to the IWMC;

(3) Color photographs representative of the development site closest to the IWMC;

(4) A grading plan showing the limits of development site and the approximate boundary of the IWMC closest to the development site; and

(5) An aerial photograph showing the limits of development site and the approximate boundary of the IWMC closest to the development site.

b. The presence and boundary of waters shall be determined by a wetland specialist. Waters shall include the entire area inundated at the ordinary high water mark.

c. The presence and boundary of farmed wetlands within or adjacent to a development site shall be determined by the NRCS or a wetland specialist, in accordance with the current NRCS wetland delineation methodology.

d. The presence, boundary, and quality of non-farmed wetlands within or adjacent to a development site shall be determined by a wetland delineation conducted in accordance with the current USACE wetland delineation methodology. The

findings of this determination shall be documented in a Wetland Determination Report prepared by a wetland specialist.

e. A Wetland Determination Report shall be prepared by a wetland specialist and shall include:

(1) A plan showing the location and extent of all wetlands and waters within or adjacent to the development site. The boundaries of these wetlands and waters shall be flagged in the field and surveyed. The approximate location and extent of offsite wetlands and waters within 100 feet of the development site shall also be shown. The approximate offsite boundaries shall be established using the best available information, as approved by the Enforcement Officer. The best available information may include:

i. Aerial photography;

ii. A previously approved Wetland Determination Report, even if the report was prepared more than 5 years ago;

iii. The ADID Map or other wetland map; and

iv. McHenry County Soil Survey;

(2) An aerial photograph delineating all wetlands and waters within or adjacent to the development site, as well as the approximate location and extent of wetlands and waters within 100 feet of the development site;

(3) The most recent version of the following maps, delineating the limits of the development site:

i. USGS Quadrangle Map;

ii. NRCS Wetland Inventory Map;

iii. FEMA FIRM;

iv. McHenry County Soil Survey;

v. USGS Hydrologic Investigations Atlas, and

vi. ADID Map;

(4) USACE data sheets with color photographs provided for representative upland and wetland data points; and

(5) A narrative description of the wetlands, including a Floristic Quality Assessment, as determined by the methodology described in *Plants of the Chicago Region* (Swink, F. and G. Wilhelm, 1994, 4th Edition, Indianapolis: Indiana Academy of Science). Floristic Quality Assessments shall be conducted during the local growing season, generally between May 15 and October 1. Non-growing season assessments may require additional sampling during the growing season prior to approval.

f. Approval of a Wetland Determination Report shall remain valid for 5 years.

4. Hydrology Requirement

The following requirement applies to all regulated development within or adjacent to IWMC, except regulated development authorized by a General Permit.

a. The regulated development shall maintain 80%-150% of the existing condition runoff volume from the development site to each IWMC for the 2 year, 24 hour storm event; otherwise the IWMC shall be considered impacted and shall be subject to the Mitigation Requirements of this Ordinance.

5. Mitigation Requirements

The following requirements apply to all regulated development resulting in an IWMC impact, except regulated development authorized by a General Permit.

a. IWMC mitigation is required for regulated development resulting in IWMC impacts greater than or equal to 0.10 acre to IWMC. The Enforcement Officer may require mitigation for IWMC impacts less than 0.10 acre for reasons including, but not limited to:

(1) The proposed regulated development would result in a cumulative IWMC impact greater than or equal to 0.10 acre, due to a prior unmitigated impact to the same IWMC; or

(2) A prior unmitigated impact to another IWMC within the contiguous property.

TABLE 9 IWMC Mitigation Ratios

Cat	IWMC Quality	Impact Area	Regulated Development Type	D.5.a	D.5.c.(1)	D.5.c.(2)	D.5.c.(3)	D.5.c.(4)	D.5.c.(5)
I	Any	≤ 0.10 ac	Any	Exempt					
I	Standard[8]	0.1- 1.0 ac	Any		1.5:1 or 1:1				
II	Standard[8]	1.0-2.0 ac	Any		1.5:1 or 1:1				
III	Standard[8]	> 2.0 ac	Any		1.5:1 or 1:1				
III	HFVW	Any	Any			3:1[9]			
III	HQAR or HQHS	Any	Any				5:1[9]		
Impacts Prior to Permit Issuance								5:1[9]	
IV	Any	Any	Restoration, Creation, and Enhancement						1:1
V	Any	Any	Temporary Impact						1:1

8. Standard means any IWMC that is not a HFVW, HQAR, or HQHS.
9. May be reduced to 1:1. Refer to D.5.c(6).

b. IWMC impacts shall be categorized as follows:

(1) Category I: IWMC impacts with a cumulative impact area less than or equal to 1 acre and not impacting HQAR, HFVW, or HQHS;

(2) Category II: IWMC impacts with a cumulative impact area greater than 1 acre and less than or equal to 2 acres and not impacting HQAR, HFVW, or HQHS;

(3) Category III: IWMC impacts with a cumulative impact area greater than 2 acres or impacting HQAR, HFVW, or HQHS;

(4) Category IV: IWMC impacts necessary for wetland restoration, wetland creation and/or wetland enhancement, including streambank and shoreline stabilization projects that utilize appropriate bioengineered practices; or

(5) Category V: Temporary IWMC impacts.

c. IWMC mitigation shall replace the area of IWMC impacted by regulated development at the following proportional rates (i.e., creation acreage to IWMC impact acreage):

(1) 1.5:1 ratio for IWMC impacts under Categories I, II and III that are not designated as HQAR, HQHS, or HFVW, or a minimum 1:1 ratio for USACE-certified wetland mitigation bank credits;

(2) 3:1 ratio is required for IWMC impacts that are designated as HFVW;

(3) 5:1 ratio is required for IWMC impacts that are designated as HQHS or HQAR;

(4) 5:1 ratio is required for IWMC impacts prior to issuance of a stormwater management permit, if the Enforcement Officer determines that IWMC mitigation is an acceptable alternative to wetland restoration; and

(5) 1:1 ratio is required for IWMC impacts under Categories IV and V; or

(6) 1:1 ratio may be allowed for IWMC impacts under Categories I, II and III, including HQAR, HQHS, an HFVW, provided that IWMC mitigation occurs onsite according to the requirements of this Ordinance.

d. A mitigation plan shall be prepared by a wetland specialist for any regulated development that requires IWMC mitigation. A mitigation plan shall include:

(1) A statement of the purpose and need for the project;

(2) A statement of the area, type, and Category of the IWMC impact;

(3) A statement of the selected mitigation option;

(4) A narrative describing the alternative measures taken to avoid, minimize, or mitigate IWMC impacts;

(5) A narrative describing any benefits to the aquatic environment;

(6) A narrative describing how the selected mitigation alternative is consistent with the Mitigation Hierarchy of this Ordinance; and

(7) A narrative describing the monitoring and maintenance tasks necessary to ensure the long-term success of the mitigation.

6. Mitigation Options

The following requirements apply to all regulated development resulting in an IWMC impact requiring IWMC mitigation.

a. IWMC mitigation shall be designed to duplicate or improve the hydrologic, biologic, botanic, and wildlife features of the IWMC.

b. Onsite IWMC mitigation

(1) Onsite IWMC mitigation includes mitigation on a parcel adjacent to the development site, even if the adjacent parcel has a different owner.

(2) Onsite IWMC mitigation shall only be allowed for IWMC impacts in Categories IV and V, or if the mitigation area is 1.5 acres or larger and:

i. The IWMC mitigation area is located within a conservation easement managed by a conservation agency; or

ii. The applicant establishes performance standards approved by the Enforcement Officer, and provides a performance guarantee payable to the MCSC Wetland Restoration Fund in the event the performance standards are not met.

(3) Temporary IWMC impacts shall be restored in place. The disturbed area shall be:

i. Returned to its original contour and general soil profile;

ii. Restored to a comparable IWMC community type; and

iii. Exhibit an FQI no lower than that of the IWMC prior to disturbance.

(4) The Buffer Area Performance Standards of this Ordinance shall apply to IWMC mitigation areas, except mitigation for IWMC impacts in Categories IV and V.

(5) The area of wetland restoration shall not be less than the area of IWMC impact. The additional mitigation area may consist of wetland enhancement; however, only 0.25 acre of mitigation shall be credited for each acre of wetland enhancement.

(6) Wetland creation shall not be credited for mitigation of IWMC impacts.

c. Wetland mitigation banking

(1) Wetland mitigation banking shall be required if the IWMC mitigation area is less than 1.5 acres.

(2) Mitigation credit may be obtained by payment into a Wetland Bank or the MCSC Wetland Restoration Fund. A receipt for payment into a Wetland Bank or the MCSC Wetland Restoration Fund shall be provided prior to issuance of a stormwater management permit.

(3) To provide credit for mitigation, a Wetland Bank must be certified by the USACE and comply with the *Interagency Coordination Agreement on*

Wetland Mitigation Banking within the Regulatory Boundaries of Chicago District, dated January, 1997, or current version.

(4) Payment into the MCSC Wetland Restoration Fund shall not be allowed if the IWMC impact is in the same watershed as a Wetland Bank in existence at the time the MCSC Wetland Restoration Fund was established, provided the Wetland Bank has mitigation credits available. The following Wetland Banks were in existence at the time the MCSC Wetland Restoration Fund was established:

i. Sybaquay Girl Scout Camp (Kishwaukee River Watershed);

ii. Kishwaukee Bottoms (Kishwaukee River Watershed);

iii. Marengo (Kishwaukee River Watershed); and

iv. Slough Creek (Nippersink Creek Watershed).

7. Mitigation Hierarchy

In addition to other applicable Wetland and Waters Performance Standards, the following requirements apply to all regulated development requiring IWMC mitigation.

a. IWMC mitigation shall be provided as close to the IWMC impact site as possible, with respect to the following hierarchy:

(1) Onsite, provided the criteria for onsite mitigation are met;

(2) Wetland mitigation banking within the same sub-watershed;

(3) Wetland mitigation banking within an adjacent sub-watershed and within the same watershed;

(4) Wetland mitigation banking within the same watershed;

(5) Wetland mitigation banking within an adjacent watershed; or

(6) Wetland mitigation banking within McHenry County.

b. Any funds paid into the MCSC Wetland Restoration Fund shall only be used to fund wetland restoration activities located fully within McHenry County.

8. Requirements for Underground Utilities

The following requirements apply to all regulated development involving the installation of underground utilities, except regulated development authorized by a General Permit.

a. In the case of underground stream crossings, the top of the pipe or encasement shall be buried a minimum of 3 feet below the existing stream bed.

b. In IWMC, any excavation shall be backfilled with soil excavated from the trench in the same stratification in which it was removed.

c. A contingency plan for frac-out shall be required for any utility proposed to be installed by directional boring.

E. Buffer Areas

1. Buffer Requirements

The following requirements apply to all regulated development adjacent to WOTUS or IWMC, except regulated development authorized by a General Permit. These requirements are minimum standards and may be superseded by more restrictive USACE requirements.

TABLE 10 Buffer Widths

Buffer Type	Criteria	E.1.b.(1)	E.1.b.(2)	E.1.c.(1)	E.1.c.(2)	E.1.c.(3)
Linear	Tributary Area > 20 ac	50 ft				
Linear	HFVW, HQHS, or HQAR		100 ft			
Non-Linear	0.25 ac ≤ Surface Area < 0.50 ac			30 ft		
Non-Linear	0.50 ac ≤ Surface Area				50 ft	
Non-Linear	HFVW, HQHS, or HQAR					100 ft

a. Roadside drainage ditches, detention facilities, borrow pits, quarries, and improvements to public roads shall be exempt from these Buffer Requirements.

b. Buffers shall be designated along both sides of linear WOTUS and IWMC using the following widths:

(1) 50 feet on each side of linear WOTUS and IWMC having a tributary area greater than 20 acres; or

(2) 100 feet on each side of linear WOTUS and IWMC that are HFVW, HQHS, or HQAR.

c. Buffers shall encompass all non-linear WOTUS and IWMC using the following widths:

(1) 30 feet for all non-linear WOTUS and IWMC with a surface area of at least 0.25 acre but less than 0.50 acre;

(2) 50 feet for all non-linear WOTUS and IWMC with a surface area of at least 0.50 acres; or

(3) 100 feet for all non-linear WOTUS and IWMC that are HFVW, HQHS, or HQAR.

d. Buffer areas for wetlands shall extend landward from the wetland boundary.

e. Buffer areas for water bodies which are WOTUS or IWMC shall extend landward from the ordinary high water mark.

f. A property may contain a buffer area originating from WOTUS or IWMC on another property.

g. Buffer widths may be increased by the Enforcement Officer where State or Federal threatened and endangered species may be present or for Illinois Natural Area Inventory sites following consultation with IDNR and USFWS.

h. Buffer areas within subdivisions, Planned Unit Developments, and manufactured home parks with 5 or more parcels platted after December 1, 2014 shall be located within an outlot with adjacent stormwater management facilities, WOTUS, and/or IWMC.

i. Buffer areas within regulated development disturbing 5 acres or more shall be located within a deed or plat restriction with adjacent stormwater management facilities, WOTUS, and/or IWMC.

j. A maintenance plan shall be prepared for the buffer areas. The Enforcement Officer may waive this requirement for Minor and Intermediate Development.

k. Filling WOTUS or IWMC to meet these Buffer Requirements or any other regulatory program shall not be allowed.

2. Buffer Use

The following requirements apply to all regulated development within buffer areas for WOTUS or IWMC, except regulated development authorized by a General Permit. These requirements may be superseded by more restrictive USACE requirements.

a. Buffer areas shall be maintained free from development including disturbance of the soil, dumping or filling, erection of buildings and placement of impervious areas except as follows:

(1) Buildings, trails, water dependent facilities, other new impervious areas occupying a maximum of 20% of the buffer area, provided that the stormwater runoff from the new impervious areas is not concentrated;

(2) Grading or filling, provided the that the hydrologically disturbed area is revegetated according to the *Native Plant Guide for Streams and Stormwater Facilities in Northeastern Illinois*, NRCS, et al., (as amended);

(3) Redevelopment within the footprint of legal non-conforming development in existence within a buffer area prior to the effective date of this Ordinance;

(4) BMPs;

(5) Stormwater management facilities; and

(6) Utilities, including wastewater wetlands, but not including septic leach fields.

b. Regulated development within buffer areas which does not conform to the allowable uses shall be mitigated by:

(1) Varying the buffer width to a minimum of ½ the prescribed buffer width, provided that the total area of the buffer adjacent to WOTUS or IWMC is not reduced and that the buffer is located within a deed or plat restriction; or

(2) Replacing the impacted buffer area with BMPs, such as a rain garden or replacement of existing turf grass with native vegetation, at a 1:1 proportional rate.

(3) The consultation of the USACE, IDNR, or USFWS may preclude the use of either mitigation approach.

3. In the event the implementation of these Buffer Requirements preclude an otherwise legally buildable parcel from being developed, the Enforcement Officer may allow the minimal amount of relief from the Buffer Area Performance Standards in order to restore the parcel to a buildable condition.

Article VII

§15.60.070 Variances and Appeals

A. Variances

Variances to the provisions of this Ordinance may be granted subject to the process and standards that follow.

1. Process

a. In order to be considered for a variance, a variance petition shall be submitted to the Enforcement Officer.

b. The Enforcement Officer shall submit a written recommendation to the oversight committee regarding each variance petition within 30 days after receipt of a complete variance petition. The oversight committee may also request an opinion from the McHenry County Stormwater Technical Advisory Committee.

c. The oversight committee shall have the authority to grant variances to the provisions of this Ordinance.

(1) A public hearing is required for a variance petition that affects adjoining properties or has the potential to affect adjoining properties, as determined by the Enforcement Officer.

i. When required, the petitioner shall schedule a public hearing before the oversight committee and shall be responsible for all fees associated with the hearing. Notice of the hearing shall be published once in a newspaper having a general circulation within the community. The publication shall not be less than 15 days, nor more than 30 days prior to the hearing. All owners of record of land within 250 feet of the contiguous property shall be served notice of the public hearing not less than 15 days, nor more than 30 days prior to the hearing. The notice shall be served by certified mail, return receipt requested. All notices shall include at least the following information:

(a) The street address of the development site, or if there is no street address, then the location of the development site with reference to well-known landmarks;

(b) A description of the regulated development;

(c) Identification of each Ordinance provision for which a variance is requested;

(d) A statement that any person may attend the hearing and submit verbal comments regarding the variance petition with the date, time, and location of the hearing;

(e) A statement that any person may submit written comments regarding the variance petition with the address to which written comments shall be mailed and the date by which written comments shall be received; and

(f) A statement that any and all documents that concern the variance petition which are subject to public disclosure, will be

made available for inspection by the community with the location where the documents will be available for inspection.

(2) The oversight committee shall grant the variance, grant the variance with conditions, or deny the variance in writing within 45 days after receipt of the written recommendation from the Enforcement Officer.

(3) Written decisions shall be made public for all variance petitions and shall be on file with the community.

(4) The MCSC Chief Engineer shall be notified of every variance hearing in a Certified Community and of every variance granted by a Certified Community.

(5) Any person with an affected interest in the variance petition may appeal a variance decision according to the Appeals standards of this Ordinance.

2. Standards

a. The oversight committee may grant variances to the provisions of this Ordinance if the petitioner provides evidence demonstrating that:

(1) Failure to grant the variance would result in an unreasonable hardship; and

(2) The variance is necessary due to unique and exceptional physical circumstances or a condition of a particular property; and

(3) The variance is the minimum necessary to afford relief, and

(4) The variance will not cause detriment to the public good, safety or welfare; and

(5) The variance will not cause an increase in the water surface profile within a floodway; and

(6) The variance will not cause an increase in the water surface profile upstream of the development site, unless:

i. The increase is contained within the banks of the water body; or

ii. The increase is contained within the development site, property in which the applicant has an ownership interest, or a deed or plat restriction; or

iii. The increase does not exceed 0.1 foot for the base flood event.

(7) The variance will not be contrary to the spirit, purpose and intent of this Ordinance; and

(8) The regulated development meets the minimum Federal, State, and other local regulations, including those of IDNR/OWR and FEMA for participation in the NFIP.

b. The Enforcement Officer shall notify a petitioner in writing that a variance from the requirements of the Building Protection Standards of this Ordinance, that lessens the degree of protection to a building may result in increased premium rates for flood insurance and may increase the risk of loss of life and property. The Enforcement Officer shall require the petitioner to acknowledge the assumption of the risks and liability in writing. If the variance is approved, the

document shall be recorded against the property with the McHenry County Recorder of Deeds Office and the petitioner shall pay the fee for recording the exception.

3. Conditions

   a. In granting a variance, the oversight committee may impose specific conditions and limitations on the petitioner concerning any matter relating to the purposes of this Ordinance.

   b. Whenever any variance is granted subject to any condition to be met by the petitioner, the petitioner shall submit evidence that the condition has been met.

4. A variance petition shall include:

   a. A stormwater management permit application;

   b. Payment of the initial application fee;

   c. Payment of the variance fee;

   d. A description and depiction of the regulated development;

   e. Plans, reports, calculations and any other documentation listed in the Application Requirements of this Ordinance which the Enforcement Officer deems necessary in order to make a written recommendation to the oversight committee;

   f. Identification of each Ordinance provision for which a variance is requested;

   g. A written statement describing the effect on adjoining properties; and

   h. A legal description or PIN for all parcels impacted by the regulated development.

B. Appeals

1. Any person aggrieved by the following decisions of the Enforcement Officer shall have the right to appeal the decision to the oversight committee:

   a. The denial of a stormwater management permit;

   b. The conditions imposed on a stormwater management permit; and

   c. The issuance of a stop work order.

2. Any person aggrieved by a ruling of the oversight committee, including rulings related to variance petitions, may appeal that ruling to the MCSC.

3. After exhausting the administrative reviews set forth in this Section, any aggrieved person contesting a ruling of the MCSC may appeal to the Illinois circuit courts under the Illinois Administrative Procedures Act (5 ILCS 100/1-1 *et. seq.*).

4. All appeals to the oversight committee and the MCSC shall be made in writing, shall specify the reasons for the appeal, and shall include all information pertinent to the appeal. For appeals regarding permit denials or permit conditions, the appeal must be submitted within 30 calendar days from the date of denial or conditional issuance of a stormwater management permit. An appeal of the issuance of a stop work order must be served within 14 calendar days from the date of posting the stop work order.

5. The oversight committee and the MCSC shall rule in favor of or against an appeal, in whole or in part, within 45 days after receipt of the appeal.

6. Any person who has been issued a stormwater management permit, and appeals a condition of the permit, may commence construction of the subject development prior to the resolution of the appeal; however, any commencement of construction must comply with all the terms and conditions of the stormwater management permit as issued.

7. Any person whose stormwater management permit was denied is prohibited from commencing construction of the subject development while the appeal is pending. Under no circumstances shall construction commence prior to the issuance of a stormwater management permit.

8. Any person who requests an appeal of the issuance of a stop work order must suspend construction of the subject development while the appeal is pending.

Article VIII

§15.60.080 Inspections and Access

Representatives of the MCSC and of any Federal, State and local unit of government are authorized to enter upon any land or water to inspect for development activity that is or appears to be regulated development.

Pursuant to the authority granted by 55 ILCS 5/5-1062, representatives of the MCSC may, after 10 calendar days' written notice to the owner or occupant, enter upon any lands or waters within the County for the purpose of inspecting stormwater or flood hazard area facilities, structures, or areas. The MCSC representatives may cause the removal of obstructions to an affected watercourse.

The 10 calendar day notification requirement shall not apply in an emergency situation, as determined by the Enforcement Officer, or on any lands or waters that are the subject of an active stormwater management permit or permit application.

Article IX

§15.60.090 Violation and Penalty

Any person who violates, disobeys, omits, neglects, refuses to comply with or resists the enforcement of any provision of this Ordinance, including but not limited to: obtaining a required stormwater management permit, violating a condition of an issued stormwater management permit, or violating a stop work order shall be in violation of this Ordinance and subject to various available legal or equitable actions, remedies and penalties.

A. 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 dollars ($750.00) for each offense. Each day the violation continues shall be considered a separate offense.

B. Any legal action resulting in a guilty verdict shall be subject to a minimum fine totaling not less than one hundred dollars ($100.00) plus court costs.

C. Whenever the Enforcement Officer finds a violation of this Ordinance, or of any stormwater management permit or stop work order, within his or her respective jurisdiction, the Enforcement Officer may pursue any one or more of the following legal or equitable actions, remedies and penalties against any person found to be in violation of this Ordinance including but not limited to:

1. The Enforcement Officer may initiate a complaint and civil legal action in a court of competent jurisdiction against any person in violation of this Ordinance;

2. The Enforcement Officer may revoke any stormwater management permit issued;

3. The Enforcement Officer may require the person to apply for an "after-the-fact" stormwater management permit, including any and all supporting documentation required thereto, for any unpermitted, unauthorized regulated development, disturbance, or impact;

4. The Enforcement Officer may require the development site or impacted area to be fully restored to its condition existing prior to the violation. If it is not feasible or practical to fully restore the development site or impacted area to the condition existing prior to the violation, the Enforcement Officer may allow the development site or impacted area to be restored to a condition that increases flood storage or decreases stormwater runoff compared to the condition existing prior to the violation;

5. The Enforcement Officer may issue a stop work order requiring the suspension of any further work on the development site. Such stop work order shall be in writing, indicate the reason for its issuance, and require compliance with this Ordinance prior to completion of the activity in violation;

6. The Enforcement Officer may take other legal action including but not limited to a temporary restraining order and other preliminary or permanent injunctive relief necessary to prevent further harm or violation and/or remedy any harm or violation that has already occurred, and if applicable require removal, correction, remediation and/or mitigation for said harm and violation. In addition to any fine or other relief, all costs and expenses, including reasonable attorney's fees incurred, may be recovered;

7. The Enforcement Officer may require removal, correction, remediation and/or mitigation for any harm and violation that has occurred and require that the area be fully restored to its condition prior to such regulated development, disturbance or impact; and

8. The Enforcement Officer may, after notice is sent to the owner(s) of the parcel(s) upon which the violation is located, record the complaint filed, the notice of violation or any stop work order against the property at the McHenry County Recorder of Deeds Office.

Article X

§15.60.100 Procedure and Enforcement

A. Responsibility for Enforcement

1. The MCSC shall oversee the enforcement of this Ordinance.
2. The MCSC Chief Engineer, and the Enforcement Officers in Certified Communities, shall enforce this Ordinance. In performing their duties, the MCSC Chief Engineer and the Enforcement Officers in Certified Communities may delegate routine responsibilities to a designee.
3. A Certified Community shall enforce the requirements of this Ordinance on municipal projects that are regulated by this Ordinance and are within the community's jurisdiction.
4. Upon the request of a Certified Community, the MCSC Chief Engineer may be the Enforcement Officer for any regulated development:
   a. Located within multiple Certified Communities; or
   b. Partially located within a Certified Community and partially located within a non-Certified Community; or
   c. Meeting the terms and conditions of a Letter of Understanding issued by McHenry County.
5. Each community shall remain solely responsible for its standing in the NFIP.

B. Multi-County Municipalities

1. A multi-county municipality may adopt and enforce one of the following ordinances of an adjacent county if the municipality has corporate authority within that county:
   a. The Cook County Watershed Management Ordinance, as amended from time to time by the Metropolitan Water Reclamation District of Greater Chicago Board of Commissioners, provided that the municipality also adopts a NFIP compliant ordinance;
   b. The Kane County Stormwater Ordinance, as amended from time to time by the Kane County Board; or
   c. The Lake County Watershed Development Ordinance, as amended from time to time by the Lake County Board.
2. A stormwater management permit shall not be required from McHenry County for any regulated development within a multi-county municipality, in which the multi-county municipality meets all of the following criteria:
   a. Elects to adopt an adjacent county's ordinance;
   b. Has authority to adopt an adjacent county's ordinance;
   c. Retains qualified staff or consultants per the adopted ordinance;
   d. Enters into an intergovernmental agreement with McHenry County; and
   e. Administers and enforces the adopted ordinance per the requirements of the adopted ordinance.

C. Duties of the MCSC Chief Engineer

The MCSC Chief Engineer shall:

1. Supervise the enforcement of this Ordinance in Certified Communities by periodically reviewing the community's Ordinance enforcement records and making remedial recommendations to the community;
2. Notify all the communities of the County, FEMA, and IDNR/OWR of any amendments to this Ordinance; and
3. Maintain a current list of all maps considered regulatory under this Ordinance.

D. Duties of the Enforcement Officer

The Enforcement Officer shall:

1. Attend a minimum of 4 hours of annual training for Enforcement Officers, as scheduled by the County;
2. Ensure that all applicable consultations, waivers, approvals, and permits from Federal, State, and other local authorities are received prior to issuing a stormwater management permit;
3. Utilize a form to document the following characteristics for each stormwater management permit issued:
   a. The proposed hydrologically disturbed area;
   b. The existing and proposed impervious area and the impervious area that existed at the development site prior to the effective date of this Ordinance;
   c. Whether a flood hazard area exists on the development site;
   d. Whether an IWMC exists on the development site;
   e. The development classification;
   f. The signature of the licensed professional engineer that has reviewed and recommends approval the stormwater management permit application, if applicable;
   g. The signature of the wetland specialist that has reviewed and recommends approval of the stormwater management permit application, if applicable;
   h. The signature of the Enforcement Officer issuing the stormwater management permit.
4. Approve the BFE for a regulated development, if applicable;
5. Ensure that a licensed professional engineer reviews or supervises the review of any plans, calculations or analyses prepared by a licensed professional engineer as part of a stormwater management permit application. The review and design engineers shall not be the same person;
6. Ensure that a wetland specialist reviews or supervises the review of any documents prepared by a wetland specialist as part of a stormwater management permit application. The review and design wetland specialist shall not be the same person;
7. Determine whether as-built plans and/or a performance guarantee are necessary to ensure regulated development is built and maintained in accordance with the

stormwater management permit. The amount of a performance bond, surety, or other such security may be up to 150 percent of the estimated cost to complete construction of the approved stormwater management system. The estimated cost to complete construction shall be prepared by a licensed professional engineer and approved by the Enforcement Officer;

8. Ensure that the required notice of a petition for a variance has been given and published as required by this Ordinance;

9. Notify the MCSC Chief Engineer of every scheduled variance hearing not less than 15 days, nor more than 30 days prior to the hearing;

10. Notify a petitioner for a variance that such variance may result in increased rates for flood insurance, if applicable;

11. Notify the MCSC Chief Engineer of an application for a CLOMR or LOMR;

12. Provide for inspections of regulated development as required by this Ordinance;

13. Investigate complaints of violations of this Ordinance within his or her community;

14. Notify violators within floodplains that failure to comply with the provisions of the NFIP could make them ineligible to receive flood insurance;

15. Utilizes the legal or equitable actions, remedies and penalties necessary to enforce this Ordinance within his or her community;

16. Advise, consult, and cooperate with other governmental agencies to promote the purposes of this Ordinance;

17. Maintain copies of all the following documents for public inspection:

    a. Stormwater management permit applications;

    b. Applicable Federal, State, and other local permits;

    c. Variances;

    d. Records required for eligibility in the NFIP, including elevation certificates, floodproofing certificates, and lowest floor elevations;

    e. Documentation and data on the cost of any repair, reconstruction, rehabilitation, or other improvement to a building in the floodplain in order to enforce the substantial improvement requirements of this Ordinance;

    f. CLOMRs, LOMRs, LOMAs; and

    g. Any additional documentation submitted to demonstrate compliance with the requirements of this Ordinance;

18. Inspect damaged buildings, regardless of the source of the damage, located within the floodplain, to determine whether they have been substantially damaged;

19. Notify the MCSC Chief Engineer, FEMA, and IDNR/OWR of any proposed amendment to this Ordinance;

20. Notify IDNR/OWR of any dam that does not have a permit from IDNR/OWR;

21. Notify IDNR/OWR, IEMA, and the owner of the dam, if a dam is believed to be in an unsafe condition; and

22. Notify adjacent communities in writing 30 days prior to the issuance of a stormwater management permit involving a channel modification.

E. Representative Capacity

In all cases when any action is taken by the MCSC Chief Engineer or the Enforcement Officer, or his or her duly appointed designee, to enforce the provisions of this Ordinance, such action shall be take either in the name of the County or the Certified Community, as the case may be, and neither the MCSC Chief Engineer or the Enforcement Officer nor his or her designee, in so acting shall be rendered personally liable.

F. Community Certification

1. Certification Criteria

Any community of McHenry County, including multi-county municipalities, that meets the following criteria may be certified by MCSC to enforce the provisions of this Ordinance within the community's jurisdiction.

a. The community shall be participating in the regular phase of the NFIP and shall not be a NFIP sanctioned community;

b. The community shall have adopted this Ordinance or an ordinance that is at least as stringent and contains all the criteria of this Ordinance; and

c. The community shall agree to perform the duties of the Enforcement Officer within the community's jurisdiction.

2. Certification Process and Duties

a. A petition for certification shall be submitted to the MCSC indicating how the community meets the Certification Criteria of this Ordinance. A copy of the community's adopted ordinance shall be included with the petition.

b. Within 90 days of receipt of the petition and in conjunction with the next regularly scheduled MCSC meeting, the MCSC Chief Engineer shall make a recommendation to the MCSC, based on his or her review of the petition recommendation shall be presented.

c. Within 60 days of the MCSC Chief Engineer's recommendation, the MCSC may approve the petition as submitted, may approve the petition with conditions, or may deny the petition. A notice of the MCSC action shall be submitted to the petitioning community.

d. Certified Communities shall notify the MCSC Chief Engineer within 2 weeks of any change in:

(1) The community's Enforcement Officer; or

(2) The licensed professional engineer(s) or wetland specialist(s) responsible for review of stormwater management permit applications for the Certified Community.

e. Certified Communities shall submit an annual report summarizing the community's stormwater management permit activity. At a minimum, the annual report shall include:

(1) The name and contact information for the Enforcement Officer;

(2) The name and contact information for the licensed professional engineer responsible for reviewing or supervising the review of any plans, calculations or analyses prepared by a licensed professional engineer as part of a stormwater management permit application;

(3) The name and contact information for the wetland specialist responsible for reviewing or supervising the review of any documents prepared by a wetland specialist as part of a stormwater management permit application;

(4) Documentation of the following characteristics of each stormwater management permit issued:

i. The proposed hydrologically disturbed area;

ii. The existing and proposed impervious area and the impervious area that existed at the development site prior to the effective date of this Ordinance;

iii. Whether a flood hazard area exists on the development site;

iv. Whether an IWMC exists on the development site;

v. The development classification;

vi. The signature of the licensed professional engineer that has reviewed and recommends approval the stormwater management permit application, if applicable;

vii. The signature of the wetland specialist that has reviewed and recommends approval of the stormwater management permit application, if applicable;

viii. The signature of the Enforcement Officer issuing the stormwater management permit;

(5) A list of any stormwater management permits issued for regulated development that was designed and reviewed by the same firm;

(6) A summary of any variances granted to the provisions of this Ordinance; and

(7) A list of any pending violations to the provisions of this Ordinance.

f. Certified Communities shall petition for recertification every 5 years.

3. Committee Review of Performance

a. Within the 5 year certification period, the MCSC or the MCSC Chief Engineer may periodically review the community's ordinance enforcement records and make remedial recommendations to the community, if necessary. Review findings will be used in the assessment of petitions for recertification from Certified Communities.

b. The MCSC may rescind a community's certification for the following reasons:

(1) The community is no longer a participant in the NFIP;

(2) The community adopts an ordinance or amends its ordinance so that its ordinance is less restrictive than this Ordinance; or

(3) The community fails to enforce the provisions of this Ordinance or issues a permit not meeting the requirements of this Ordinance.

c. The MCSC Chief Engineer may immediately rescind a community's certification for the above reasons until the MCSC can discuss the reasons at the next regularly scheduled meeting.

Article XI

§15.60.110 Disclaimer of Liability

It is recognized that the degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations; however, on occasion, greater floods than the base flood will occur and will result in greater flood heights and flood damage. Furthermore, flood heights may be increased by other man-made or natural causes. These provisions do not imply that land outside flood hazard areas or that uses permitted within such areas will be free from flooding or flood damage. These provisions shall not create liability on the part of the MCSC nor any Certified Community nor any officer or employee thereof for any flood damage that results from reliance on this Ordinance or any administrative decision lawfully made there under.

Article XII

§15.60.120 Severability

A. The provisions of this Ordinance shall be severable in accordance with the following rules:

1. If any court of competent jurisdiction shall adjudge any provision of this Ordinance invalid, such judgment shall not affect any other provision of this Ordinance; and

2. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this Ordinance to a particular parcel of land, a particular structure, or a particular development, such judgment shall not affect the application of said provisions to any other parcel of land, structure, or development.

B. All such unaffected provisions of this Ordinance shall remain in full force and effect.

Article XIII

§15.60.130 Abrogation and Greater Restrictions

This Ordinance is not intended to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. Where this Ordinance and other ordinances, easements, covenants, or deed restrictions conflict or overlap, whichever imposes the more stringent restrictions shall prevail. This Ordinance shall repeal the original ordinance or resolution which was adopted to meet the community's NFIP regulations, but shall not repeal the resolution which the community passed in order to establish initial eligibility for the NFIP.

Article XIV

§15.60.140 Amendments

No amendment to this Ordinance may be adopted without a public hearing first being held before the MCSC upon notice published. Notice of the hearing shall be published once in a newspaper having a general circulation within the community. The publication shall not be less than 15 days, nor more than 30 days, prior to the hearing. FEMA and IDNR/OWR shall also be notified prior to adoption of any amendment. Amendments to this Ordinance shall become effective when adopted by the McHenry County Board.

From time to time the lists in Appendix 11 of this Ordinance need to be updated to reflect a new or revised FIRM or FIS. Routine revisions to update these lists are required by FEMA and IDNR/OWR. Public notice and review of a new or revised FIRM or FIS is required by FEMA and IDNR/OWR prior to final adoption. The public notice and review process applies to both the impacted community and individual property owners. For this reason, the lists in Appendix 11 may be updated by MCSC without additional public notice over and above that accomplished by FEMA and IDNR/OWR.

Appendix 1

§15.60.150 Permitting Flowcharts

Regulated Development Flowchart

Development Classification Flowchart (Page 1 of 2)

Development Classification Flowchart (Page 2 of 2)

Refer to Appendix 12 for the definition of underlined terms or to Appendix 13 for a list of acronyms.
Refer to Appendix 1 for permitting flowcharts.

Runoff Control Submittal Flowchart (Page 1 of 2)

Runoff Control Submittal Flowchart (Page 2 of 2)

Flood Hazard Area Submittal Flowchart (Page 1 of 3)

Flood Hazard Area Submittal Flowchart (Page 2 of 3)

Flood Hazard Area Submittal Flowchart (Page 3 of 3)

Wetlands, Waters and Buffer Area Submittal Flowchart

Refer to Appendix 12 for the definition of underlined terms or to Appendix 13 for a list of acronyms.
Refer to Appendix 1 for permitting flowcharts.

Appendix 2

§15.60.160 Standard Soil Erosion and Sediment Control Notes

1. Control measures shall meet the minimum standards and specifications of the *Illinois Urban Manual* (www.aiswcd.org/IUM) unless stated otherwise.

2. Soil disturbance shall be conducted in such a manner as to minimize erosion. Areas of the development site that are not to be disturbed shall be protected from construction traffic or other disturbance until final stabilization is achieved.

3. Soil stabilization measures shall consider the time of year, development site conditions and the use of temporary or permanent measures.

4. Stabilization by seeding shall include topsoil placement and fertilization, as necessary.

5. Native seed mixtures shall include rapid-growing annual grasses or small grains to provide initial, temporary soil stabilization.

6. Offsite property shall be protected from erosion and sedimentation. Velocity dissipation devices shall be placed at concentrated discharge locations and along the length of any outfall channel, as necessary to prevent erosion.

7. Sediment control measures shall be installed prior to the disturbance of tributary areas.

8. Stabilization of disturbed areas shall be initiated immediately whenever any clearing, grading, excavating or other earth disturbing activities have permanently ceased on any portion of the development site, or temporarily ceased on any portion of the development site and will not resume for a period exceeding 14 calendar days. Stabilization of disturbed areas shall be initiated within 1 working day of permanent or temporary cessation of earth disturbing activities and shall be completed as soon as possible, but not later than 14 calendar days from the initiation of stabilization work in an area. Exceptions to these time frames are specified below:

   a. Where the initiation of stabilization measures is precluded by snow cover, stabilization measures shall be initiated as soon as practicable; and

   b. In areas where construction activity has temporarily ceased and will resume after 14 days, a temporary stabilization method may be used.

9. Disturbance of steep slopes shall be minimized. Areas or embankments having slopes steeper than 3:1 shall be stabilized with staked in place sod, erosion control blanket in combination with seeding, or an equivalent control measure.

10. Perimeter control measures shall be provided downslope and perpendicular to the flow of runoff from disturbed areas, where the tributary area is greater than 5,000 square feet, and where runoff will flow in a sheet flow manner. Perimeter erosion control shall also be provided at the base of soil stockpiles.

11. The stormwater management system shall be protected from erosion and sedimentation downslope from disturbed areas. Inlet protection that reduces sediment loading, while allowing runoff to enter the inlet shall be required for all storm sewers. Check dams, or an equivalent control measure, shall be required for all channels. Filter fabric inlet protection and straw bale ditch checks are not acceptable control measures.

12. If dewatering services are used, discharges shall be routed through an effective sediment control measure (e.g., sediment trap or an equivalent control measure). The

Enforcement Officer shall be notified prior to the commencement of dewatering activities.

13. All temporary soil erosion and sediment control measures shall be removed within 30 days after final stabilization of the development site is achieved or after the temporary measures are no longer necessary. Trapped sediment shall be removed and disturbed areas shall be permanently stabilized.

14. Stockpiled soil and materials shall be removed from flood hazard areas at the end of each work day. Soil and materials stockpiled in IWMC or buffer areas shall be placed on timber mats, or an equivalent control measure.

15. Effective control measures shall be utilized to minimize the discharge of pollutants from the development site. At a minimum, control measures shall be implemented in order to:

    a. Minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash water; and

    b. Minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, vehicle fluids, sanitary waste, and other materials present on the development site to precipitation and to stormwater.

16. Adequate receptacles shall be provided for the depositing of all construction material debris generated during the development process. The applicant shall not cause or permit the dumping, depositing, dropping, throwing, discarding or leaving of construction material debris upon or into any development site, channel, or IWMC. The development site shall be maintained free of construction material debris.

17. The Enforcement Officer may require additional or alternate soil erosion and sediment control measures, based on development site specific considerations and the effectiveness of the installed control measures.

Appendix 3

§15.60.170 Standard Drain Tile Notes

1. Drain tiles disturbed during regulated development shall be reconnected by those responsible for their disturbance, unless the development plans specify abandonment of the drain tiles.
2. All abandoned drain tiles within disturbed areas shall be removed in their entirety.
3. Drain tiles within the disturbed area of a development site shall be replaced, bypassed around the development site or intercepted and connected to the stormwater management system for the development site. The size of the replaced or bypassed drain tile shall be equivalent to the existing drain tile.

Appendix 4

§15.60.180 Rainfall Depth-Duration Frequency Tables for McHenry County

Bulletin 70 Rainfall Depths (ISWS, 1989)

Duration	Frequency						
	1-year	2-year	5-year	10-year	25-year	50-year	100-year
5 min	0.30	0.36	0.46	0.54	0.66	0.78	0.91
10 min	0.55	0.67	0.84	0.98	1.21	1.42	1.67
15 min	0.68	0.82	1.03	1.21	1.49	1.75	2.05
30 min	0.93	1.12	1.41	1.65	2.04	2.39	2.80
1 hour	1.18	1.43	1.79	2.10	2.59	3.04	3.56
2 hour	1.48	1.79	2.24	2.64	3.25	3.82	4.47
3 hour	1.60	1.94	2.43	2.86	3.53	4.14	4.85
6 hour	1.88	2.28	2.85	3.35	4.13	4.85	5.68
12 hour	2.18	2.64	3.31	3.89	4.79	5.62	6.59
18 hour	2.30	2.79	3.50	4.11	5.06	5.95	6.97
24 hour	2.51	3.04	3.80	4.47	5.51	6.46	7.58
48 hour	2.70	3.30	4.09	4.81	5.88	6.84	8.16
72 hour	2.93	3.55	4.44	5.18	6.32	7.41	8.78
120 hour	3.25	3.93	4.91	5.70	6.93	8.04	9.96
240 hour	4.12	4.95	6.04	6.89	8.18	9.38	11.14

Huff Quartiles for Time Distribution of Heavy Rainfall

Duration ≤ 6 hours	1st Quartile
6 hours < Duration ≤ 12 hours	2nd Quartile
12 hours < Duration ≤ 24 hours	3rd Quartile
Duration > 24 hours	4th Quartile

Cumulative Percent of Storm	Drainage Area under 10 Square Miles				Drainage Area 10 to 50 Square Miles				Drainage Area 50 to 400 Square Miles			
	1st	2nd	3rd	4th	1st	2nd	3rd	4th	1st	2nd	3rd	4th
05	16	03	03	02	12	03	02	02	08	02	02	02
10	33	08	06	05	25	06	05	04	17	04	04	03
15	43	12	09	08	38	10	08	07	34	08	07	05
20	52	16	12	10	51	14	12	09	50	12	10	07
25	60	22	15	13	62	21	14	11	63	21	12	09
30	66	29	19	16	69	30	17	13	71	31	14	10
35	71	39	23	19	74	40	20	15	76	42	16	12
40	75	51	27	22	78	52	23	18	80	53	19	14
45	79	62	32	25	81	63	27	21	83	64	22	16
50	82	70	38	28	84	72	33	24	86	73	29	19
55	84	76	45	32	86	78	42	27	88	80	39	21
60	86	81	57	35	88	83	55	30	90	86	54	25
65	88	85	70	39	90	87	69	34	82	89	68	29
70	90	88	79	45	92	90	79	40	93	92	79	35
75	92	91	85	51	94	92	86	47	95	94	87	43
80	94	93	89	59	95	94	91	57	96	96	92	54
85	96	95	92	72	96	96	94	74	97	97	95	75
90	97	97	95	84	97	97	96	88	98	98	97	92
95	98	98	97	92	98	98	98	95	99	99	99	97

Appendix 5

§15.60.190 Hydrologic and Hydraulic Models and Techniques Approved by MCSC

Hydrologic Models or Techniques Approved by MCSC				
Hydrologic Model or Technique	**Less than 10 ac 5.c.(1)**	**Less than 20 ac 5.c.(2)(a)**	**Between 20 and 100 ac 5.c.(2)(b)**	**Greater than 100 ac 5.c.(2)(c)**
Detention Volume vs. Percent Impervious Chart	X			
Rational Method	Runoff but not Storage	Runoff but not Storage		
TR-55	X	X	X	
USGS Regression Equations			X[10]	X[10]
StreamStats			X[10]	X[10]
HEC-1	X	X	X	X
TR-20	X	X	X	X
HEC-HMS	X	X	X	X

10. Only allowed where all habitable buildings are above the BFE.

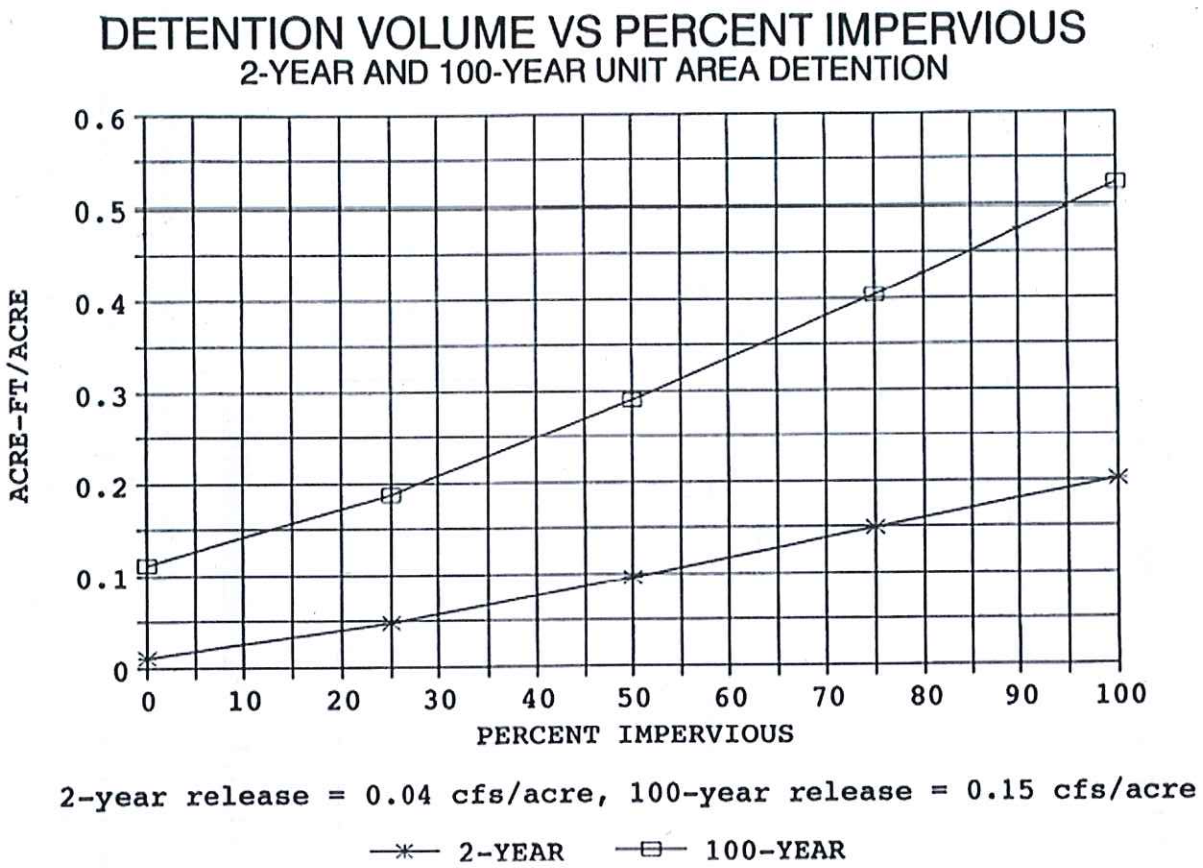
1. The hydrologic models or techniques approved by MCSC include, but are not limited to:
   a. HEC-HMS, TR-20, HEC-1, TR-55, and the Rational Method for tributary areas less than 20 acres;
   b. HEC-HMS, TR-20, HEC-1, TR-55, USGS Regression Equations, and StreamStats for tributary areas less than 100 acres but greater than or equal to 20 acres; or
   c. HEC-HMS, TR-20, HEC-1, USGS Regression Equations, and StreamStats for tributary areas of 100 acres or more.

2. The Rational Method may be used to determine the peak stormwater runoff rate, but neither the Rational Method nor the Modified Rational Method shall be used to determine the required stormwater storage volume.
3. The Rainfall Depth Duration Frequency Tables in Appendix 4 shall be used for all hydrologic models.
4. Peak stormwater runoff rates determined using hydrograph producing models shall be based on the critical duration storm event using the appropriate Huff Rainfall Distributions in Appendix 4.
5. Peak stormwater runoff rates determined using TR-55 shall be based on the 24 hour NRCS (SCS) Type II distribution.
6. BFE determinations using USGS Regression Equations and StreamStats shall only be allowed where all habitable buildings are above the BFE.

Appendix 6

§15.60.200 Detention Volume vs. Percent Impervious Chart for McHenry County

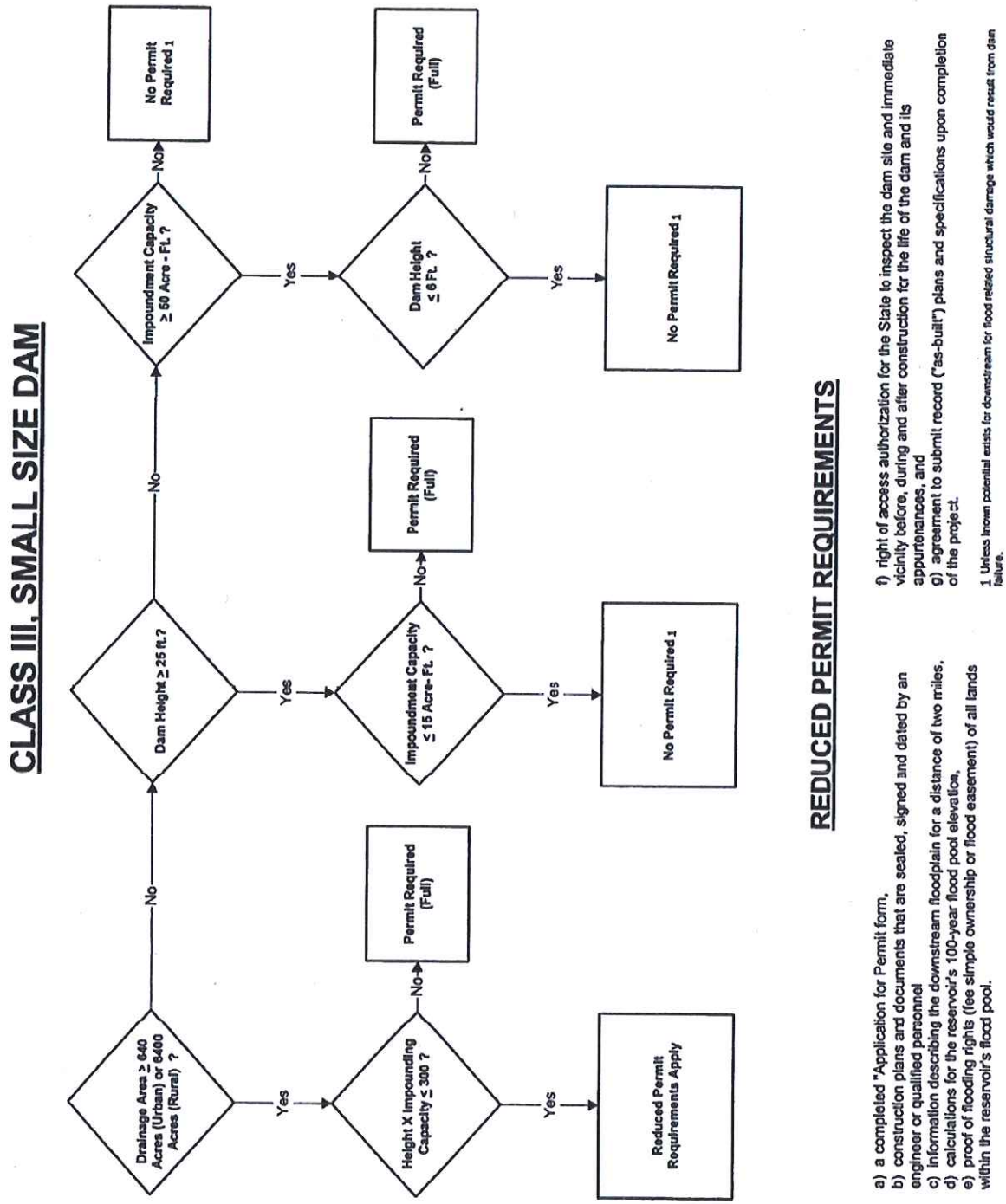
Unit Area Detention Volume (NIPC, 1991)



Refer to Appendix 12 for the definition of underlined terms or to Appendix 13 for a list of acronyms.
Refer to Appendix 1 for permitting flowcharts.

Appendix 7

§15.60.220 IDNR/OWR Dam Safety Permit Flowchart



Refer to Appendix 12 for the definition of underlined terms or to Appendix 13 for a list of acronyms.
Refer to Appendix 1 for permitting flowcharts.

Appendix 8

§15.60.230 Public Bodies of Water in McHenry County

The following public bodies of water were navigable in their natural condition or were improved for navigation and opened to public use. The entire length and surface area in Illinois, including all backwater lakes and sloughs open to the main channel or body of water at normal flows or stages, which are open to the public.

1. Fox River (Illinois River Basin)
2. Fox Chain-O-Lakes (Lake and McHenry Counties): Bluff Lake, Lake Catherine, Channel Lake, Fox Lake, Grass Lake, Lake Marie, Nippersink Lake, Dunns Lake, Pistakee Lake, Lake Jerilyn, Lac Louette, Redhead Lake;
3. Griswold Lake including the connecting channel to the Fox River.

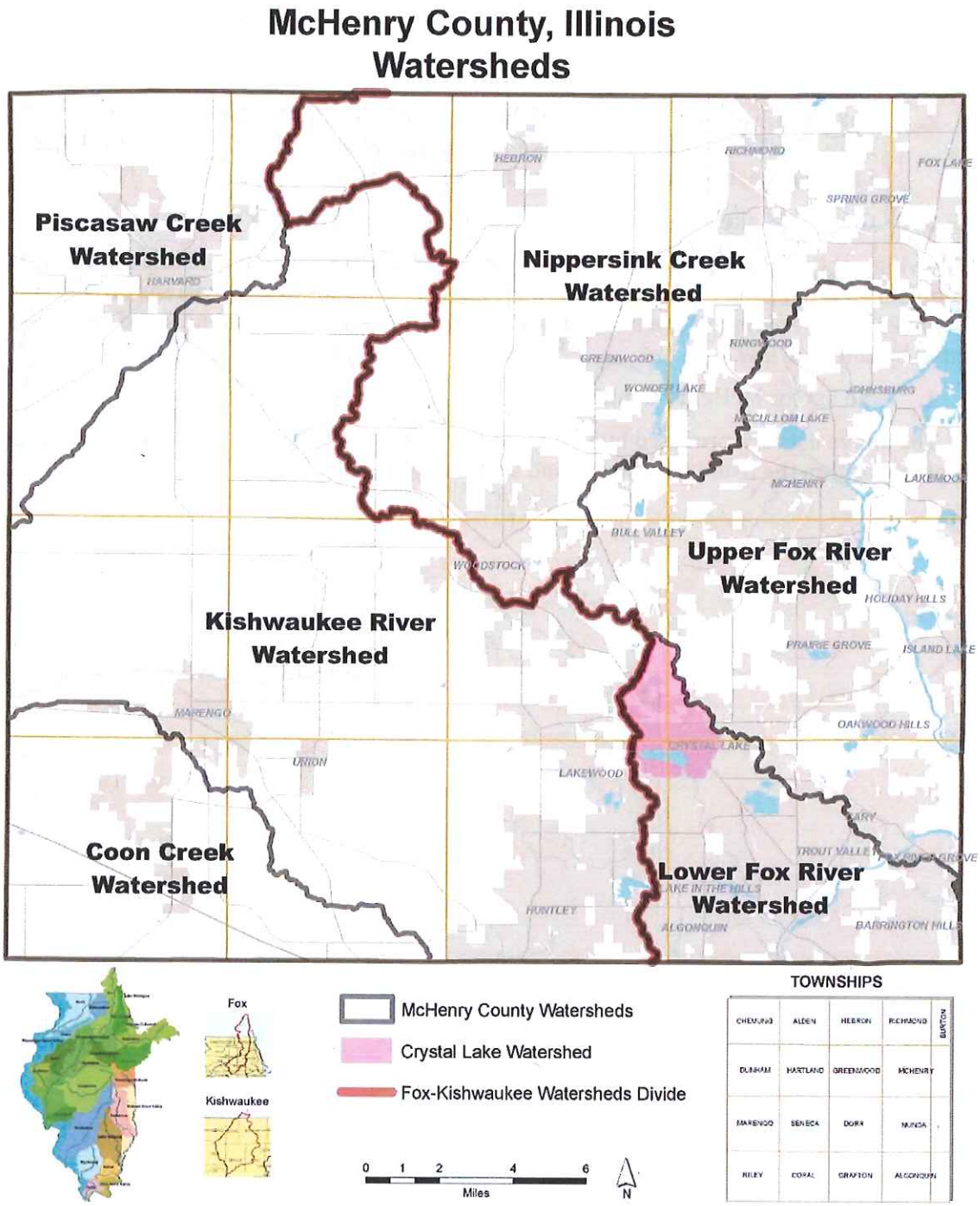
The following public bodies of water are navigable waters that were dedicated to public use. This list is incomplete. It is believed there are numerous channels and slips in subdivisions on the margins of public bodies of water which have been dedicated by plat. Additional channels and slips have been dedicated by common law.

1. No list for McHenry County.

NOTE: The above lists are provided by IDNR/OWR. An IDNR/OWR permit is required for regulated development within the listed waterways and adjacent wetlands.

Appendix 9

§15.60.240 McHenry County Watersheds



Refer to Appendix 12 for the definition of underlined terms or to Appendix 13 for a list of acronyms.
Refer to Appendix 1 for permitting flowcharts.

Appendix 10

§15.60.250 McHenry County Watershed Plans

Boone-Dutch Creek Watershed-Based Plan

Crystal Lake Watershed Design Manual and Implementation Plan

Lawrence Creek Watershed Plan

Nippersink Watershed Plan

Preserving the Kishwaukee Watershed (Greater Marengo-Union Area Watershed Plan)

Silver Creek and Sleepy Hollow Creek Watershed Action Plan

Upper Kishwaukee River Watershed Plan

Watershed Protection and Restoration Strategy for Boone Creek

Woods Creek Watershed Plan

Appendix 11

§15.60.260 Floodplain and Floodway Maps

COMMUNITY NAME	COMMUNITY NUMBER	DATE OF CURRENT EFFECTIVE MAP (OR MAP INDEX)	MCHENRY COUNTY FIRM PANEL NUMBER	MCHENRY COUNTY FIS EFFECTIVE DATE
ALGONQUIN, VILLAGE OF	170474	NOV. 16, 2006	17111C 0320J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0334J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0335J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0336J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0337J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0340J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0341J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0342J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0343J	NOV. 16, 2006
BARRINGTON HILLS, VILLAGE OF	170058	NOV. 16, 2006	17111C 0342J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0353J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0354J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0356J	NOV. 16, 2006
BULL VALLEY, VILLAGE OF	170977	NOV. 16, 2006	17111C 0183J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0200J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0205J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0215J	NOV. 16, 2006
CARY, VILLAGE OF	170475	NOV. 16, 2006	17111C 0334J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0335J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0351J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0352J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0353J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0354J	NOV. 16, 2006
CRYSTAL LAKE, CITY OF	170476	NOV. 16, 2006	17111C 0200J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0215J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0220J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0310J	NOV. 16, 2006

Refer to Appendix 12 for the definition of underlined terms or to Appendix 13 for a list of acronyms.
Refer to Appendix 1 for permitting flowcharts.

COMMUNITY NAME	COMMUNITY NUMBER	DATE OF CURRENT EFFECTIVE MAP (OR MAP INDEX)	MCHENRY COUNTY FIRM PANEL NUMBER	MCHENRY COUNTY FIS EFFECTIVE DATE
		NOV. 16, 2006	17111C 0326J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0327J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0328J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0329J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0334J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0335J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0336J	NOV. 16, 2006
FOX LAKE, VILLAGE OF	170362	NOV. 16, 2006	17111C 0112J	NOV. 16, 2006
FOX RIVER GROVE, VILLAGE OF	170477	NOV. 16, 2006	17111C 0353J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0354J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0365J	NOV. 16, 2006
GREENWOOD, VILLAGE OF	171057	NOV. 16, 2006	17111C 0074J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0086J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0088J	NOV. 16, 2006
HARVARD, CITY OF	170479	NOV. 16, 2006	17111C 0017J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0025J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0036J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0050J	NOV. 16, 2006
HEBRON, VILLAGE OF	170086	NOV. 16, 2006	17111C 0075J	NOV. 16, 2006
HOLIDAY HILLS, VILLAGE OF	170936	NOV. 16, 2006	17111C 0236J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0237J	NOV. 16, 2006
HUNTLEY, VILLAGE OF	170480	NOV. 16, 2006	17111C 0304J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0308J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0309J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0312J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0314J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0315J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0316J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0318J	NOV. 16, 2006

COMMUNITY NAME	COMMUNITY NUMBER	DATE OF CURRENT EFFECTIVE MAP (OR MAP INDEX)	MCHENRY COUNTY FIRM PANEL NUMBER	MCHENRY COUNTY FIS EFFECTIVE DATE
		NOV. 16, 2006	17111C 0320J	NOV. 16, 2006
ISLAND LAKE, VILLAGE OF	170370	NOV. 16, 2006	17111C 0236J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0237J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0238J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0239J	NOV. 16, 2006
JOHNSBURG, VILLAGE OF	170486	NOV. 16, 2006	17111C 0093J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0094J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0111J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0112J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0113J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0114J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0206J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0207J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0226J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0230J	NOV. 16, 2006
LAKE IN THE HILLS, VILLAGE OF	170481	NOV. 16, 2006	17111C 0308J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0309J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0316J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0320J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0328J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0329J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0334J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0335J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0336J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0337J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0341J	NOV. 16, 2006
LAKEMOOR, VILLAGE OF	170915	NOV. 16, 2006	17111C 0226J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0230J	NOV. 16, 2006
LAKEWOOD, VILLAGE OF	170805	NOV. 16, 2006	17111C 0309J	NOV. 16, 2006

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COMMUNITY NAME	COMMUNITY NUMBER	DATE OF CURRENT EFFECTIVE MAP (OR MAP INDEX)	MCHENRY COUNTY FIRM PANEL NUMBER	MCHENRY COUNTY FIS EFFECTIVE DATE
		NOV. 16, 2006	17111C 0310J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0326J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0328J	NOV. 16, 2006
MARENGO, CITY OF	170482	NOV. 16, 2006	17111C 0163J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0164J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0275J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0276J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0277J	NOV. 16, 2006
MCCULLOM LAKE, VILLAGE OF	170829	NOV. 16, 2006	17111C 0093J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0206J	NOV. 16, 2006
MCHENRY COUNTY (UNINC.)	170732	PANEL NUMBERS LISTED AT THE END OF THE TABLE		
MCHENRY, CITY OF	170483	NOV. 16, 2006	17111C 0205J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0206J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0207J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0208J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0209J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0217J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0220J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0226J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0230J	NOV. 16, 2006
OAKWOOD HILLS, VILLAGE OF	170831	NOV. 16, 2006	17111C 0220J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0238J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0335J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0351J	NOV. 16, 2006
PORT BARRINGTON, VILLAGE OF	170478	NOV. 16, 2006	17111C 0239J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0352J	NOV. 16, 2006
PRAIRIE GROVE, VILLAGE OF	170975	NOV. 16, 2006	17111C 0217J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0220J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0236J	NOV. 16, 2006

COMMUNITY NAME	COMMUNITY NUMBER	DATE OF CURRENT EFFECTIVE MAP (OR MAP INDEX)	MCHENRY COUNTY FIRM PANEL NUMBER	MCHENRY COUNTY FIS EFFECTIVE DATE
		NOV. 16, 2006	17111C 0238J	NOV. 16, 2006
RICHMOND, VILLAGE OF	170484	NOV. 16, 2006	17111C 0079J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0080J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0081J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0083J	NOV. 16, 2006
RINGWOOD, VILLAGE OF	170060	NOV. 16, 2006	17111C 0087J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0089J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0091J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0093J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0094J	NOV. 16, 2006
SPRING GROVE, VILLAGE OF	170485	NOV. 16, 2006	17111C 0082J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0084J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0091J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0092J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0103J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0111J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0112J	NOV. 16, 2006
TROUT VALLEY, VILLAGE OF	170062	NOV. 16, 2006	17111C 0334J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0353J	NOV. 16, 2006
UNION, VILLAGE OF	170487	NOV. 16, 2006	17111C 0281J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0300J	NOV. 16, 2006
WONDER LAKE, VILLAGE OF	170976	NOV. 16, 2006	17111C 0074J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0086J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0087J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0088J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0089J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0200J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0205J	NOV. 16, 2006
WOODSTOCK, CITY OF	170488	NOV. 16, 2006	17111C 0176J	NOV. 16, 2006

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Refer to Appendix 1 for permitting flowcharts.

COMMUNITY NAME	COMMUNITY NUMBER	DATE OF CURRENT EFFECTIVE MAP (OR MAP INDEX)	MCHENRY COUNTY FIRM PANEL NUMBER	MCHENRY COUNTY FIS EFFECTIVE DATE
		NOV. 16, 2006	17111C 0177J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0178J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0179J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0181J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0183J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0200J	NOV. 16, 2006
MCHENRY COUNTY (UNINC.)	170732	NOV. 16, 2006	17111C 0017J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0025J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0036J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0050J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0064J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0065J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0070J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0073J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0074J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0075J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0079J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0080J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0081J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0082J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0083J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0084J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0086J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0087J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0088J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0089J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0091J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0092J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0093J	NOV. 16, 2006

COMMUNITY NAME	COMMUNITY NUMBER	DATE OF CURRENT EFFECTIVE MAP (OR MAP INDEX)	MCHENRY COUNTY FIRM PANEL NUMBER	MCHENRY COUNTY FIS EFFECTIVE DATE
MCHENRY COUNTY (UNINC.)	170732	NOV. 16, 2006	17111C 0094J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0103J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0111J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0112J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0113J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0114J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0150J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0163J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0164J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0175J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0176J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0177J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0178J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0179J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0181J	NOV. 16, 2006
		NOV. 16, 2006	17111C. 0183J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0200J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0205J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0206J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0207J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0208J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0209J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0215J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0217J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0220J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0226J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0230J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0236J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0237J	NOV. 16, 2006

COMMUNITY NAME	COMMUNITY NUMBER	DATE OF CURRENT EFFECTIVE MAP (OR MAP INDEX)	MCHENRY COUNTY FIRM PANEL NUMBER	MCHENRY COUNTY FIS EFFECTIVE DATE
MCHENRY COUNTY (UNINC.)	170732	NOV. 16, 2006	17111C 0238J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0239J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0275J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0276J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0277J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0281J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0300J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0303J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0304J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0305J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0308J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0309J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0310J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0312J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0314J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0315J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0316J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0318J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0320J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0326J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0327J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0328J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0329J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0334J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0335J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0336J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0337J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0340J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0341J	NOV. 16, 2006

COMMUNITY NAME	COMMUNITY NUMBER	DATE OF CURRENT EFFECTIVE MAP (OR MAP INDEX)	MCHENRY COUNTY FIRM PANEL NUMBER	MCHENRY COUNTY FIS EFFECTIVE DATE
MCHENRY COUNTY (UNINC.)	170732	NOV. 16, 2006	17111C 0342J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0343J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0351J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0352J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0353J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0354J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0365J	NOV. 16, 2006

Appendix 12

§15.60.270 Definitions

The following definitions shall be used with this Ordinance.

accessory building: A non-habitable structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.

actual start of construction: Either the first placement of permanent construction of a building on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or placement of a manufactured home on a foundation.

Advanced Identification Wetland Study (ADID): A study conducted in McHenry County by the USACE and the USEPA in 1997 to generate wetland maps.

agricultural building: An accessory building that is used solely for agricultural purposes in which the use is exclusively in connection with the production, harvesting, storage, drying, or raising of agricultural commodities, including the raising of livestock.

applicant: Any person, firm, or governmental agency who owns property or its duly appointed representative and proposes to develop that property and executes the necessary forms to procure a permit to obtain authorization for such regulated development from the Enforcement Officer.

appropriate use: The only regulated development within the designated floodway that is permissible and will be considered for permit issuance. The appropriate uses are determined by IDNR/OWR.

armoring: The placement of materials (concrete, rip-rap, retaining wall, etc.) within a channel or along a shoreline to protect property along streams, lakes or ponds from damage caused by wave action and flowing water.

as-built plans: Record drawings prepared by a licensed land surveyor or licensed professional engineer to confirm that a regulated development was constructed in substantial conformance with the approved plans.

base flood: The flood having a one percent probability of being equaled or exceeded in any given year. The base flood is also known as the 100 year flood event.

base flood elevation (BFE): The water surface elevation that can be expected during the base flood. Determination of the BFE at any location is as described in the Flood Hazard Areas section of this Ordinance.

basement: Any area of a building having its floor below ground level on all sides.

best management practice (BMP): Land planning and engineered practices designed to reduce soil erosion, sediment deposition, and water quality impacts of development.

boardwalk: A walkway constructed of wooden, composite, metallic, or other decking material, primarily serving pedestrian and bicycle traffic.

buffer: An area of predominantly vegetated land located adjacent to WOTUS and IWMC for the purpose of, but not limited to, reducing contaminants in stormwater that flows to such areas.

building: A structure that is principally above ground and is enclosed by two or more rigid walls and a roof. The term includes a gas or liquid storage tank, a manufactured home, mobile home or a prefabricated building. This term also includes recreational vehicles or travel trailers installed on a site for more than 180 consecutive days.

Certified Community: A community which has petitioned the MCSC and has been found by the MCSC to be capable of enforcing an ordinance (or ordinances) which contain rules and regulations which are consistent with or at least as stringent as the regulations of this Ordinance.

Certified Erosion, Sediment and Storm Water Inspector (CESSWI): A certification by EnviroCert International, Inc., which can be earned by demonstrating certain qualifications based on a combination of education and experience, and passing an exam.

Certified Professional in Erosion and Sediment Control (CPESC): A certification by EnviroCert International, Inc., which can be earned by demonstrating certain qualifications based on a combination of education and experience, and passing an exam.

channel: Any river, stream, creek, brook, branch, flow path, slough, ditch, gully, ravine, swale, wash, or drainageway with a discernible bed and banks, in or into which surface or groundwater flows, either perennially or intermittently.

channel modification: Alteration of a channel by changing the physical dimensions or materials of its bed or banks. Channel modification includes damming, rip-rapping or other armoring, widening, deepening, straightening, relocating, lining and significant removal of bottom or woody vegetation of the channel. Channel modification does not include dredging or the clearing of invasive, dead or dying vegetation, debris, or trash from the channel.

Class V injection wells: Any bored, drilled, or driven shaft, or dug hole that is deeper than its widest surface dimension, or an improved sinkhole, or a sub-surface fluid distribution system. This includes most direct infiltration structures such as drywells and column drains. Class V injection wells are regulated by the IEPA and the owner of any proposed injection well is required to submit an inventory information form prior to the infiltration structure becoming operational.

column drain: Any device, including drywells, which facilitates direct infiltration of stormwater runoff below the soil layer (typically greater than five feet).

community: Any municipality (as defined at Ill. Rev. Stat., 1989, Ch. 24, 1-1-2 {1}) or McHenry County when providing services or applying its regulatory authority to the unincorporated portions of the County.

compensatory storage: An excavated volume of storage used to offset the loss of existing flood storage volume when:

A. Fill, materials or structures are placed within a flood hazard area; or

B. A depressional storage area is drained.

Conditional Letter of Map Revision (CLOMR): A letter which indicates that FEMA will revise the BFEs, flood insurance rate zones, flood boundaries or floodway as shown on an effective FIRM, once the as-built plans are submitted and approved.

contiguous property: The lot or parcel of land on which a development is proposed, together with the adjacent lots or parcels of land that were owned in whole, or in part, by the same property owner on the effective date of this Ordinance.

control structure: A structure designed to control the rate of flow that passes through it, based on a specific upstream and downstream water surface elevation.

cosmetic repair: Cleaning, sanitizing, resurfacing (e.g., sanding, repair of joints, re-painting) and similar repairs.

critical duration: The duration of a storm event that results in the greatest peak runoff rate or the greatest peak storage volume required. A critical duration analysis shall compare the peak runoff rates or the peak storage volumes from varying storm durations between the 1 hour and 240 hour events.

dam: All obstructions, wall embankments or barriers, together with their abutments and appurtenant works, if any, constructed for the purpose of storing or diverting water or creating a pool. Underground water storage tanks are not included.

deed or plat restriction: Permanent easements, covenants, deed restricted open spaces, outlots, reserved plat areas, and conservation easements dedicated to meet the requirements of this Ordinance, or public road rights-of-way that contain any part of the stormwater management system of a development.

depressional storage area: A non-riverine depression where stormwater collects; only regulated when total storage of an individual depressional storage area exceeds 0.75 acre-feet. Any area within a closed contour and drained by a sewer or culvert with a full-flow capacity greater than 0.10 cubic feet per second per acre (cfs/ac) capacity shall not be considered a depressional storage area.

design storm: A selected storm event, described in terms of the statistical probability of occurring once within a given number of years, for which stormwater or flood control improvements are designed and built.

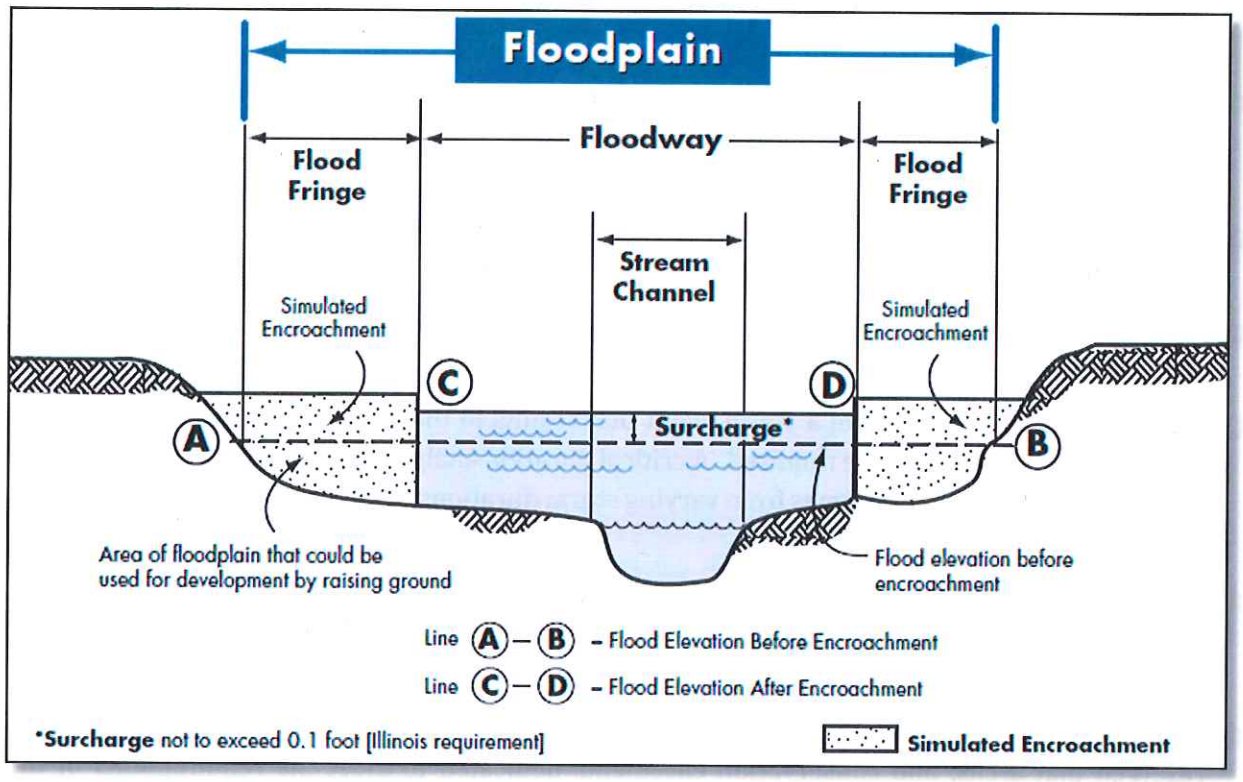
designated floodway: The channel, including on-stream lakes, and that portion of the floodplain adjacent to a stream or watercourse, as depicted on the FEMA FIRM, which is needed to store and convey the existing 100 year frequency flood discharge with no more than a 0.1 foot increase in stage due to the loss of flood conveyance or storage, and no more than a 10 percent increase in velocities. The need to preserve storage when determining the designated floodway will be waived if all the municipalities and counties along a hydraulically significant portion of the watershed require hydraulically equivalent compensatory storage for all lost floodplain storage volume.

FIGURE 4

Understanding the Floodway

Refer to Appendix 12 for the definition of underlined terms or to Appendix 13 for a list of acronyms.
Refer to Appendix 1 for permitting flowcharts.

(IDNR *Floodplain Management in Illinois Quick Guide*, 2001)



detention facility (detention pond/detention basin): A man-made structure for the temporary storage of water with a controlled release rate.

development: Any man-made change to real estate by private property owners or public agencies including, but not limited to:

A. Construction, reconstruction, repair or remodeling, maintenance or placement of a building or any addition to a building, including "ag exempt" buildings;

B. Installing a manufactured home on a site, preparing a site for a manufactured home, or installing a recreational vehicle or travel trailer on a site for more than 180 days (if the recreational vehicle or travel trailer is on the site for less than 180 days, it must be fully licensed and ready for highway use);

C. Drilling, mining, installing utilities, construction of roads, bridges, or similar projects;

D. Demolition of a structure or redevelopment of a site;

E. Construction or erection of levees, walls, fences, dams, or culverts;

F. Channel modification;

G. Filling, dredging, grading, excavating, paving, or other alterations of the ground surface;

H. Storage of materials;

I. Extensive removal of vegetation; or

J. Any other activity of man that changes the height or velocity of flood or surface water.

development site: The portion of contiguous property that is hydrologically disturbed by the development.

drain tile: Sub-surface conduit used for drainage of land, typically for agricultural purposes. Drain tile does not include footing drains.

drain tile survey: An inventory of existing farm and storm drain tiles, typically based upon a field investigation utilizing the slit trench method to locate existing drain tiles.

dredging: The maintenance or restoration of a water body by removing accumulated silt, sediment, and other debris from its bed.

dry detention facility: A detention facility designed to drain completely after temporary storage of stormwater. A dry detention facility is normally dry over the majority of its bottom area.

dry floodproofing: Building protection measures designed according to current FEMA guidelines to keep water out of the building. Dry floodproofing measures are among the floodproofing measures described in the following FEMA publications: *Engineering Principles and Practices for Retrofitting Flood-Prone Residential Structures* (FEMA P-259), *Homeowner's Guide to Retrofitting* (FEMA P-312), *Selecting Appropriate Mitigation Measures for Floodprone Structures* (FEMA 551), *Protecting Building Utilities from Flood Damage* (FEMA 348), *Reducing Damage from Localized Flooding* (FEMA 511), *Non-Residential Floodproofing – Requirements and Certification* (FEMA TB 3), and *Floodproofing Non-Residential Structures* (FEMA 102).

earth change: Development in which the primary activity is a change in ground elevations affected by the movement of earth materials.

effective date of this Ordinance: January 20, 2004. Subsequent amendments shall be effective upon passage of an amending ordinance.

elevation certificate: A form published by FEMA that is used to certify the lowest floor (including the basement) elevation to which a building has been constructed.

emergency overflow: The structure in a stormwater management facility designed to protect the stormwater management system in the event of a malfunction of the control structure or a storm event greater than the design storm. The emergency overflow capacity initiates at the design high water level of the stormwater management facility.

Enforcement Officer: The MCSC Chief Engineer or the Certified Community's development regulations officer.

erosion: The process whereby soil is detached by precipitation, flowing water, wind or wave action.

extensive removal of vegetation: Removal of 1 acre or more of vegetation, such as woods or meadow, for non-agricultural purposes and replacement with a surface cover having a higher Runoff Curve Number. The removal of vegetation (in any quantity) consisting primarily of invasive, dead, or dying vegetation shall not be considered extensive removal of vegetation.

flood: A general and temporary condition of partial or complete inundation of normally dry land areas from overflow of inland or tidal waves, or the unusual and rapid accumulation of runoff of surface water from any source.

flood damage: A measurable rise in flood heights at a building currently subject to flooding, or flooding of a building not currently subject to flooding.

flood damage-resistant materials: Any building product (material, component or system) capable of withstanding direct contact with floodwaters for at least 72 hours without sustaining damage requiring more than cosmetic repair. FEMA Technical Bulletin 2 provides guidance in the classification of flood damage-resistant materials.

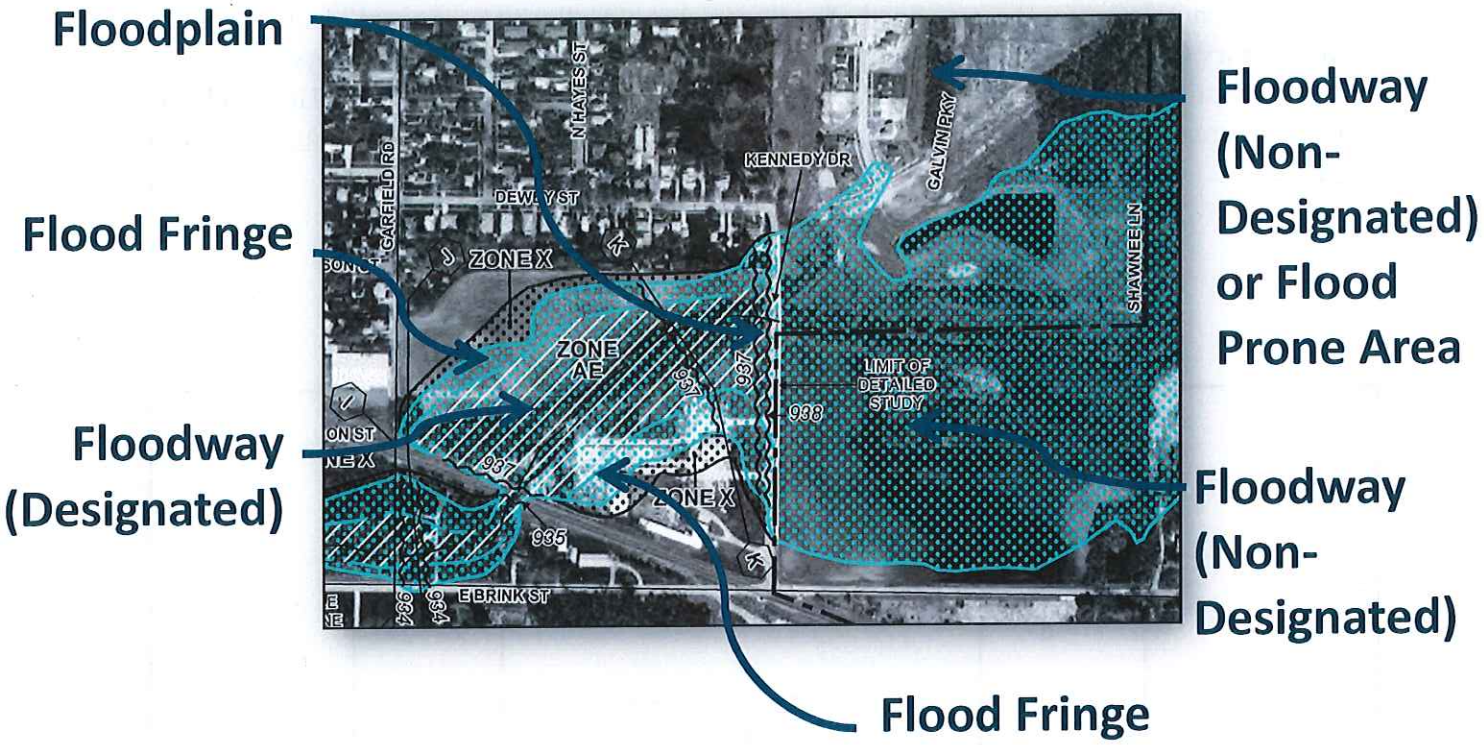
flood frequency: A frequency, normally expressed as a period of years, that a flood of a stated magnitude can be expected to be equaled or exceeded, based upon a statistical analysis of the percent chance of occurrence in any given year.

flood fringe: That portion of the floodplain outside of a designated floodway. No flood fringe exists within a floodplain that has a non-designated floodway.

flood hazard area: The land located in a floodway, floodplain, or flood prone area subject to the base flood.

FIGURE 5

Flood Hazard Areas



Flood Hazard Area Development: Regulated development located partially or completely within a floodway, floodplain, or a flood prone area.

Flood Insurance Rate Map (FIRM): A map prepared by FEMA that depicts the floodplain, designated floodways, and flood insurance risk premium zones within McHenry County. The effective dates of the FIRMs in McHenry County are listed in Appendix 11. The effective FIRMs may be amended or revised by a LOMC.

Flood Insurance Study (FIS): A report published by FEMA for McHenry County in conjunction with the McHenry County's FIRMs. The effective date of the McHenry County FIS is shown in Appendix 11. The study contains such background data as the base flood discharges and water surface elevations that were used to prepare the FIRMs. The effective FIS may be revised by a LOMC.

flood prone area: Any area inundated by the base flood and located outside the limits of the floodplain that:

A. Has a tributary area greater than 100 acres,

B. Is a depressional storage area, or

C. Is mapped as a Flood of Record area on the USGS-Hydrologic Investigation Atlas Flood of Record Maps.

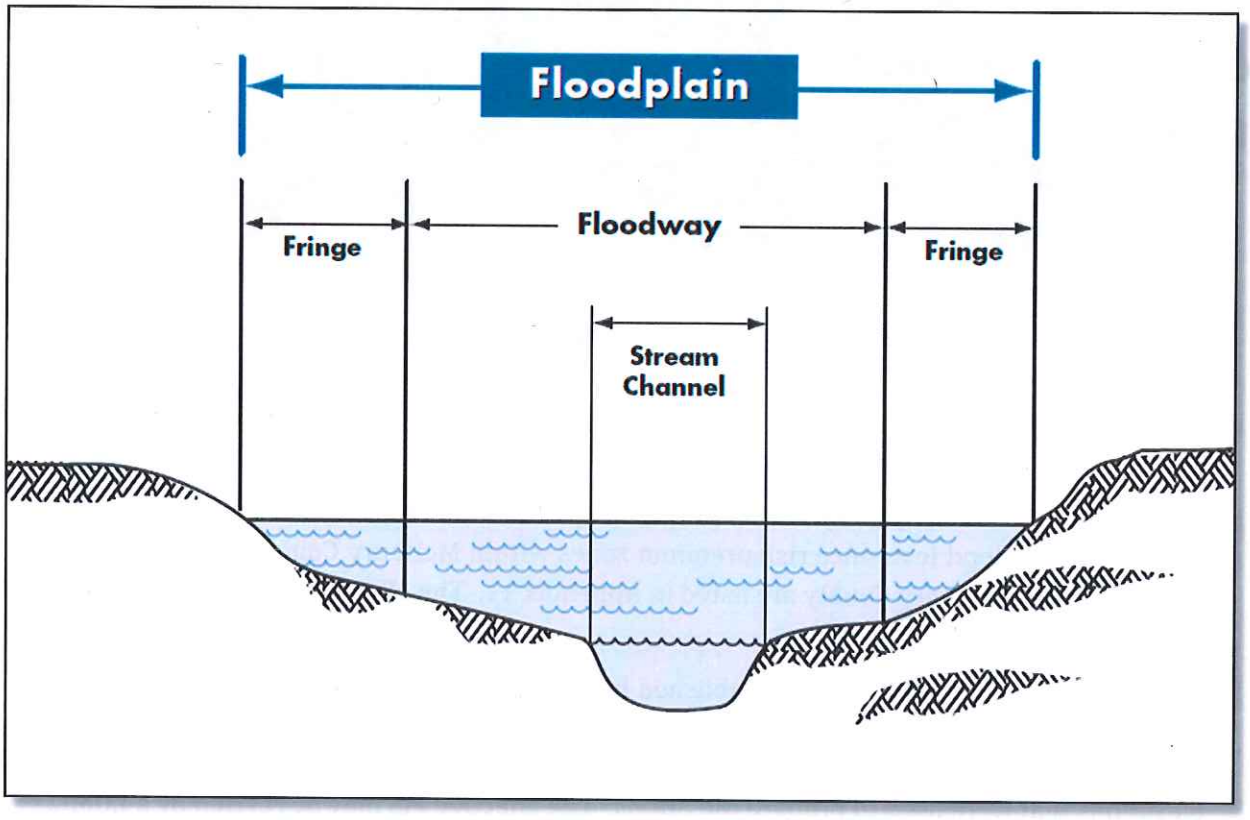
Refer to Appendix 12 for the definition of underlined terms or to Appendix 13 for a list of acronyms.
Refer to Appendix 1 for permitting flowcharts.

flood protection elevation (FPE): The BFE plus 2 feet of freeboard, except in the case of attached garages and small accessory buildings, where the FPE is the BFE plus 0.5 foot of freeboard.

floodplain: Those lands within the jurisdiction of McHenry County and its municipalities that are subject to inundation by the base flood. The floodplains of McHenry County are identified on the of McHenry County prepared by FEMA. The effective dates of the FIRMs in McHenry County are listed in Appendix 11. The effective FIRMs may be amended or revised by a LOMC. The floodplain includes areas identified on the FIRMs as Zones A, AO, AH, AE, A99, AR, AR/AE, AR/AO, AR/AH, or AR/A.

FIGURE 6

Understanding the Riverine Floodplain
(IDNR *Floodplain Management in Illinois Quick Guide*, 2001)



floodplain management: An overall program of corrective and preventive measures for avoiding or reducing future flood damage.

floodproofing: Any combination of structural and non-structural measures, changes or adjustments to buildings or property which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, buildings and their contents. (See also dry floodproofing and wet floodproofing.)

floodproofing certificate: A form published by FEMA that is used to certify that a non-residential building has been designed and constructed to be structurally dry floodproofed up to the FPE.

floodway: See designated floodway and non-designated floodway.

freeboard: An increment of height added to the BFE or a design high water elevation to provide a factor of safety for uncertainties in calculations, unknown local conditions, wave actions and unpredictable effects such as those caused by ice or debris jams.

functional assessment: An assessment of a wetland's flood storage, water quality and other beneficial functions.

General Permit: A stormwater management permit pertaining to a specific type of regulated development, which may be issued by MCSC or a Certified Community in order to streamline the permit process for a routine project. Each General Permit specifies the terms and conditions for a specific type of regulated development to assure compliance with the purpose and intent of this Ordinance. Valid General Permits are listed in Article III of this Ordinance.

HEC-1: Hydrograph producing hydrologic computer model created by the USACE in the Hydrologic Engineering Center.

HEC-2: Hydraulic step backwater computer model created by the USACE in the Hydrologic Engineering Center.

HEC-RAS: Windows™ based hydraulic step backwater computer model created by the USACE in the Hydrologic Engineering Center.

High Functional Value Wetland (HFVW): Any WOTUS or IWMC identified as such on the ADID Maps or any WOTUS or IWMC that, through a functional assessment, meets the criteria defined in that Study for determining high functional value, related specifically to hydrological and water quality functions.

High Quality Aquatic Resource (HQAR): WOTUS or IWMC that are determined to be critical due to their uniqueness, scarcity, function and/or value. The following types of WOTUS or IWMC are considered HQAR.

A. ADID wetland and aquatic sites.

B. Bog: A low nutrient peat land, usually in a glacial depression, that is acidic in the surface stratum and dominated by the genus Sphagnum.

C. Ephemeral pool: A seasonally inundated depression within forested or open areas, usually located on a moraine, glacial outwash plain, or in an area shallow to bedrock; also known locally as a "vernal pool." These areas may or may not be permanently vegetated.

D. Fen: An herbaceous or wooded peat land created and maintained by the constant surface water flow of cold mineralized (calcareous) groundwater flow.

E. Forested wetland: A wetland, including wooded seeps, shrub swamps, and floodplain forests, dominated by shrubs or trees growing on soils that are inundated or saturated much of the year, but that do dry out at the surface.

F. Sedge meadow: Saturated, sometimes flooded open wetlands dominated by grasses and sedges, including hummock forming Tussock Sedge (*Carex stricta*).

G. Seep: A wetland, herbaceous or wooded, with saturated soil or inundation resulting from the diffuse flow of groundwater to the surface stratum.

H. Streams: Perennial and intermittent streams, provided that the stream is not WOTUS and that the IBI is greater than 35, or that the stream is classified as Class A or Class B in the Biological Stream Characterization System of the IEPA.

I. Streamside marsh: A wetland that is within a 100 year riverine floodplain and dominated by herbaceous species.

J. Wet prairie: A wetland dominated by native graminoid species with a diverse indigenous forb component that is seasonally saturated and/or temporarily inundated.

K. Wetlands supporting Federal or Illinois endangered or threatened species.

L. Wetlands with a FQI of 20 or greater or a mean C-value of 3.5 or greater, as determined by the methodology described in *Plants of the Chicago Region* (Swink, F. and G. Wilhelm, 1994, 4th Edition, Indianapolis: Indiana Academy of Science).

M. Wetlands that are within a designated Illinois Natural Areas Inventory Site or McHenry County Natural Areas Inventory Site.

High Quality Habitat Sites (HQHS): WOTUS or IWMC that are identified as having high quality wildlife habitat, high floristic quality or high quality aquatic habitat based on the ADID Maps; or meets the criteria defined in the ADID Study through a functional assessment.

highest adjacent grade: The highest natural ground elevation in an area of interest, such as next to the proposed walls of a building.

historic structure: A structure that is:

A. Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

C. Individually listed on the State inventory of historic places by the Illinois Historic Preservation Agency; or

D. Individually listed on a local inventory of historic places that has been certified by the Illinois Historic Preservation Agency.

HY-8: Culvert hydraulic analysis program created by the Federal Highway Administration.

hydraulically equivalent compensatory storage: Compensatory storage that can be shown by hydrologic and hydraulic calculations to offset the loss of existing flood storage volume. The storage volume displaced below the existing 10 year frequency flood elevation must be replaced below the proposed 10 year frequency flood elevation. The storage volume displaced above the

existing 10 year frequency flood elevation must be replaced above the proposed 10 year frequency flood elevation.

hydrologic and hydraulic calculations: An engineering analysis which determines expected flood flows and flood elevations based on land characteristics, sub-surface drainage characteristics, and rainfall events.

hydrologically disturbed: An area where the land surface has been cleared, grubbed, compacted, graded, excavated, filled or otherwise modified in a manner that changes runoff volumes, or rates.

impervious surface, impervious area: Any hard-surfaced, compacted area that does not readily absorb or retain water, including but not limited to building roofs, asphalt and concrete surfaces, and graveled areas.

in-kind replacement: A replacement culvert, storm sewer, or drain tile that has an equivalent cross-sectional area and shape, with the same material or a smoother material. In-kind replacement of a culvert, storm sewer, or drain tile includes minor adjustment of pipe invert elevations to correct an adverse slope.

Index of Biotic Integrity (IBI): Ecologically based water quality score calculated from multiple types of fish data utilized to classify streams. An initial IBI may be obtained from the biannual IEPA Illinois Water Quality Report, but a site specific IBI assessment may override the initial IBI.

individual permit: Any stormwater management permit which does not meet the terms and conditions of a General Permit.

infiltration facility (infiltration pond/infiltration basin): A facility designed to completely retain a specified amount of stormwater runoff without release except by means of infiltration. A rain garden shall not be considered an infiltration facility.

initial construction: The date the first building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date.

inspect: To check or to review a site for compliance with this Ordinance, permitted plans and permit conditions.

Intermediate Development: Regulated development that:

A. Consists of hydrologic disturbance between 20,000 square feet and 1 acre; and

B. Is not a Public Road Development or Mining Development.

intermittent stream: A stream that has flowing water during certain times of the year, when groundwater provides water for stream flow. During dry periods, intermittent streams may not have flowing water. Runoff from rainfall is a supplemental source of water for stream flow. Intermittent streams are depicted on the USGS Quadrangle Maps with a dashed blue line.

Isolated Waters of McHenry County (IWMC): All waters such as rivers, lakes, ponds, streams (including intermittent streams), farmed wetlands, and wetlands that are not under USACE jurisdiction.

A. The limits of the IWMC extend to the ordinary high water mark or the delineated wetland boundary.

B. IWMC exclude excavations created for such purposes as stormwater conveyance, detention/retention areas constructed as part of a stormwater management system, recreation, mining, stock watering, irrigation, settling basins or wastewater treatment systems and roadside ditches, provided that the excavation has been permitted or that no permit was required at the time of the excavation.

C. Mitigation sites where wetlands or waters were created to meet the requirements of this Ordinance or Section 404 of the Clean Water Act are not excluded.

IWMC impact: IWMC that are disturbed or otherwise adversely affected, whether temporarily or permanently, by development. Trenchless installation of utilities beneath IWMC does not constitute an IWMC impact, provided that no soil is disturbed within the limits of the wetland, the installation does not drain the IWMC, and no drilling fluids are discharged into the IMWC.

IWMC mitigation: Compensation for impacts to IWMC through the restoration, creation, enhancement of wetlands or waters.

lake: A body of water encompassing an area of 2 or more acres which retains a normal water level throughout the year.

Letter of Map Amendment (LOMA): An official determination by FEMA that a specific building or parcel of land is above the BFE and was inadvertently included in a floodplain provided that the natural ground elevation has not been altered. A LOMA amends the effective floodplain limits on a FIRM. A LOMA does not modify a floodway limit or the BFE.

Letter of Map Change (LOMC): A LOMA or LOMR.

Letter of Map Revision (LOMR): Letter issued by FEMA or IDNR/OWR that revises BFEs, flood insurance rate zones, flood boundaries or floodways as shown on an effective FIRM.

licensed land surveyor: A surveyor licensed in the State of Illinois, under the Illinois Professional Land Surveyor Act of 1989 225 ILCS 330/1, et seq.(1994 State Bar Edition).

licensed professional engineer: An engineer licensed in the State of Illinois, under the Professional Engineering Practice Act of 1989 225 ILCS 325/1, et seq. (1994 State Bar Edition).

low opening elevation: The elevation at which water could enter a building through any non-watertight opening such as a doorway threshold, a window sill, the top-of-foundation, or a basement window well.

lowest adjacent grade: The lowest finished grade adjacent to a building, not including the bottom of window wells.

lowest floor: The lowest floor of the lowest enclosed area, including a basement. An unfinished or wet floodproofed enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the building in violation of the applicable non-elevation design requirements of this Ordinance.

maintainable outlet: A new storm sewer or overland flow path that discharges to an existing stormwater management system or channel.

maintenance of existing buildings: Re-roofing, replacement of windows, re-siding, carpeting, painting, installing a new water heater, installing a new electric service, and maintenance tasks that do not require a building permit.

maintenance of existing roads and trails: Rehabilitative maintenance, such as milling and overlaying, that does not increase the impervious area and does not increase the surface elevation. Maintenance of existing roads and trails also includes increasing the surface elevation with the following limitations:

A. Resurfacing outside flood hazard areas;

B. Resurfacing within flood prone areas;

C. Resurfacing within the flood fringe, provided the difference between the elevation of the road surface after resurfacing and the elevation of the road surface on the effective date of this Ordinance is not more than two inches.

maintenance plan: A plan for the perpetual maintenance of the stormwater management system, including wetlands, waters and buffer areas. A maintenance plan shall include the following:

A. Planned maintenance tasks and the frequency of each task such as removal of sediment, debris, mowing and pruning of vegetation, and restoration of eroded areas;

B. Identification of the party responsible for performing each task; and

C. A description of applicable deed or plat restrictions.

Major Development: Regulated development that is not classified as a Minor Development, Intermediate Development, Public Road Development, or Mining Development.

major stormwater system: The portion of a stormwater management system needed to store and convey flows for the base flood event.

manufactured home (or mobile home): A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term manufactured homes also includes park trailers, travel trailers and other similar vehicles placed on site for more than 180 consecutive days. The term manufactured home does not include a recreational vehicle or travel trailer.

manufactured home park (mobile home park, trailer park): A parcel (or contiguous parcels) of land on which two or more manufactured homes are harbored, either free of charge, for rent or for sale.

McHenry County Stormwater Management Commission (MCSC): The Commission established and existing under 55 ILCS 5/5 1062 (1994 State Bar Edition) for the purposes of developing, revising and implementing a countywide stormwater management plan and ordinance.

MCSC Chief Engineer: A licensed professional engineer representing the MCSC as the Enforcement Officer of this Ordinance.

Mining Development: Regulated development that:

A. Consists of extracting and/or mining mineral or aggregate resources; and

B. Is conducted upon a recorded parcel of land exceeding 2 acres; and

C. Involves the removal of 10 feet or more of overburden.

Minor Development: Regulated development that:

A. Consists of hydrologic disturbance of less than 20,000 square feet; and

B. Is not a Public Road Development or a Mining Development.

minor stormwater system: All infrastructure including curb, gutter, culverts, roadside ditches and swales, storm sewers, drain tiles, subsurface drainage systems, and other practices intended to convey or capture stormwater runoff from storm events less than the base flood event.

mitigation: Measures taken to offset negative impacts from development activities, such as construction in wetlands, waters and flood hazard areas. Wetland mitigation typically involves wetland restoration or enhancement. Floodplain and flood prone area mitigation typically involves compensatory storage and created conveyance capacity.

mitigation plan: A plan to mitigate IWMC impacts.

multi-county municipalities: A municipality containing corporate area within both McHenry County and an Illinois county located contiguously adjacent to McHenry County.

mobile home: See manufactured home.

National Flood Insurance Program (NFIP): The requirements of the NFIP are codified in Title 44 of the Code of Federal Regulations.

National Geodetic Vertical Datum of 1929 (NGVD29): Reference surface set by the National Geodetic Survey deduced from a Continental adjustment of all existing sea level adjustments in 1929. Mean Sea Level for 1929 (MSL adj. 1929), is an equivalent. Refer to the FIS for conversion between NGVD29 and NAVD88.

native vegetation: Generally, all warm season, deep rooted, grass and forb species believed to have grown naturally in the pre-settlement landscape of northern Illinois and southern Wisconsin.

natural ground elevation: The elevation of the ground on September 30, 1981, which was the effective date of the first FIRM in McHenry County.

natural streams and channels: Streams and channels formed prior to changes made by man. A modified stream or channel which has regained natural characteristics over time as it meanders and re-establishes vegetation may be considered natural.

new construction: Buildings for which the initial construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such buildings.

new impervious area: Impervious surface area created after the effective date of this Ordinance.

non-designated floodway: The channel, including on-stream lakes, and that portion of the floodplain adjacent to a stream or watercourse, not specifically identified as a floodway on the FEMA FIRM, but which has a tributary area of 640 acres or more in an urban area or a tributary area of 6,400 acres or more in a rural area. The urban area or rural area designations shall be determined by IDNR/OWR.

non-residential building: A commercial or industrial building. An accessory building is not considered a non-residential building.

non-riverine: Areas not associated with a stream or river, such as isolated depressional storage areas, ponds and lakes.

North American Vertical Datum of 1988 (NAVD88): A datum that supersedes the NGVD29. Refer to the FIS for conversion between NGVD29 and NAVD88.

online detention: Any detention facility that receives runoff from an offsite area or from an onsite area that is not hydrologically disturbed.

ordinary high water mark: The point on the bank or shore at which the presence and movement of surface water are continuous so as to leave a distinctive mark, such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other such recognized characteristics.

other maintenance activity: Rehabilitative maintenance that is not maintenance of existing buildings or maintenance of existing roads and trails, including but not limited to:

A. Repair or replacement of existing driveways or parking lots within the same footprint and outside flood hazard areas;

B. Repair or replacement of existing driveways or parking lots within the same footprint and within flood prone areas;

C. Repair or replacement of existing driveways or parking lots within the same footprint and within the flood fringe, provided the difference between the elevation of the paved surface after repair or replacement and the elevation of the paved surface on the effective date of this Ordinance is not more than two inches;

D. Repair of existing underground and overhead utilities, provided the repair does not result in any IWMC impact;

E. Repair or in-kind replacement of existing culverts, storm sewers, or drain tiles, provided the culverts, storm sewers, or drain tiles are outside the designated floodway and have a cross-sectional area less than 12.6 square feet;

F. Repair, not including in-kind replacement, of an existing bridge outside the designated floodway;

G. Maintenance of drainage ditches (i.e., dredging and the removal of obstructive, invasive, dead, or dying vegetation), outside the designated floodway, provided that spoil materials: are removed from the flood hazard area and are spread thinly and incorporated into existing cultivated areas; or are hauled away from the development site; and provided that

appropriate soil erosion and sediment control practices are utilized. Maintenance of drainage ditches does not include ditch straightening, ditch widening, flood hazard area fill, soil stockpiles or the construction of any new channel or water body;

H. Dredging of ponds, outside the designated floodway, provided that spoil materials: are removed from the flood hazard area and are spread thinly and incorporated into existing cultivated areas; or are hauled away from the development site; and provided that appropriate soil erosion and sediment control practices are utilized. Dredging of ponds does not include the construction of any new pond or water body;

I. Removal of any obstruction from a channel, culvert, or storm sewer to restore its original design or permitted condition. Removal of obstruction does not include channel straightening, channel widening, flood hazard area fill, soil stockpiles, or the construction of any new channel or water body; and

J. Maintenance to restore an existing stormwater management facility to its original design or permitted condition (the Enforcement Officer may also allow minor modifications to an existing stormwater management facility to reduce the need for future maintenance).

overland flow path: The route that stormwater will travel based on the topography of the land. Overland flow paths are typically viewed without consideration of infiltration, evaporation or underground drainage structures.

oversight committee: A decision-making authority designated by a Certified Community or McHenry County. For a Certified Community, the oversight committee may be comprised of the corporate authorities or any committee thereof, plan commission, zoning board of appeals, or other existing body, or the corporate authorities may, according to their own rules and procedures, establish a separate oversight committee. The Natural and Environmental Resources Committee of the McHenry County Board shall act as the oversight committee for McHenry County.

parcel identification number (PIN): Permanent index number used to identify properties.

perennial stream: A water course which intersects the groundwater table and flows throughout the year, depicted on the USGS Quadrangle Maps with a solid blue line.

performance guarantee: A bond, surety, letter of credit, or other instrument used to ensure regulated development conforms with the requirements of this Ordinance and the terms and conditions of the stormwater management permit.

permanent erosion control: Permanent features of a development site designed to control soil erosion and sedimentation.

permeable pavement: Porous asphalt, pervious concrete, permeable pavers and similar paving materials designed to promote stormwater infiltration. Permeable pavement is not considered an impervious surface, provided that it is constructed over soil which can be shown by development site specific soil data to be sufficiently permeable to allow infiltration without a system of underdrains and provided that the full depth of the pavement cross-section is above the seasonal high groundwater elevation.

pond: A body of water of less than 2 acres which retains a normal water level year round.

precipitation: Any form of water, such as rain, snow, sleet or hail that falls to the earth's surface.

pre-treatment: BMPs used to remove pollutants from stormwater prior to infiltration.

public bodies of water: All open public rivers, streams, and lakes specifically designated by IDNR/OWR. The IDNR/OWR designated public bodies of water are listed in Appendix 8. Generally, public bodies of water are capable of being navigated by watercraft, in whole or in part, for commercial uses and purposes, or which in their natural condition were capable of being improved and made navigable, or that are connected with or discharge their waters into navigable lakes or rivers within, or upon, the borders of the State of Illinois, together with all bayous, sloughs, backwaters, submerged lands and lakes that are open to the main channel or body of water and directly accessible thereto.

public flood control project: A flood control project which will be operated and maintained by a public agency to reduce flood damages to existing buildings and structures, including hydrologic and hydraulic calculations of the existing and proposed conditions of the watershed. Nothing in this definition shall preclude the design, engineering, construction or financing, in whole or in part, of a flood control project by persons or parties who are not public agencies.

Public Road Development: Regulated development that:

A. Takes place in a public right-of-way or part thereof; and

B. Does not include the construction of a building; and

C. Consists of culverts, bridges, roadways, sidewalks, bike paths and related construction. Public recreational trails and linear railroad developments shall be considered Public Road Development with respect to the requirements of this Ordinance, even if the public recreational trail or linear railroad development is not located within a public right-of-way.

qualified inspector: A person knowledgeable in the principles and practices of erosion and sediment control measures, such as a licensed professional engineer, a Certified Professional in Erosion and Sediment Control (CPESC), a Certified Erosion, Sediment and Storm Water Inspector (CESSWI) or other knowledgeable person who possesses the skills to assess conditions at the development site that could impact stormwater quality and to assess the effectiveness of any sediment and erosion control measures selected to control the quality of stormwater discharges from the construction activities.

rain garden: A small, shallow depression planted with flowers, grasses or other vegetation that is designed to collect stormwater runoff from surrounding areas. Rain gardens are typically less than 300 square feet in size with a depth less than 12 inches.

Rational Method: An empirical formula that relates stormwater runoff to rainfall intensity, surface area and surface characteristics.

recreational vehicle or travel trailer: A vehicle which is built on a single chassis; 400 square feet or less when measured at the largest horizontal projection; designed to be self-propelled or permanently towable by a light duty truck; and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

redevelopment: The process of developing land previously developed.

regulated development: Development that meets any of the criteria listed in Article II, Section B of this Ordinance, unless the development is specifically exempted in Article II, Section C of this Ordinance.

repair or remodeling: Development activities which do not result in any changes in the outside dimensions of a building, any changes to the dimensions of a structure or increase in impervious area.

repetitive loss: Flood-related damages sustained by a building on two separate occasions during a 5 year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the building before the damaged occurred.

retention facility (retention pond/retention basin): See infiltration facility.

riverine: Relating to, formed by, or resembling a stream (including creeks and rivers).

runoff: See stormwater runoff.

Runoff Curve Number: An empirical parameter developed by the NRCS and used for predicting direct runoff or infiltration from excess rainfall.

rural area: The rural area designation within non-designated floodways shall be determined by IDNR/OWR. In flood prone areas, all residential, commercial or other non-residential land uses that are not defined as or included within an Urban Area, as defined by the U.S. Department of Commerce, Census Bureau (USCB) or as approved by the Enforcement Officer.

sediment basin: A permanent, wet-bottom basin created to detain sediment-laden stormwater runoff long enough for sediment or other water-based debris to settle to the bottom.

sediment trap: A temporary structure formed by construction of an embankment or excavation of a basin in order to detain sediment-laden stormwater runoff from a disturbed area of 5 acres or less long enough for sediment or other water-based debris to settle to the bottom.

sedimentation: The processes that deposit soils, sediment, debris, and other materials.

silt fence: A temporary barrier of entrenched geotextile fabric (filter fabric) stretched across and attached to supporting posts used to intercept sediment laden runoff from small tributary areas of disturbed soil.

small accessory building: An accessory building that:

A. Is less than 600 square feet in size; and

B. Is less than $22,150 in value; and

C. Is only used for the storage of vehicles and/or tools; and

D. Is accessory to a residential building.

soil stockpile: 100 cubic yards or more of soil that remains in place for 7 or more days.

start of construction: The date on which a regulated development commenced.

stormwater management: A set of actions taken to control stormwater runoff with the objectives of providing controlled surface drainage, flood control and pollutant reduction in runoff.

stormwater management facility: A detention facility or infiltration facility.

stormwater management permit: A permit established by this Ordinance which signifies conformance with the provisions of this Ordinance. A stormwater management permit may be issued as a General Permit or as an individual permit.

stormwater management permit application: A form provided my McHenry County or a Certified Community that includes the following information:

A. The name and legal address of the applicant;

B. The PIN or legal description of each parcel comprising proposed development;

C. A written description of the proposed development;

D. The proposed hydrologically disturbed area;

E. The existing and proposed impervious area and the impervious area that existed at the development site prior to the effective date of this Ordinance;

F. Approximate start and end dates of the proposed development; and

G. A statement of intent to comply with the requirements of this Ordinance, signed by the applicant.

stormwater management system: The major and minor stormwater system for a development.

stormwater runoff: Precipitation that flows off of permeable and impermeable surfaces.

stormwater storage: Temporary detention or retention of stormwater with a controlled release rate or with release by means of infiltration.

stream: A course of running water flowing in a channel (includes creeks and rivers).

StreamStats: A web-based Geographic Information System developed by the USGS that delineates the watershed boundary and estimates stream flow statistics for a user selected site.

structural dry floodproofing: Building protection measures designed to make the building and its attendant utilities watertight and capable of resisting the effects of the base flood. The building design shall take into account flood velocities, duration, rate of rise, hydrostatic and hydrodynamic forces, the effects of buoyancy, and impacts from debris or ice. Structural dry floodproofing measures shall be operable without human intervention and without an outside source of electricity. Levees, berms, floodwalls, and similar building protection measures are forms of dry floodproofing which are not structural dry floodproofing.

substantial damage: Damage of any origin sustained by a building in a floodplain whereby the cumulative percentage of damage during a 5 year period equals or exceeds 50 percent of the market value of the building before the damage occurred, regardless of actual repair work performed. The market value of volunteer labor and materials must be included in this determination.

substantial improvement: Any repair, reconstruction, rehabilitation, addition, or other activity to a building in a floodplain taking place during a 5 year period in which the cumulative project cost equals or exceeds 50 percent of the market value of the building before the improvement or repair is started.

Substantial improvement is considered to begin when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building.

Substantial improvement includes:

A. The cost to repair a building that has incurred repetitive loss or substantial damage, regardless of the actual repair work performed; and

B. The cost of proposed maintenance of existing buildings; but

Substantial improvement does not include:

A. The cost of any maintenance of existing buildings completed within the previous 5 year period as a stand-alone project that did not require a building permit; or

B. The cost of any project to improve a building to comply with existing State or local health, sanitary, or safety code specifications, which are solely necessary to assure safe living conditions; or

C. The cost of any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

sub-watershed: A sub-section of a larger watershed. For the purpose of this Ordinance, sub-watersheds would include the tributary areas of named streams and lakes within a given watershed (i.e. Rush, Lawrence, and Mokeler Creeks are sub-watersheds within the Piscasaw Watershed).

temporary erosion control: Erosion control measures used to control soil erosion and sedimentation during the construction phase of a development.

temporary IWMC impact: An IWMC impact that would result in a short-term loss of IWMC function. Temporary IWMC impacts shall not result in a permanent conversion of wetland to non-wetland. Temporary IWMC impacts shall not include relocation of an IWMC, or conversion of a vegetated community to open water. Additionally, for the IWMC impact to be considered temporary: soil profiles shall be restored to a similar pre-disturbance condition and elevation; vegetative communities shall be restored to the same or higher quality and function; and the restoration must be completed within 1 year of the disturbance. The Enforcement Officer shall make the determination as to whether an IWMC impact is considered a temporary IWMC impact.

TR-20: Technical Release 20 is a hydrograph producing hydrology computer model created by the NRCS.

TR-55: Technical Release 55 (NRCS, June 1986) is a document that presents simplified procedures for estimating runoff and peak discharges in small watersheds.

transition section: Reaches of the stream where water flows from a narrow cross-section to a wide cross-section and vice-versa.

travel trailer: See recreational vehicle or travel trailer.

tributary area: All of the land surface that contributes runoff to a given point.

urban area: The urban area designation within non-designated floodways shall be determined by IDNR/OWR. In flood prone areas, any densely developed residential, commercial or other non-residential land uses in which the U.S. Department of Commerce, Census Bureau (USCB) census block or tract contains a population density of at least 2,500 people, at least 1,500 of which reside outside institutional group quarters or as approved by the Enforcement Officer. Urbanized Areas and Urban Clusters, as defined by the USCB, are subsets of urban areas. A map of all urban areas of the county can be found on the USCB website: http://tigerweb.geo.census.gov/tigerweb/.

USGS Regression Equations: Equations developed by the USGS and approved by IDOT for estimating the peak runoff from a watershed for a given flood frequency.

variance: A grant of relief by a community from the requirements of this Ordinance.

violation: The failure of a structure or other regulated development to be fully compliant with this Ordinance. A structure or other regulated development without the elevation certificate, other certifications, or other required evidence of compliance is presumed to be in violation until such time as that documentation is provided.

water dependent facilities: Structures or facilities relating or requiring access to the water or shoreline. Examples include shoreline protection, pumping and boating facilities and improvements.

waters: A subset of the definitions of the WOTUS and IWMC. Waters are areas that are normally inundated by surface water, such as lakes, ponds, and streams (including intermittent streams).

Waters of the United States (WOTUS): Those areas that are under the regulatory jurisdiction of the USACE.

watershed: A geographic area that collects, concentrates and contributes stormwater runoff to a given point on a waterway. The major watersheds in McHenry County, which are shown in Appendix 9, are:

A. Piscasaw Creek,

B. Nippersink Creek,

C. Kishwaukee River,

D. Upper Fox River,

E. Lower Fox River, and

F. Coon Creek.

watershed benefit: A decrease in flood damages created by installation of the stormwater management system. The benefit must be beyond the benefit provided by meeting the minimum requirement of this Ordinance.

watershed plan: A study and evaluation of the stormwater management and/or floodplain management needs and capabilities of a watershed or sub-watershed.

Watershed Specific Area Development: Regulated development that is partially or completely located in a watershed or sub-watershed, for which additional or more restrictive standards have been adopted by MCSC or a Certified Community, based on the recommendations of a watershed plan.

wet bottom detention facility: A wet detention facility is designed to maintain a permanent pool of water after the temporary storage of stormwater runoff.

wet floodproofing: Protection from flood damage according to current FEMA guidelines by using flood damage-resistant materials below the FPE and elevating other items above the FPE. Wet floodproofing measures are among the floodproofing measures described in the following FEMA publications: *Wet Floodproofing Requirements for Structures Located in Special Flood Hazard Areas* (FEMA TB 7-93), *Engineering Principles and Practices for Retrofitting Flood-Prone Residential Structures* (FEMA P-259), *Homeowner's Guide to Retrofitting* (FEMA P-312), *Selecting Appropriate Mitigation Measures for Floodprone Structures* (FEMA 551), *Protecting Building Utilities from Flood Damage* (FEMA 348), *Reducing Damage from Localized Flooding* (FEMA 511), *Non-Residential Floodproofing – Requirements and Certification* (FEMA TB 3), and *Floodproofing Non-Residential Structures* (FEMA 102).

wetland: A subset of the definitions of the WOTUS and IWMC. Wetlands are land that is inundated or saturated by surface or ground water at a frequency and duration sufficient to support, under normal conditions, a prevalence of vegetation adapted for life in saturated soil conditions (known as hydrophytic vegetation). A wetland is identified based upon the three attributes: 1) hydrology, 2) soils and 3) vegetation as mandated by the current Federal wetland determination methodology.

wetland creation: The introduction of wetlands to an area where none existed historically.

Wetland and Waters Development: Regulated development located partially or completely within WOTUS or IWMC.

wetland enhancement: The improvement in wetland functional value of an area currently meeting the technical definition of a wetland.

wetland mitigation banking: The process of purchasing "credits" from a financial institution established by a third party to compensate for permitted losses.

wetland restoration: The re-introduction of wetlands to an area where wetlands existed historically, but not prior to the mitigation activity.

wetland restoration activities: Those restoration activities in wetlands or adjacent buffer areas determined to be necessary and beneficial to the preservation, maintenance, or restoration of wetland plant communities, wildlife habitat and ecosystems native to McHenry County.

wetland specialist: A person complying with A, B, and C as follows:

A. Provide a signed statement of qualifications to MCSC demonstrating the minimum requirements of B and C have been met. The signed statement will be considered evidence of qualification.

B. Completion of the USACE Wetland Delineation Certification Program or equivalent course and meet one of the following.

(1) Registered Professional Wetland Scientist (PWS) from the Society of Wetland Scientists; or

(2) Minimum of a Bachelor's Degree in an Earth Science or Biologic Science and at least one of the following:

a. Three years (cumulative) full-time experience in the Upper Midwest region on wetland related projects; or

b. The completion of 100 wetland delineations in the upper Midwest; or

c. A minimum of 300 hours spent in field review of wetlands in the Upper Midwest.

C. A minimum of 24 work-related professional development hours shall be obtained every three years. Documentation shall be self-monitoring and shall be provided to MCSC upon request.

Zone A: Areas subject to inundation by the 1 percent-annual chance flood event generally determined using approximate methodologies. Because detailed hydraulic analyses have not been performed, no BFEs or flood depths are shown. Mandatory flood insurance purchase requirements and Flood Hazard Area Performance Standards apply.

Zone AE: Areas subject to inundation by the 1 percent-annual chance flood event determined by detailed methods. BFEs are shown. Mandatory flood insurance purchase requirements and Flood Hazard Area Performance Standards apply.

Zone AH: Areas subject to inundation by 1 percent-annual-chance shallow flooding (usually areas of ponding) where average depths are between one and three feet. BFEs derived from detailed hydraulic analyses are shown in this zone. Mandatory flood insurance purchase requirements and Flood Hazard Area Performance Standards apply.

Zone AR: Areas that result from the decertification of a previously accredited flood protection system that is determined to be in the process of being restored to provide base flood protection. Mandatory flood insurance purchase requirements and Flood Hazard Area Performance Standards apply.

Zone AO: Areas subject to inundation by 1 percent-annual-chance shallow flooding (usually sheet flow on sloping terrain) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown in this zone. Mandatory flood insurance purchase requirements and Flood Hazard Area Performance Standards apply.

Appendix 13

§15.60.280 Acronyms

The following acronyms shall be used with this Ordinance.

ADID: Advanced Identification Wetland Study

BFE: Base flood elevation

BMP: Best management practice

CESSWI: Certified Erosion, Sediment and Storm Water Inspector

CLOMR: Conditional Letter of Map Revision

CPESC: Certified Professional in Erosion and Sediment Control

FEMA: Federal Emergency Management Agency

FIRM: Flood Insurance Rate Map

FIS: Flood Insurance Study

FPE: Flood protection elevation

HFVW: High Functional Value Wetland

HQAR: High Quality Aquatic Resource

HQHS: High Quality Habitat Sites

IBI: Index of Biotic Integrity

IDNR: Illinois Department of Natural Resources

IDNR/OWR: Illinois Department of Natural Resources/Office of Water Resources

IDOT: Illinois Department of Transportation

IDOT/DOH: Illinois Department of Transportation/Division of Highways

IEPA: Illinois Environmental Protection Agency

IWMC: Isolated Waters of McHenry County

LOMA: Letter of Map Amendment

LOMC: Letter of Map Change

Refer to Appendix 12 for the definition of underlined terms or to Appendix 13 for a list of acronyms.
Refer to Appendix 1 for permitting flowcharts.

LOMR: Letter of Map Revision

MCCD: McHenry County Conservation District

MCSC: McHenry County Stormwater Management Commission

NAVD88: North American Vertical Datum of 1988

NFIP: National Flood Insurance Program

NGVD29: National Geodetic Vertical Datum of 1929

NRCS: United States Department of Agriculture – Natural Resource Conservation Service

PIN: Parcel Identification Number

USACE: United States Army Corps of Engineers

USEPA: United States Environmental Protection Agency

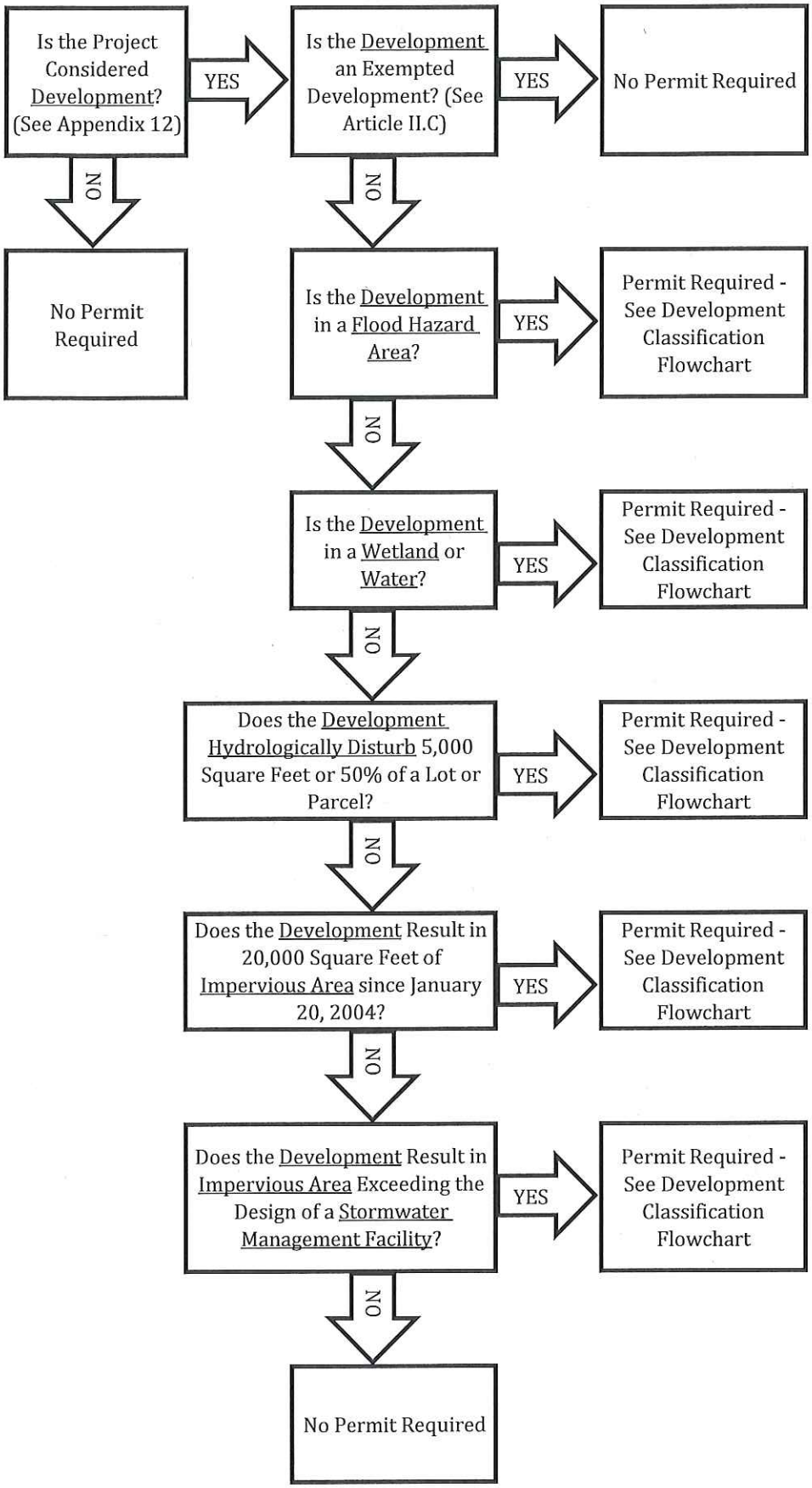
USFWS: United States Fish and Wildlife Service

USGS: United States Geological Survey

WOTUS: Waters of the United States

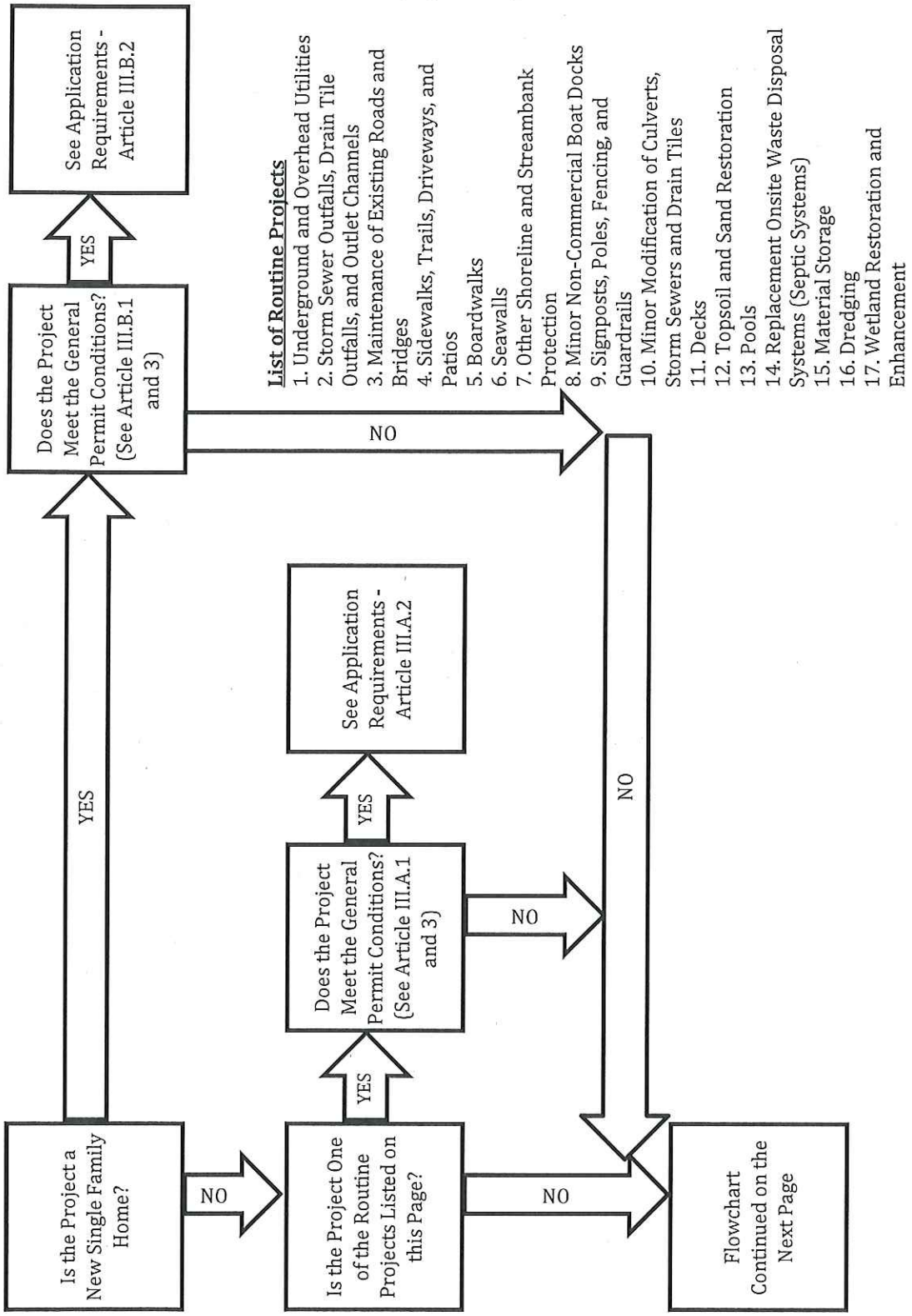
Appendix 1 §15.60.150 Permitting Flowcharts

Regulated Development Flowchart



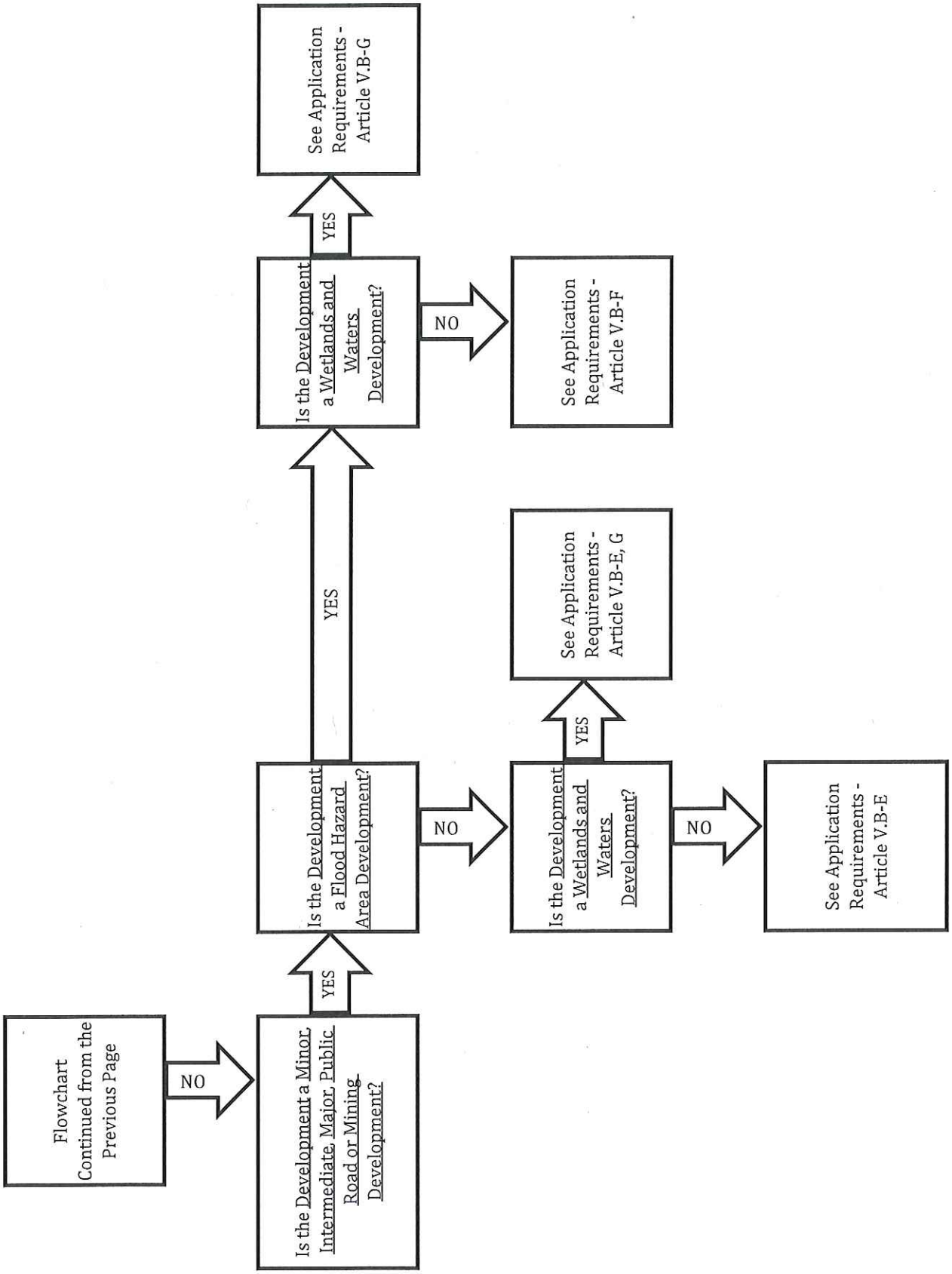
Refer to Appendix 12 for the definition of underlined terms or to Appendix 13 for a list of acronyms.

Development Classification Flowchart (Page 1 of 2)



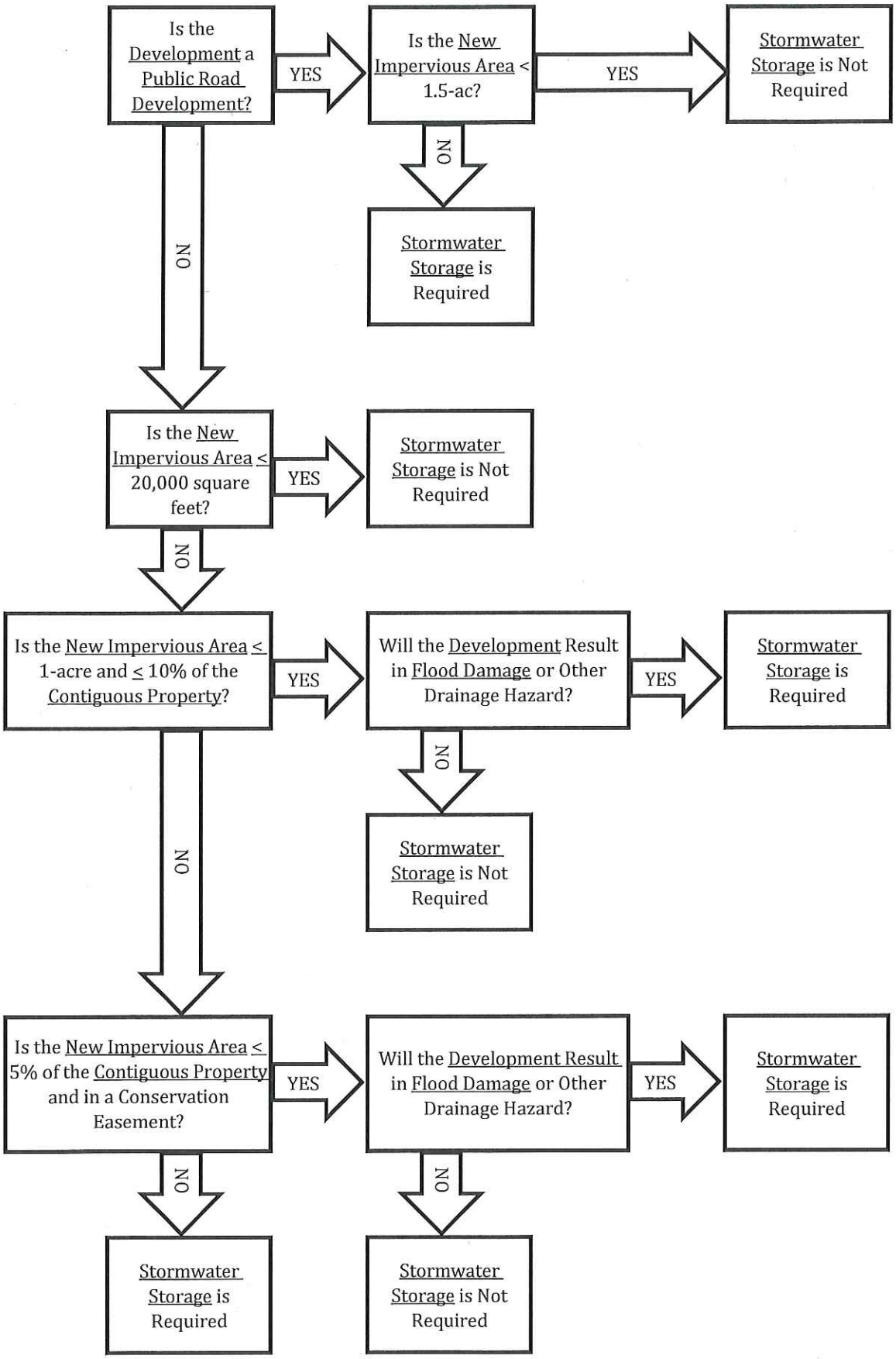
Refer to Appendix 12 for the definition of underlined terms or to Appendix 13 for a list of acronyms.

Development Classification Flowchart (Page 2 of 2)



Refer to Appendix 12 for the definition of underlined terms or to Appendix 13 for a list of acronyms.

Runoff Control Submittal Flowchart (Page 1 of 2)



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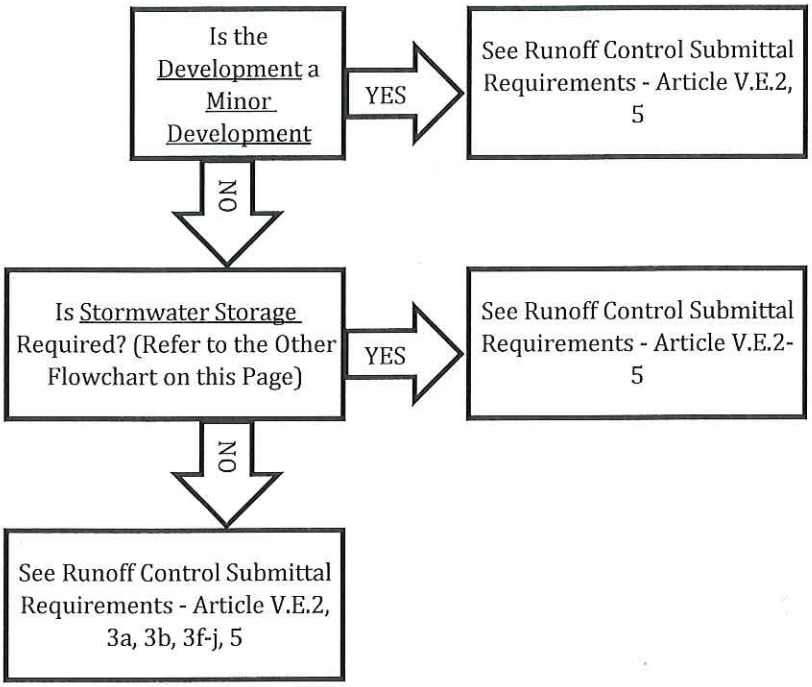
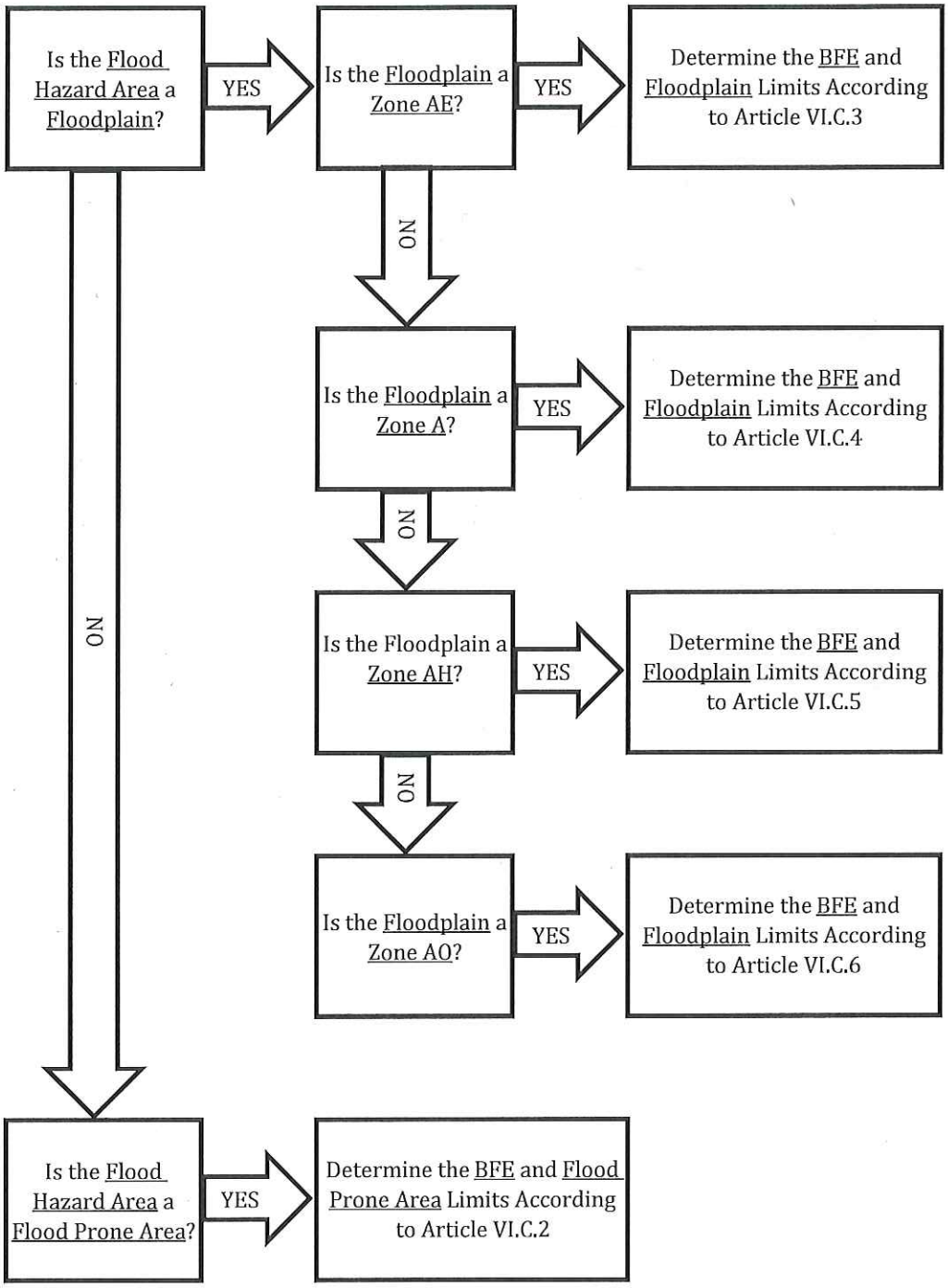
Runoff Control Submittal Flowchart (Page 2 of 2)



Flood Hazard Area Submittal Flowchart (Page 1 of 3)



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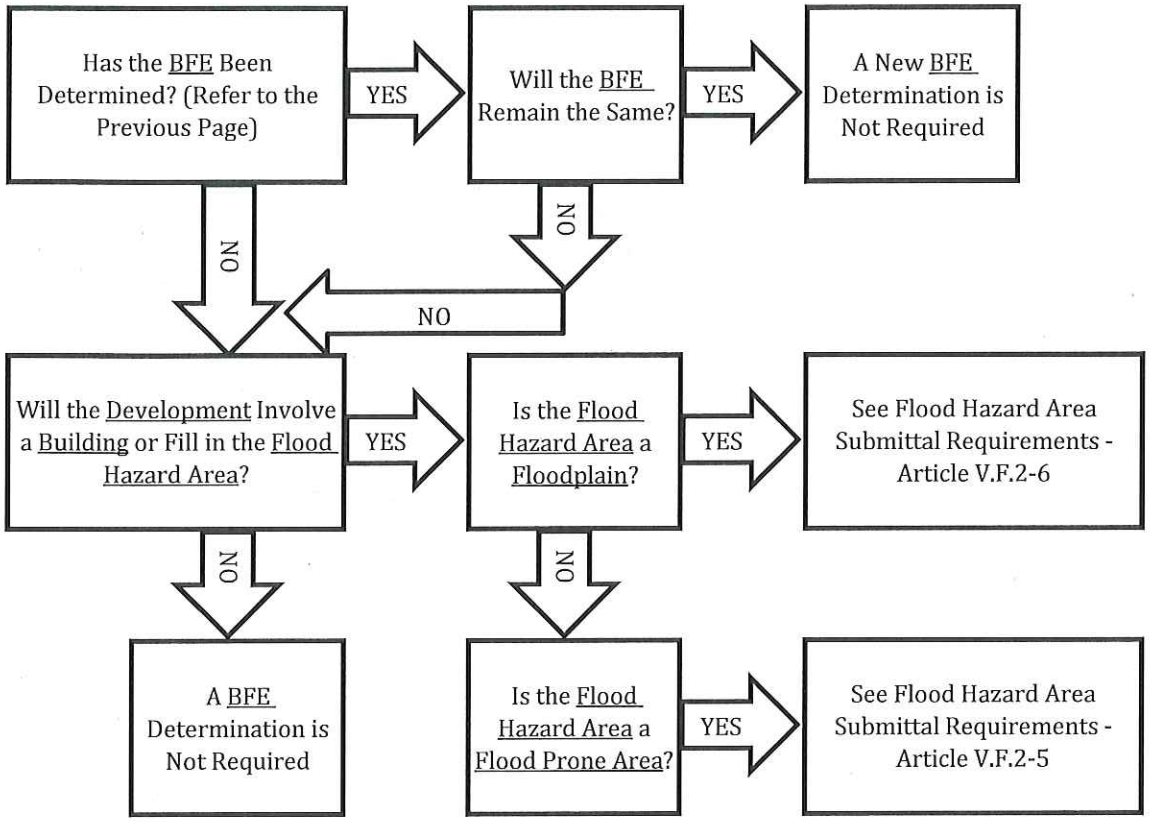
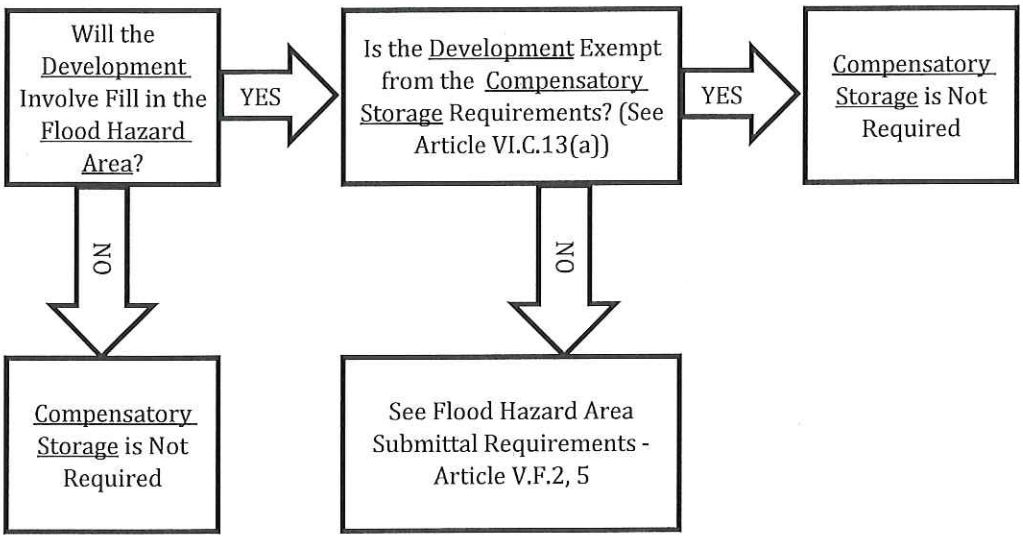
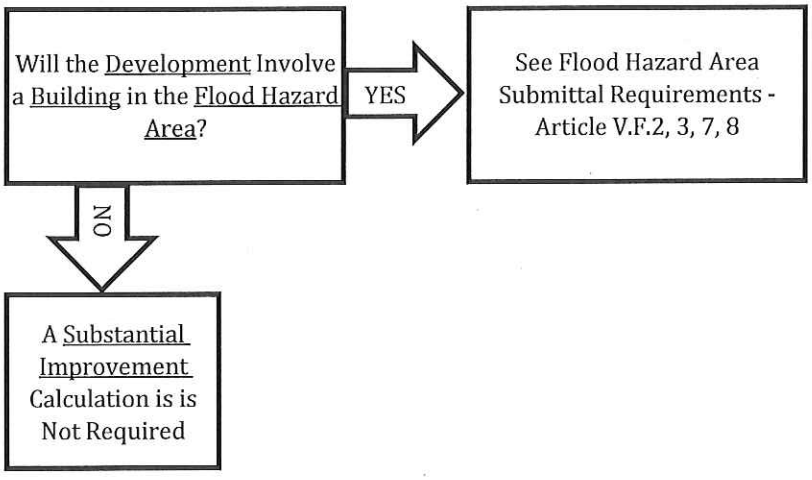
Flood Hazard Area Submittal Flowchart (Page 2 of 3)



Refer to Appendix 12 for the definition of underlined terms or to Appendix 13 for a list of acronyms.

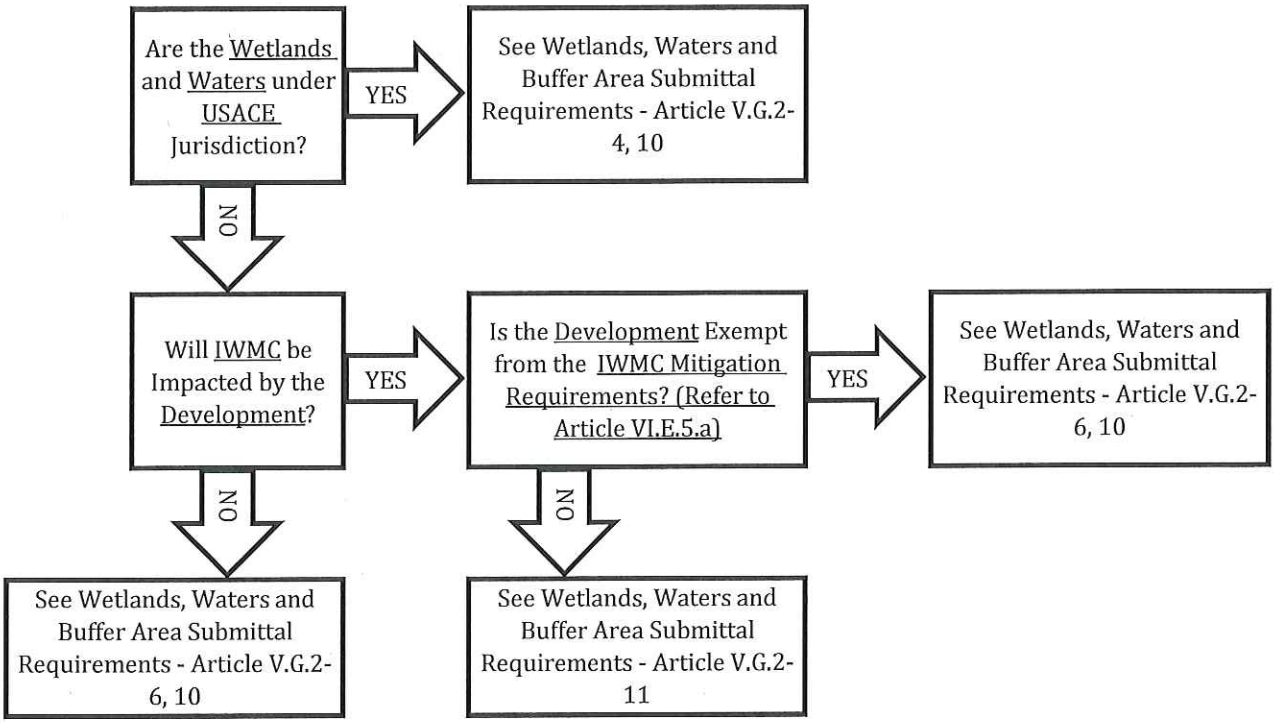
Flood Hazard Area Submittal Flowchart (Page 3 of 3)





Refer to Appendix 12 for the definition of underlined terms or to Appendix 13 for a list of acronyms.

Wetlands, Waters and Buffer Area Submittal Flowchart



Refer to Appendix 12 for the definition of underlined terms or to Appendix 13 for a list of acronyms.

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
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30.10 Unauthorized Releases
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30.15 Severability
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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.

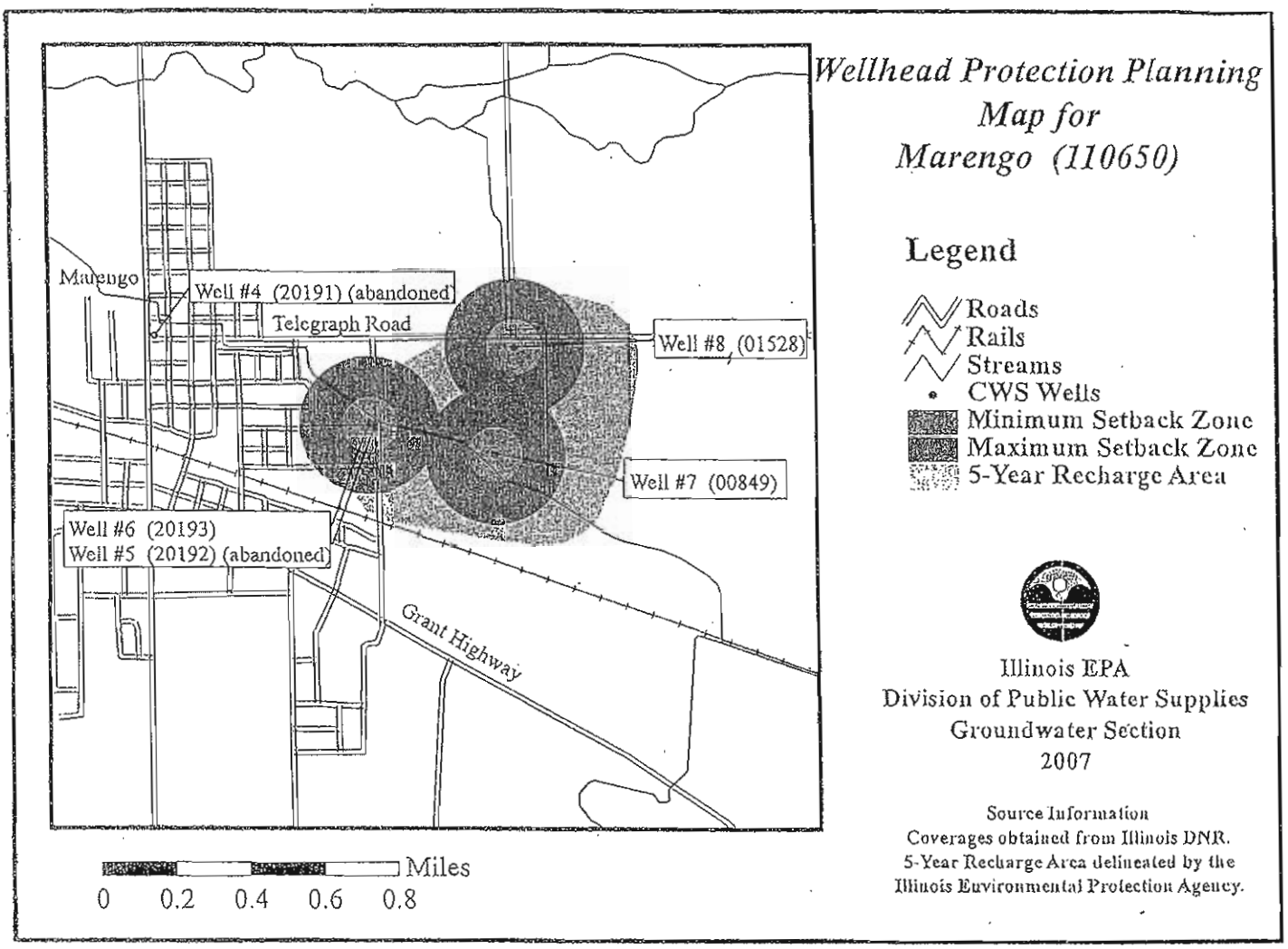
2. Location of adjacent (within 400 feet of the property line) public or private drinking water supply wells.

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 *Amended, 13-6-2*

A. PERMITS AND FEES:

1. For the purposes of the Section, the term "garage sale" shall mean and include all sales of tangible personal property conducted on premises in the City that are zoned for residential use, regardless of the name by which such sale may be called.

2. Permits for garage sales shall be limited to the sale of household goods and furnishings. No person, firm or corporation shall, at any garage sale, sell any goods acquired in wholesale lots.

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 days total for the 12 month period. The license shall allow for the sale to be conducted between the hours of 8 a.m. and 5 p.m. on the permitted days. 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.

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 appli-

cant 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 indefinite 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 application 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 a 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** *Amended, 12-10-3, 12-5-3*

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, regulate, permit or license any gambling device or authorize any gambling which shall only be permitted as provided in Section 33.38 of this Code.

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 May 1st through April 30th of each following year. Any license issued after May 1st shall require the $50.00 fee per device and will expire April 30th 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 after 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 occasions which are separated by a period of not less than 30 days, shall have its license revoked if, upon a bearing 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 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 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

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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, 16-9-2, 16-5-3, 12-5-5, 10-6-3, 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 Commis-

sion 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.

4. The City shall be named on the licensee's liquor liability insurance as an additional insured. Said policy cannot be cancelled without first giving the City 30 days' prior written notice of said cancellation.

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 $7,500 shall be payable upon the initial application for liquor license classifications AA, BB, B or G. A non-refundable application fee in the amount of $5,000 shall be payable upon the initial application for liquor license classifications E, EE, R, GC, EEE or VGC. No initial application fee shall be required from liquor classifications C, D, BYOB or Daily Permits. The renewal of liquor licenses as provided in Section 33.13 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 *Amended, 11-11-1*

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. The fee for licenses issued after the 1st day of May of any year will be prorated.

The fee for licenses issued after the 1st of May but before September 1st of any year shall pay the full amount, licenses issued after September 1st but before January 1st of any year shall pay two-thirds (2/3) of the full amount, and licenses issued after January 1st but before May 1st of any year shall pay one-third (1/3) of the full amount.

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, 16-9-3, 16-9-2, 16-6-1, 16-5-3, 16-2-5, 14-9-3, 14-2-2, 13-09-3, 12-8-1, 12-5-5, 11-10-5, 10-5-1, 10-2-1, 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 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.

3. 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.

4. 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.

5. 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.

6. 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.

7. 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.

8. 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.

9. 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.

10. 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.

11. 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.

12. A Class VGC, which shall authorize the retail sale of beer and wine for consumption on the licensed premises where the major and primary business is that of a video gaming café, defined as an establishment which has obtained a video gaming license pursuant to the Illinois Video Gaming Act and which offers alcohol and food as an amenity only, subject to the following restrictions:

a. The licensed premises shall satisfy all building, premises, health code requirements applicable to liquor establishments in the City of Marengo;
b. The business must derive a portion of its revenue from food sales, but the food sold need not be prepared on site;
c. All operations must be conducted indoors (no outdoor eating/drinking/gaming allowed);
d. No other forms of gaming (billiards, darts, etc.) are allowed on the premises;
e. Patrons may not bring their own alcohol onto the premises;
f. No person under the age of 21 shall be allowed on the premises;
g. A VGC licensee shall comply with all applicable provisions of the Illinois Liquor Control Act, as amended, the Illinois Video Gaming Act, and the Marengo City Code, as amended; and
h. The annual fee for a VGC license shall be $1,500.

13. A BYOB Permit shall allow a customer to bring beer or wine only into the permitted premises of a restaurant to be consumed on premises only as a compliment to food. For the purposes of this BYOB permit, a restaurant must derive more than forty percent (40%) of its gross revenue (on an annual basis) from the sale of food. The records used to determine whether said forty percent (40%) standard has been met shall include, but not be limited to, audited financial statements, corporate financial reports, tax return information or any other form deemed acceptable by the city. The permit holder may provide glasses for the consumption of beer or wine only on the premises. No permit holder, agent, staff or employee may open or pour the beer or wine. No on site storage of beer or wine is permitted. In addition to general liability insurance, licensee must provide a certificate of insurance naming the City of Marengo certificate holder and additional insured in the amount of two hundred fifty thousand dollars ($250,000.00) per person and five hundred thousand ($500,000.00) per occurrence for bodily injury liability, or a five hundred thousand dollar ($500,000.00) single limit dramshop policy.

    Applicant must provide proof of ownership or a fully executed lease for premises where permit is being sought. Applicant must agree in writing to abide by the City of Marengo's liquor control and licensing code. A permit shall be valid for a period of one year (May 1st to April 30th) unless revoked or suspended sooner. The annual permit fee may be prorated if sought before May 1st. The hours of a BYOB permit shall reflect what is currently in the liquor code as well as all applicable provisions of said code.

    The annual fee for a BYOB Permit shall be $200.00.

14. NUMBER OF LICENSES ISSUED: There shall be issued in the City not more than:

Class AA:	Five licenses
Class B:	Three license
Class BB:	Two licenses
Class C:	Zero licenses
Class D:	Zero licenses
Class E:	Five licenses
Class E1:	Zero licenses
Class EE:	Zero licenses
Class EEE:	One license
Class EEE1:	One license
Class G:	Three licenses
Class GC:	One license
Class R:	One license
Class VGC	One License

I. 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:

   i. Date, time and location of the event;

   ii. Type of alcohol to be served, which cannot exceed the type of alcohol a licensee already sells pursuant to its license;

   iii. Description of the security measures to be utilized for both liquor service and the event;

   iv. Description of the area in which alcoholic liquor will be available for service and consumption; and

   v. 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 *Amended, 12-5-3*

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.

9. Violate or permit a violation of any federal, state or local law, regulation or ordinance related to video gaming.

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 or the Illinois Gaming Board 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 referred 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.

33.38 VIDEO GAMING TERMINALS *12-5-3*

A. No gambling of any sort shall be permitted in the City except as authorized by

this Section.

B. Video gaming terminals shall be permitted in and upon the premises used or occupied as a place where alcoholic liquor is sold or given away if each of the following conditions is first met:

1. The use and placement thereof is in compliance with the provisions of the Video Gaming Act (230 ILCS 40/1 *et seq.*), as amended; and

2. The use and placement thereof is in compliance with the provisions of all rules promulgated by the Illinois Gaming Board pursuant to the Illinois Administrative Procedures Act; and

3. The licensee or agent of the licensee:

   (a) Files with the City Clerk a copy of the licensee's written use agreement with the terminal operator for placement of the video gaming terminals and a copy of the license issued by the Illinois Gaming Board; and

   (b) Pays to the City an annual fee of $25 for each video gaming terminal upon the premises.

C. No video gaming terminal that is permitted under the provisions of Section may be played except during the legal hours of operation allowed for the consumption of alcoholic beverages on the licensed premises.

D. If a licensee violates any provision of the Video Gaming Act, or rules and regulations of the Illinois Gaming Board or any provision related to video gaming terminals contained in this Section, such violation shall be deemed a violation of the licensee's liquor license.

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.

Revised December, 2006

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 _____

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 _____

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	Live Scan Fee
$25.00	Administrative Fee
$69.00	Total Due

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

Revised December, 2006

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 Taxation of Occupations or Privileges

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 willfully avoided payment of the tax imposed herein, he may suspend or revoke all City licenses held by the hotel. The operator shall have an opportunity to be heard at a hearing held not less than five days after notice of the time and place of the hearing, with said notice addressed to the operator at the last known place of business, has been delivered to the operator.

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 TAXATION OF OCCUPATIONS OR PRIVILEGES *Amended, 10-4-1, 10-3-1*

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 are defined pursuant to 65 ILCS 5/8-11-2(d).

B. In addition to all taxes, fees and other revenue measures imposed by the City, state or any other political subdivision of the state, a tax is imposed on all persons engaged in the following occupations or privileges:

1. Persons in the business of distributing, supplying, furnishing or selling gas for use or consumption within the corporate limits of the City and not for resale, at the rate of five percent of the gross receipts therefrom.

2. The privilege of using or consuming electricity acquired in a purchase at retail and used or consumed within the corporate limits of the City at rates not to exceed the following maximum rates, calculated on a monthly basis for each purchaser:

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.

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 those transactions that 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. COLLECTION: The tax imposed by Section 34.06-B2 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 34.06 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 34.06 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 34.06 shall, at the time of filing such return, pay the City the amount of the tax collected pursuant to this Section 34.06.

F. BOOKS AND RECORDS:

1. Every person delivering electricity who is required to collect a tax pursuant to Section 34.06-B2 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 Section 34.06-B2 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 34.06-B2.

2. Every person delivering electricity 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 this Section.

G. TAX REMITTANCE AND RETURN:

1. Every person collecting a tax pursuant to Section 34.06-B2 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 remit-

tance 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 34.06-B-2 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 this Section, 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.

H. REPORTS TO THE CITY: On or before the last day of each month each taxpayer subject to Section 34.06-B2 shall make a return to the Treasurer for the proceeding month stating:

1. Name;
2. Principal place of business;
3. Gross receipts and/or Kilowatt-hours 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 City 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.

I. ERRORS: If it appears 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 one year prior to the filing of a claim therefor shall be so credited.

J. RECOVERY DEADLINE: No action to recover any amount of tax due under the provisions of this Section shall be commenced more than one year after the due date of such amount.

K. 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.

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
SIMPLIFIED MUNICIPAL TELECOMMUNICATIONS TAX

37.01 Definitions
37.02 Simplified Municipal Telecommunications Tax Imposed
37.03 Collection of Tax by Retailers
37.04 Returns to Department
37.05 Resellers

37.01 **DEFINITIONS** *Amended, 10-7-3*

Terms used in this Chapter, whether capitalized or not, mean as follows:

Act: The Simplified Municipal Telecommunications Tax Act (35 ILCS 636/5-1 *et seq.*).

Amount paid: The amount charged to the taxpayer's service address in such the City regardless of where such amount is billed or paid.

Department: The Illinois Department of Revenue.

Gross charge: The amount paid for the act or privilege of originating or receiving telecommunications in the City and for all services and equipment provided in connection therewith by a retailer, valued in money whether paid in money or otherwise, including cash, credits, services and property of every kind or nature, and shall be determined without any deduction on account of the cost of such telecommunications, the cost of the materials used, labor or service costs or any other expense whatsoever. In case credit is extended, the amount thereof shall be included only as and when paid. Gross charges for private line service shall include charges imposed at each channel termination point within the City that has imposed a tax under this Chapter and charges for the portion of the inter-office channels provided within the City. Charges for that portion of the inter-office channel connecting 2 or more channel termination points, one or more of which is located within the jurisdictional boundary of the City, shall be determined by the retailer by multiplying an amount equal to the total charge for the inter-office channel by a fraction, the numerator of which is the number of channel termination points that are located within the jurisdictional boundary of the City and the denominator of which is the total number of channel termination points connected by the inter-office channel. Prior to January 1, 2004, any method consistent with this Chapter or other method that reasonably apportions the total charges for inter-office channels among municipalities in which channel termination points are located shall be accepted as a reasonable method to determine the taxable portion of an inter-office channel provided within a municipality for that period. However, gross charge shall not include any of the following:

1. Any amounts added to a purchaser's bill because of a charge made pursuant to: (i) the tax imposed by this Chapter, (ii) the tax imposed by the Telecommunications Excise Tax Act (35 ILCS 630/1 *et seq.*), (iii) the tax imposed by Section 4251 of the Internal Revenue Code, (iv) 911 surcharges, or (v) charges added to customers' bills pursuant to the

provisions of 220 ILCS 5/9-221 or 5/9-222 (the Public Utilities Act), as amended, or any similar charges added to customers' bills by retailers who are not subject to rate regulation by the Illinois Commerce Commission for the purpose of recovering any of the tax liabilities or other amounts specified in those provisions of the Public Utilities Act;

2. Charges for a sent collect telecommunication received outside of the City;

3. Charges for leased time on equipment or charges for the storage of data or information for 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 as exempt under Section 9-222.1 of the Public Utilities Act (220 ILCS 5/9-222.1) to the extent of such exemption and during the period of time specified by the Department of Commerce and Economic Opportunity..

6. Charges for telecommunications and all services and equipment provided in connection therewith between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries when the tax imposed under the Act has already been paid to a retailer and only to the extent that the charges between the parent corporation and wholly owned subsidiaries or between wholly owned subsidiaries represent expense allocation between the corporations and not the generation of profit for the corporation rendering such service;

7. Bad debts (bad debt means any portion of a debt that is related to a sale at retail for which gross charges are not otherwise deductible or excludable that has become worthless or uncollectible, as determined under applicable federal income tax standards; if the portion of the debt deemed to be bad is subsequently paid, the retailer shall report and pay the tax on that portion during the reporting period in which the payment is made);

8. Charges paid by inserting coins in coin-operated telecommunication devices; or

9. Amounts paid by telecommunications retailers under the Act.

10. Charges for nontaxable services or telecommunications if (i) those charges are aggregated with other charges for telecommunications that are taxable, (ii) those charges are not separately stated on the customer bill or invoice, and (iii) the retailer can reasonably identify the nontaxable charges on the retailer's books and records kept in the regular course of business. If the nontaxable charges cannot reasonably be identified, the gross charge from the sale of both taxable and nontaxable services or telecommunications billed on a combined basis shall be attributed to the taxable services or

telecommunications. The burden of proving nontaxable charges shall be on the retailer of the telecommunications.

Interstate telecommunications: All telecommunications that either originate or terminate outside this state.

Intrastate telecommunications: All telecommunications that originate and terminate within this state.

Person: Any natural individual, firm, trust, estate, partnership, association, joint stock company, joint venture, corporation, limited liability company, or a receiver, trustee, guardian, or other representative appointed by order of any court, the federal and state governments, including state universities created by statute, or any city, town, county or other political subdivision of this state.

Purchase at retail: The acquisition, consumption or use of telecommunications through a sale at retail.

Retailer: Means and includes every person engaged in the business of making sales at retail as defined in this Chapter. The Department may, in its discretion, upon application, authorize the collection of the tax hereby imposed by any retailer not maintaining a place of business within this state, who, to the satisfaction of the Department, furnishes adequate security to insure collection and payment of the tax. Such retailer shall be issued, without charge, a permit to collect such tax. When so authorized, it shall be the duty of such retailer to collect the tax upon all of the gross charges for telecommunications in this state in the same manner and subject to the same requirements as a retailer maintaining a place of business within this state. The permit may be revoked by the Department at its discretion.

Retailer maintaining a place of business in this state (or any like term): Means and includes any retailer having or maintaining within this state, directly or by a subsidiary, an office, distribution facilities, transmission facilities, sales office, warehouse or other place of business, or any agent or other representative operating within this state under the authority of the retailer or its subsidiary, irrespective of whether such place of business or agent or other representative is located here permanently or temporarily, or whether such retailer or subsidiary is licensed to do business in this state.

Sale at retail: The transmitting, supplying or furnishing of telecommunications and all services and equipment provided in connection therewith for a consideration, to persons other than the federal and state governments, and state universities created by statute and other than between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries for their use or consumption and not for resale.

Service address: The location of telecommunications equipment from which telecommunications services are originated or at which telecommunications services are received by a taxpayer. In the event this may not be a defined location, as in the case of mobile phones, paging systems, and maritime systems, service address means the customer's place of primary

use as defined in 35 ILCS 638/1 *et seq*. (the Mobile Telecommunications Sourcing Conformity Act). For air-to-ground systems and the like, service address shall mean the location of a taxpayer's primary use of the telecommunications equipment as defined by telephone number, authorization code, or location in Illinois where bills are sent.

Taxpayer: A person who individually or through his or her agents, employees or permittees engages in the act or privilege of originating or receiving telecommunications in the City and who incurs a tax liability as authorized by this Chapter.

Telecommunications: In addition to the meaning ordinarily and popularly ascribed to it, includes, without limitation, messages or information transmitted through use of local, toll and wide area telephone service, private line services, channel services, telegraph services, teletypewriter, computer exchange services, cellular mobile telecommunications service, specialized mobile radio, stationary two-way radio, paging service or any other form of mobile and portable one-way or two-way communications, or any other transmission of messages or information by electronic or similar means, between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite or similar facilities. As used in this Chapter, private line means a dedicated non-traffic sensitive service for a single customer, that entitles the customer to exclusive or priority use of a communications channel or group of channels, from one or more specified locations to one or more other specified locations. The definition of telecommunications shall not include value added services in which computer processing applications are used to act on the form, content, code, and protocol of the information for purposes other than transmission. Telecommunications shall not include purchases of telecommunications by a telecommunications service provider for use as a component part of the service provided by such provider to the ultimate retail consumer who originates or terminates the taxable end-to-end communications. Carrier access charges, right of access charges, charges for use of inter-company facilities and all telecommunications resold in the subsequent provision of, used as a component of, or integrated into, end-to-end telecommunications service shall be non-taxable as sales for resale. Prepaid telephone calling arrangements shall not be considered telecommunications subject to the tax imposed under the Act. For purposes of this Chapter, prepaid telephone calling arrangements means that term as defined in 35 ILCS 120/2-27 (the Retailers' Occupation Tax Act).

37.02 SIMPLIFED MUNICIPAL TELECOMMUNICATIONS TAX IMPOSED *Amended, 10-7-3*

A tax is hereby imposed upon any and all the following acts or privileges:

1. The act or privilege of originating in the City or receiving in the City intrastate telecommunications by a person at a rate of 6 percent of the gross charge for such telecommunications purchased at retail from a retailer. To prevent actual multi-municipal taxation of the act or privilege that is subject to taxation under this subsection, any taxpayer, upon proof that the taxpayer has paid a tax in another municipality on that event, shall be allowed a credit against any tax enacted pursuant to or authorized by this Section to the extent of the amount of the tax properly due and paid in the municipality that was not previously allowed as a credit against any other municipal tax.

2. The act or privilege of originating in the City or receiving in the City interstate telecommunications by a person at the rate of 6 percent of the gross charge for such telecommunications purchased at retail from a retailer. To prevent actual multi-state or multi-municipal taxation of the act or privilege that is subject to taxation under this subsection, any taxpayer, upon proof that the taxpayer has paid a tax in another state or municipality in this State on such event, shall be allowed a credit against any tax enacted pursuant to or authorized by this Section to the extent of the amount of such tax properly due and paid in such other state or such tax properly due and paid in a municipality in this State which was not previously allowed as a credit against any other state or local tax in this State..

3. The tax imposed by this Chapter is not imposed on such act or privilege to the extent such act or privilege may not, under the Constitution and statutes of the United States, be made the subject of taxation by the City.

37.03 **COLLECTION OF TAX BY RETAILERS**

A. The tax authorized by this Chapter shall be collected from the taxpayer by a retailer maintaining a place of business in this state and shall be remitted by such retailer to the Department. Any tax required to be collected pursuant to or as authorized by this Chapter and any such tax collected by such retailer and required to be remitted to the Department shall constitute a debt owed by the retailer to the state. Retailers shall collect the tax from the taxpayer by adding the tax to the gross charge for the act or privilege of originating or receiving telecommunications when sold for use, in the manner prescribed by the Department. The tax authorized by this Chapter shall constitute a debt of the taxpayer to the retailer until paid, and, if unpaid, is recoverable at law in the same manner as the original charge for such sale at retail. If the retailer fails to collect the tax from the taxpayer, then the taxpayer shall be required to pay the tax directly to the Department in the manner provided by the Department.

B. Whenever possible, the tax authorized by this Chapter shall, when collected, be stated as a distinct item separate and apart from the gross charge for telecommunications.

37.04 **RETURNS TO DEPARTMENT**

The tax imposed under this Chapter on telecommunication retailers shall be returned with appropriate forms and information as required by the Department pursuant to the 636/5-50 of the Act and any accompanying rules and regulations created by the Department to implement the Act.

37.05 **RESELLERS**

A. If a person who originates or receives telecommunications claims to be a reseller of such telecommunications, such person shall apply to the Department for a resale number. Such applicant shall state facts which will show the Department why such applicant is not liable for the tax authorized by this Chapter on any of such purchases and shall furnish such additional information as the Department may reasonably require.

B. Upon approval of the application, the Department shall assign a resale number to the applicant and shall certify such number to the applicant. The Department may cancel any number which is obtained through misrepresentation, or which is used to send or receive such telecommunication tax-free when such actions in fact are not for resale, or which no longer applies because of the persons having discontinued the making of resales.

C. Except as provided in this Chapter, the act or privilege of originating or receiving telecommunications in this state shall not be made tax-free on the ground of being a sale for resale unless the person has an active resale number from the Department and furnishes that number to the retailer in connection with certifying to the retailer that any sale to such person is non-taxable because of being a sale for resale.

Chapter 38

CONSTRUCTION OF UTILITY FACILITIES IN THE RIGHTS OF WAY[1]

38.01 Purpose and Scope
38.02 Definitions
38.03 Annual Registration Required
38.04 Permit Required; Applications and Fees
38.05 Action on Permit Applications
38.06 Effect of Permit
38.07 Revised Permit Drawings
38.08 Insurance
38.09 Indemnification
38.10 Security
38.11 Permit Suspension and Revocation
38.12 Change of Ownership or Owner's Identity or Legal Status
38.13 General Construction Standards
38.14 Traffic Control
38.15 Location of Facilities
38.16 Construction Methods and Materials
38.17 Vegetation Control
38.18 Removal, Relocation or Modifications of Utility Facilities
38.19 Clean-Up and Restoration
38.20 Maintenance and Emergency Maintenance
38.21 Variances
38.22 Penalties
38.23 Enforcement

38.01 PURPOSE AND SCOPE

A. Purpose: The purpose of this Chapter is to establish policies and procedures for constructing facilities on rights of way within the City's jurisdiction, which will provide public benefit consistent with the preservation of the integrity, safe usage and visual qualities of the City rights of way and the City as a whole.

B. Intent: In enacting this Chapter, the City intends to exercise its authority over the rights of way in the City and, in particular, the use of the public ways and property by utilities, by establishing uniform standards to address issues presented by utility facilities, including without limitation:

1. Prevent interference with the use of streets, sidewalks, alleys, parkways and other public ways and places;

2. Prevent the creation of visual and physical obstructions and other conditions that are hazardous to vehicular and pedestrian traffic;

[1] Established by Ordinance 07-11-1

3. Prevent interference with the facilities and operations of the City's utilities and of other utilities lawfully located in rights of way or public property;

4. Protect against environmental damage, including damage to trees, from the installation of utility facilities;

5. Protect against increased stormwater run-off due to structures and materials that increase impermeable surfaces;

6. Preserve the character of the neighborhoods in which facilities are installed;

7. Preserve open space, particularly the tree-lined parkways that characterize the City's residential neighborhoods;

8. Prevent visual blight from the proliferation of facilities in the rights of way; and

9. Assure the continued safe use and enjoyment of private properties adjacent to utility facilities locations.

C. Facilities Subject to this Chapter: This Chapter applies to all facilities on, over, above, along, upon, under, across, or within the rights of way within the jurisdiction of the City. A facility lawfully established prior to the effective date of this Chapter may continue to be maintained, repaired and operated by the utility as presently constructed and located, except as may be otherwise provided in any applicable franchise, license or similar agreement.

D. Franchises, Licenses, or Similar Agreements: The City, in its discretion and as limited by law, may require utilities to enter into a franchise, license or similar agreement for the privilege of locating their facilities on, over, above, along, upon, under, across, or within the City rights of way. Utilities that are not required by law to enter into such an agreement may request that the City enter into such an agreement. In such an agreement, the City may provide for terms and conditions inconsistent with this Chapter.

E. Effect of Franchises, Licenses, or Similar Agreements:

1. Utilities Other Than Telecommunications Providers: In the event that a utility other than a telecommunications provider has a franchise, license or similar agreement with the City, such franchise, license or similar agreement shall govern and control during the term of such agreement and any lawful renewal or extension thereof.

2. Telecommunications Providers: In the event of any conflict with, or inconsistency between, the provisions of this Chapter and the provisions of any franchise, license or similar agreement between the City and any telecommunications provider, the provisions of such franchise, license or similar agreement shall govern and control during the term of such agreement and any lawful renewal or extension thereof.

F. Conflicts with Other Chapters: This Chapter supersedes all Chapters or parts of Chapters adopted prior hereto that are in conflict herewith, to the extent of such conflict.

G. Conflicts with State and Federal Laws: In the event that applicable federal or state laws or regulations conflict with the requirements of this Chapter, the utility shall comply with the requirements of this Chapter to the maximum extent possible without violating federal or state laws or regulations.

H. Sound Engineering Judgment: The City shall use sound engineering judgment when administering this Chapter and may vary the standards, conditions, and requirements expressed in this Chapter when the City so determines. Nothing herein shall be construed to limit the ability of the City to regulate its rights of way for the protection of the public health, safety and welfare.

38.02 DEFINITIONS

As used in this Chapter and unless the context clearly requires otherwise, the words and terms listed shall have the meanings ascribed to them in this Section. Any term not defined in this Section shall have the meaning ascribed to it in Section 1.02 of this Code or 92 Ill. Adm. Code § 530.30, unless the context clearly requires otherwise.

AASHTO: American Association of State Highway and Transportation Officials.

ANSI: American National Standards Institute.

Applicant: A person applying for a permit under this Chapter.

ASTM: American Society for Testing and Materials.

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

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

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

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

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

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

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

Clear Zone: The total roadside border area, starting at the edge of the pavement, available for safe use by errant vehicles. This area may consist of a shoulder, a recoverable slope, a non-recoverable slope, and a clear run-out area. The desired width is dependent upon the traffic volumes and speeds, and on the roadside geometry. Distances are specified in the AASHTO

Roadside Design Guide.

Coating: Protective wrapping or mastic cover applied to buried pipe for protection against external corrosion.

Conductor: Wire carrying electrical current.

Conduit: A casing or encasement for wires or cables.

Construction or **Construct**: The installation, repair, maintenance, placement, alteration, enlargement, demolition, modification or abandonment in place of facilities.

Cover: The depth of earth or backfill over buried utility pipe or conductor.

Crossing facility: A facility that crosses one or more right of way lines of a right of way.

Disrupt the right of way: For the purposes of this Chapter, any work that obstructs the right of way or causes a material adverse effect on the use of the right of way for its intended use. Such work may include, without limitation, the following: excavating or other cutting; placement (whether temporary or permanent) of materials, equipment, devices, or structures; damage to vegetation; and compaction or loosening of the soil, and shall not include the parking of vehicles or equipment in a manner that does not materially obstruct the flow of traffic on a highway.

Emergency: Any immediate maintenance to the facility required for the safety of the public using or in the vicinity of the right of way or immediate maintenance required for the health and safety of the general public served by the utility.

Encasement: Provision of a protective casing.

Equipment: Materials, tools, implements, supplies, and/or other items used to facilitate construction of facilities.

Excavation: The making of a hole or cavity by removing material, or laying bare by digging.

Extra heavy pipe: Pipe meeting ASTM standards for this pipe designation.

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

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

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

Hazardous materials: Any substance or material which, due to its quantity, form, concentration,

location or other characteristics, is determined by the Engineer or Public Works Coordinator to pose an unreasonable and imminent risk to the life, health or safety of persons or property or to the ecological balance of the environment, including, but not limited to explosives, radioactive materials, petroleum or petroleum products or gases, poisons, etiology (biological) agents, flammables, corrosives or any substance determined to be hazardous or toxic under any federal or state law, statute or regulation.

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

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

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

IDOT: Illinois Department of Transportation.

ICC: Illinois Commerce Commission.

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

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

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

JULIE: The Joint Utility Locating Information for Excavators utility notification program, operated pursuant to 220 ILCS 5/1 *et seq.*

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

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

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

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

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

Permittee: That entity to which a permit has been issued pursuant to Sections 38.04 and 38.05 of this Chapter.

Practicable: That which is performable, feasible or possible, rather than that which is simply convenient.

Pressure: The internal force acting radially against the walls of a carrier pipe expressed in pounds per square inch gauge (psig).

Petroleum products pipelines: Pipelines carrying crude or refined liquid petroleum products including, but not limited to, gasoline, distillates, propane, butane or coal-slurry.

Prompt: That which is done within a period of time specified by the City. If no time period is specified, the period shall be 30 days.

Public entity: A legal entity that constitutes or is part of the government, whether at local, state or federal level.

Public Works Coordinator: The duly appointed Coordinator of Public Works or his or her designee.

Restoration: The repair of a right of way, highway, roadway or other area disrupted by the construction of a facility.

Right of way or **rights of way**: Any street, alley, other land or waterway, dedicated or commonly used for pedestrian or vehicular traffic or other similar purposes, including utility easements, in which the City has the right and authority to authorize, regulate or permit the location of facilities other than those of the City. Right of way or rights of way shall not include any real or personal City property that is not specifically described in the previous two sentences and shall not include City buildings, fixtures and other structures or improvements, regardless of whether they are situated in the right of way.

Roadway: That part of the highway that includes the pavement and shoulders.

Sale of telecommunications at retail: The transmitting, supplying or furnishing of telecommunications and all services rendered in connection therewith for a consideration, other than between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries, when the gross charge made by one such corporation to another such corporation is not greater than the gross charge paid to the retailer for their use or consumption and not for sale.

Security fund: That amount of security required pursuant to Section 38.10.

Shoulder: A width of roadway, adjacent to the pavement, providing lateral support to the pavement edge and providing an area for emergency vehicular stops and storage of snow removed from the pavement.

Sound engineering judgment: A decision(s) consistent with generally accepted engineering principles, practices and experience.

Telecommunications: This term includes, but is not limited to, messages or information transmitted through use of local, toll and wide area telephone service, channel services, telegraph

services, teletypewriter service, computer exchange service, private line services, mobile radio services, cellular mobile telecommunications services, stationary two-way radio, paging service and any other form of mobile or portable one-way or two-way communications, and any other transmission of messages or information by electronic or similar means, between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite or similar facilities. Private line means a dedicated non-traffic sensitive service for a single customer that entitles the customer to exclusive or priority use of a communications channel, or a group of such channels, from one or more specified locations to one or more other specified locations.

Telecommunications shall not include:

1. Value added services in which computer processing applications are used to act on the form, content, code and protocol of the information for purposes other than transmission.

2. Purchase of telecommunications by a telecommunications service provider for use as a component part of the service provided by such provider to the ultimate retail consumer who originates or terminates the end-to-end communications.

3. The provision of cable services through a cable system as defined in the Cable Communications Act of 1984 (47 U.S.C. Sections 521 and following), as now or hereafter amended, or cable or other programming services subject to an open video system fee payable to the City through an open video system as defined in the Rules of the Federal Communications Commission (47 C.F.R. §76.1500 and following), as now or hereafter amended.

Telecommunications provider: Any person that installs, owns, operates or controls facilities in the right of way used or designed to be used to transmit telecommunications in any form.

Telecommunications retailer: Every person engaged in making sales of telecommunications at retail as defined herein.

Trench: A relatively narrow open excavation for the installation of an underground facility.

Utility: The individual or entity owning or operating any facility as defined in this Chapter.

Vent: A pipe to allow the dissipation into the atmosphere of gases or vapors from an underground casing.

Video service: That term as defined in section 21-201 (v) of the Illinois Cable and Video Competition Law of 2007, 220 ILCS 21-201(v).

Water lines: Pipelines carrying raw or potable water.

Wet boring: Boring using water under pressure at the cutting auger to soften the earth and to provide a sluice for the excavated material.

38.03 ANNUAL REGISTRATION REQUIRED

Every utility that occupies right of way within the City shall register by January 1 of each year with the Public Works Coordinator, providing the utility's name, address and regular business telephone and telecopy numbers, the name of one or more contact persons who can act on behalf of the utility in connection with emergencies involving the utility's facilities in the right of way and a 24-hour telephone number for each such person, and evidence of insurance as required in Section 38.08, in the form of a certificate of insurance.

38.04 PERMIT REQUIRED; APPLICATIONS AND FEES

A. Permit Required: Except as otherwise provided in this Chapter, no person shall construct any facility on, over, above, along, upon, under, across or within any City right of way which (1) changes the location of the facility, (2) adds a new facility, (3) disrupts the right of way, or (4) materially increases the amount of area or space occupied by the facility on, over, above, along, under across or within the right of way, without first filing an application with the Public Works Coordinator and obtaining a permit from the City. No permit shall be required for installation and maintenance of service connections to customers' premises where there will be no disruption of the right of way.

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

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

1. The utility's name and address, telephone and telecopy numbers and an e-mail address contact.

2. The applicant's name and address, if different than the utility, its telephone, telecopy numbers, e-mail address and its interest in the work.

3. The names, addresses and telephone and telecopy numbers and e-mail addresses of all professional consultants, if any, advising the applicant with respect to the application.

4. A general description of the proposed work and the purposes and intent of the facility and the uses to which the facility will be put. The scope and detail of such description shall be appropriate to the nature and character of the work to be performed, with special emphasis on those matters likely to be affected or impacted by the work proposed.

5. Evidence that the utility has placed on file with the City:

   i. A written traffic control plan demonstrating the protective measures and devices that will be employed consistent with the *Illinois Manual on Uniform Traffic Control Devices*, to prevent

injury or damage to persons or property and to minimize disruptions to efficient pedestrian and vehicular traffic; and

ii. An emergency contingency plan which shall specify the nature of potential emergencies, including, without limitation, construction and hazardous materials emergencies, and the intended response by the applicant. The intended response shall include notification to the City and shall promote protection of the safety and convenience of the public. Compliance with ICC regulations for emergency contingency plans constitutes compliance with this Section unless the City finds that additional information or assurances are needed.

6. Drawings, plans and specifications showing the work proposed, including the certification of an engineer that such drawings, plans, and specifications comply with applicable codes, rules, and regulations.

7. Evidence of insurance as required in Section 38.08.

8. Evidence of posting of the security fund as required in Section 38.10.

9. Any request for a variance from one or more provisions of this Chapter (see Section 38.21).

10. Such additional information as may be reasonably required by the City.

D. Supplemental Application Requirements for Specific Types of Utilities: In addition to the requirements of Section 38.04-C, the permit application shall include the following items, as applicable to the specific utility that is the subject of the permit application:

1. In the case of the installation of a new electric power, communications, telecommunications, cable television service, video service or natural gas distribution system, evidence that any "Certificate of Public Convenience and Necessity" or other regulatory authorization that the applicant is required by law to obtain, or that the applicant has elected to obtain, has been issued by the ICC or other jurisdictional authority.

2. In the case of natural gas systems, state the proposed pipe size, design, construction class and operating pressures.

3. In the case of water lines, indicate that all requirements of the Illinois Environmental Protection Agency, Division of Public Water Supplies, have been satisfied.

4. In the case of sewer line installations, indicate that the land and water pollution requirements of the Illinois Environmental Protection Agency, Division of Water Pollution Control, and City have been satisfied.

5. In the case of petroleum products pipelines, state the type or types of petroleum products, pipe size, maximum working pressure and the design standard to be followed.

E. Applicant's Duty to Update Information: Throughout the entire permit application review period and the construction period authorized by the permit, any amendments to information contained in a permit application shall be submitted by the utility in writing to the City within 30 days after the change necessitating the amendment.

F. Application Fees: Unless otherwise provided by franchise, license or similar agreement, all applications for permits pursuant to this Chapter shall be accompanied by a fee in the amount of $_____.

38.05 ACTION ON PERMIT APPLICATIONS

A. City Review of Permit Applications: Completed permit applications, containing all required documentation, shall be examined by the Public Works Coordinator within a reasonable time after filing. If the application does not conform to the requirements of applicable ordinances, codes, laws, rules and regulations, the Public Works Coordinator shall reject such application in writing, stating the reasons. If the Public Works Coordinator is satisfied that the proposed work conforms to the requirements of this Chapter and applicable ordinances, codes, laws, rules and regulations, the Public Works Coordinator shall issue a permit as soon as practicable. In all instances, it shall be the duty of the applicant to demonstrate, to the satisfaction of the Public Works Coordinator, that the construction proposed under the application shall be in full compliance with the requirements of this Chapter.

B. Additional City Review of Applications of Telecommunications Retailers:

1. Pursuant to Section 4 of the Telephone Company Act, 220 ILCS 65/4, a telecommunications retailer shall notify the City that it intends to commence work governed by this Chapter for facilities for the provision of telecommunications services. Such notice shall consist of plans, specifications, and other documentation sufficient to demonstrate the purpose and intent of the facilities, and shall be provided by the telecommunications retailer to the City not less than 10 days prior to the commencement of work requiring no excavation and not less than 30 days prior to the commencement of work requiring excavation. The Public Works Coordinator shall specify the portion of the right of way upon which the facility may be placed, used and constructed.

2. In the event the Public Works Coordinator fails to provide such specification of location to the telecommunications retailer within either (i) 10 days after service of notice to the City by the telecommunications retailer in the case of work not involving excavation for new construction or (ii) 25 days after service of notice by the telecommunications retailer in the case of work involving excavation for new construction, the telecommunications retailer may commence work without obtaining a

permit under this Chapter, although in all other appropriate respects, the telecommunications retailer shall be bound by the provisions of this Chapter.

3. Upon the provision of such specification by the City, where a permit is required for work pursuant to Section 38.04 the telecommunications retailer shall submit to the City an application for a permit and any and all plans, specifications and documentation available regarding the facility to be constructed. Such application shall be subject to the requirements of Section 38.05-A.

C. Additional City Review of Applications of Holders of State Authorization Under the Cable and Video Competition Law of 2007: Applications by a utility that is a holder of a State-issued authorization under the Cable and Video Competition Law of 2007 shall be deemed granted 45 days after submission to the City, unless otherwise acted upon by the City, provided the holder has complied with applicable City codes, ordinances and regulations.

38.06 EFFECT OF PERMIT

A. Authority Granted; No Property Right or Other Interest Created: A permit from the City authorizes a permittee to undertake only certain activities in accordance with this Chapter on City rights of way, and does not create a property right or grant authority to the permittee to impinge upon the rights of others who may have an interest in the rights of way.

B. Duration: No permit issued under this Chapter shall be valid for a period longer than 6 months unless construction is actually begun within that period and is thereafter diligently pursued to completion.

C. Pre-Construction Meeting Required: At the election of the City, no construction shall begin pursuant to a permit issued under this Chapter prior to attendance by the permittee and all major contractors and subcontractors who will perform any work under the permit at a pre-construction meeting. The pre-construction meeting shall be held at a date, time and place designated by the City with such City representatives in attendance as the City deems necessary. The meeting shall be for the purpose of reviewing the work under the permit, and reviewing special considerations necessary in the areas where work will occur, including, without limitation, presence or absence of other utility facilities in the area and their locations, procedures to avoid disruption of other utilities, use of rights of way by the public during construction, and access and egress by adjacent property owners.

D. Compliance with All Laws Required: The issuance of a City permit does not excuse the permittee from complying with other requirements of the City and applicable statutes, laws, ordinances, rules and regulations.

38.07 REVISED PERMIT DRAWINGS

In the event the actual locations of any facilities deviate in any material respect from the locations identified in the plans, drawings and specifications submitted with the permit application, the permittee shall submit a revised set of drawings or plans to the City within 90

days after the completion of the permitted work. The revised drawings or plans shall specifically identify where the locations of the actual facilities deviate from the locations approved in the permit. If any deviation from the permit also deviates from the requirements of this Chapter, it shall be treated as a request for a variance in accordance with Section 38.21. If the City denies the request, then the permittee shall either remove the facility from the right of way or modify the facility so it conforms to the permit and submit revised drawings or plans therefor.

38.08 INSURANCE

A. Required Coverages and Limits: Unless otherwise provided by franchise, license or similar agreement, each utility occupying right of way or constructing any facility in the right of way shall secure and maintain the following liability insurance policies insuring the utility as named insured and naming the City, and its elected and appointed officers, officials, agents and employees as additional insureds on the policies listed below:

1. Commercial general liability insurance, including premises-operations, explosion, collapse, and underground hazard (commonly referred to as "X," "C" and "U" coverages) and products-completed operations coverage with limits not less than:

    a. Five million dollars ($5,000,000) for bodily injury or death to each person;

    b. Five million dollars ($5,000,000) for property damage resulting from any one accident; and

    c. Five million dollars ($5,000,000) for all other types of liability;

2. Automobile liability for owned, non-owned and hired vehicles with a combined single limit of $1,000,000 for personal injury and property damage for each accident;

3. Worker's compensation with statutory limits; and

4. Employer's liability insurance with limits of not less than $1,000,000 per employee and per accident.

If the utility is not providing such insurance to protect the contractors and subcontractors performing the work, then such contractors and subcontractors shall comply with this Section.

B. Excess or Umbrella Policies: The coverages required by this Section may be in any combination of primary, excess and umbrella policies. Any excess or umbrella policy must provide excess coverage over underlying insurance on a following-form basis such that when any loss covered by the primary policy exceeds the limits under the primary policy, the excess or umbrella policy becomes effective to cover such loss.

C. Copies Required: The utility shall provide copies of any of the required policies to the City within 10 days following receipt of a written request from the City.

D. Maintenance and Renewal of Required Coverages: The insurance policies required by this Section shall contain the following endorsement:

> "It is hereby understood and agreed that this policy may not be canceled nor the intention not to renew be stated until 30 days after receipt by the City, by registered mail or certified mail, return receipt requested, of a written notice addressed to the City Manager of such intent to cancel or not to renew."

Within 10 days after receipt by the City of said notice, and in no event later than 10 days prior to cancellation, the utility shall obtain and furnish to the City evidence of replacement insurance policies meeting the requirements of this Section.

E. Self-Insurance: A utility may self-insure all or a portion of the insurance coverage and limit requirements required by Subsection a) of this Section. A utility that self-insures is not required, to the extent of such self-insurance, to comply with the requirement for the naming of additional insureds under Section 38.08-A, or the requirements of Sections 38.08-B, C and D. A utility that elects to self-insure shall provide to the City evidence sufficient to demonstrate its financial ability to self-insure the insurance coverage and limit requirements required under Section 38.08-A, such as evidence that the utility is a "private self insurer" under the Workers Compensation Act.

F. Effect of Insurance and Self-Insurance on Utility's Liability: The legal liability of the utility to the City and any person for any of the matters that are the subject of the insurance policies or self-insurance required by this Section shall not be limited by such insurance policies or self-insurance or by the recovery of any amounts thereunder.

G. Insurance Companies: All insurance provided pursuant to this Section shall be effected under valid and enforceable policies, issued by insurers legally able to conduct business with the licensee in the State of Illinois. [All insurance carriers and surplus line carriers shall be rated "A-" or better and of a class size "X" or higher by A.M. Best Company.]

38.09 INDEMNIFICATION

By occupying or constructing facilities in the right of way, a utility shall be deemed to agree to defend, indemnify and hold the City and its elected and appointed officials and officers, employees, agents and representatives harmless from and against any and all injuries, claims, demands, judgments, damages, losses and expenses, including reasonable attorney's fees and costs of suit or defense, arising out of, resulting from or alleged to arise out of or result from the negligent, careless or wrongful acts, omissions, failures to act or misconduct of the utility or its affiliates, officers, employees, agents, contractors or subcontractors in the construction of facilities or occupancy of the rights of way, and in providing or offering service over the facilities, whether such acts or omissions are authorized, allowed or prohibited by this Chapter or by a franchise, license or similar agreement; provided, however, that the utility's indemnity obligations hereunder shall not apply to any injuries, claims, demands, judgments, damages, losses or expenses arising out of or resulting from the negligence, misconduct or breach of this Chapter by the City, its officials, officers, employees, agents or representatives.

38.10 SECURITY

A. Purpose: The permittee shall establish a Security Fund in a form and in an amount set forth in this Section. The Security Fund shall be continuously maintained in accordance with this Section at the permittee's sole cost and expense until the completion of the work authorized under the permit. The Security Fund shall serve as security for:

1. The faithful performance by the permittee of all the requirements of this Chapter;

2. Any expenditure, damage or loss incurred by the City occasioned by the permittee's failure to comply with any codes, rules, regulations, orders, permits and other directives of the City issued pursuant to this Chapter; and

3. The payment by permittee of all liens and all damages, claims, costs or expenses that the City may pay or incur by reason of any action or non-performance by permittee in violation of this Chapter including, without limitation, any damage to public property or restoration work the permittee is required by this Chapter to perform that the City must perform itself or have completed as a consequence solely of the permittee's failure to perform or complete, and all other payments due the City from the permittee pursuant to this Chapter or any other applicable law.

B. Form: The permittee shall provide the Security Fund to the City in the form, at the permittee's election, of cash, a surety bond in a form acceptable to the City, or an unconditional letter of credit in a form acceptable to the City. Any surety bond or letter of credit provided pursuant to this Section shall, at a minimum:

1. Provide that it will not be canceled without prior notice to the City and the permittee;

2. Not require the consent of the permittee prior to the collection by the City of any amounts covered by it; and

3. Shall provide a location convenient to the City and within the State at which it can be drawn.

C. Amount: The dollar amount of the Security Fund shall be sufficient to provide for the reasonably estimated cost to restore the right of way to at least as good a condition as that existing prior to the construction under the permit, as determined by the Public Works Coordinator, and may also include reasonable, directly related costs that the City estimates are likely to be incurred if the permittee fails to perform such restoration. Where the construction of facilities proposed under the permit will be performed in phases in multiple locations in the City, with each phase consisting of construction of facilities in one location or a related group of locations, and where construction in another phase will not be undertaken prior to substantial completion of restoration in the previous phase or phases, the Public Works Coordinator may, in the exercise of sound discretion, allow the permittee to post a single amount of security which

shall be applicable to each phase of the construction under the permit. The amount of the Security Fund for phased construction shall be equal to the greatest amount that would have been required under the provisions of this Section for any single phase.

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

1. Fails to make any payment required to be made by the permittee hereunder;

2. Fails to pay any liens relating to the facilities that are due and unpaid;

3. Fails to reimburse the City for any damages, claims, costs or expenses which the City has been compelled to pay or incur by reason of any action or non-performance by the permittee; or

4. Fails to comply with any provision of this Chapter that the City determines can be remedied by an expenditure of an amount in the Security Fund.

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

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

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

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

38.11 PERMIT SUSPENSION AND REVOCATION

A. City Right to Revoke Permit: The City may revoke or suspend a permit issued pursuant to this Chapter for one or more of the following reasons:

1. Fraudulent, false, misrepresenting or materially incomplete statements in the permit application;

2. Non-compliance with this Chapter;

3. Permittee's physical presence or presence of permittee's facilities on, over, above, along, upon, under, across or within the rights of way presents a direct or imminent threat to the public health, safety or welfare; or

4. Permittee's failure to construct the facilities substantially in accordance with the permit and approved plans.

B. Notice of Revocation or Suspension: The City shall send written notice of its intent to revoke or suspend a permit issued pursuant to this Chapter stating the reason or reasons for the revocation or suspension and the alternatives available to permittee under this Section.

C. Permittee Alternatives Upon Receipt of Notice of Revocation or Suspension: Upon receipt of a written notice of revocation or suspension from the City, the permittee shall have the following options:

1. Immediately provide the City with evidence that no cause exists for the revocation or suspension;

2. Immediately correct, to the satisfaction of the City, the deficiencies stated in the written notice, providing written proof of such correction to the City within 5 working days after receipt of the written notice of revocation; or

3. Immediately remove the facilities located on, over, above, along, upon, under, across or within the rights of way and restore the rights of way to the satisfaction of the City providing written proof of such removal to the City within 10 days after receipt of the written notice of revocation.

The City may, in its discretion, for good cause shown, extend the time periods provided in this Section.

D. Stop Work Order: In addition to the issuance of a notice of revocation or suspension, the City may issue a stop work order immediately upon discovery of any of the reasons for revocation set forth within this Section.

E. Failure or Refusal of the Permittee to Comply: If the permittee fails to comply with the provisions of this Section, the City or its designee may, at the option of the City: (1) correct the deficiencies; (2) upon not less than 20 days notice to the permittee, remove the subject facilities or equipment; or (3) after not less than 30 days notice to the permittee of failure to cure the non-compliance, deem them abandoned and property of the City. The permittee shall

be liable in all events to the City for all costs of removal.

38.12 CHANGE OF OWNERSHIP OR OWNER'S IDENTITY OR LEGAL STATUS

A. Notification of Change: A utility shall notify the City no less than 30 days prior to the transfer of ownership of any facility in the right of way or change in identity of the utility. The new owner of the utility or the facility shall have all the obligations and privileges enjoyed by the former owner under the permit, if any, and applicable laws, ordinances, rules and regulations, including this Chapter, with respect to the work and facilities in the right of way.

B. Amended Permit: A new owner shall request that any current permit be amended to show current ownership. If the new owner fails to have a new or amended permit issued in its name, the new owner shall be presumed to have accepted, and agreed to be bound by, the terms and conditions of the permit if the new owner uses the facility or allows it to remain on the City's right of way.

C. Insurance and Bonding: All required insurance coverage or bonding must be changed to reflect the name of the new owner upon transfer.

38.13 GENERAL CONSTRUCTION STANDARDS

A. Standards and Principles: All construction in the right of way shall be consistent with applicable ordinances, codes, laws rules and regulations, and commonly recognized and accepted traffic control and construction principles, sound engineering judgment and, where applicable, the principles and standards set forth in the following IDOT publications, as amended from time to time:

1. *Standard Specifications for Road and Bridge Construction*;
2. *Supplemental Specifications and Recurring Special Provisions*;
3. *Highway Design Manual*;
4. *Highway Standards Manual*;
5. *Standard Specifications for Traffic Control Items*;
6. *Illinois Manual on Uniform Traffic Control Devices* (92 Ill. Adm. Code § 545);
7. *Flagger's Handbook*; and
8. *Work Site Protection Manual for Daylight Maintenance Operations*.

B. Interpretation of Municipal Standards and Principles: If a discrepancy exists between or among differing principles and standards required by this Chapter, the Public Works Coordinator shall determine, in the exercise of sound engineering judgment, which principles apply and such decision shall be final. If requested, the Public Works Coordinator shall state

which standard or principle will apply to the construction, maintenance or operation of a facility in the future.

38.14 TRAFFIC CONTROL

A. Minimum Requirements: The City's minimum requirements for traffic protection are contained in IDOT's *Illinois Manual on Uniform Traffic Control Devices* and this Code.

B. Warning Signs, Protective Devices and Flaggers: The utility is responsible for providing and installing warning signs, protective devices and flaggers, when necessary, meeting applicable federal, state, and local requirements for protection of the public and the utility's workers when performing any work on the rights of way.

C. Interference with Traffic: All work shall be phased so there is minimum interference with pedestrian and vehicular traffic.

D. Notice When Access is Blocked: At least 48 hours prior to beginning work that will partially or completely block access to any residence, business or institution, the utility shall notify the resident, business or institution of the approximate beginning time and duration of such work; provided, however, that in cases involving emergency repairs pursuant to Section 38.20, the utility shall provide such notice as is practicable under the circumstances.

E. Compliance: The utility shall take immediate action to correct any deficiencies in traffic protection requirements that are brought to the utility's attention by the City.

38.15 LOCATION OF FACILITIES

A. General Requirements: In addition to location requirements applicable to specific types of utility facilities, all utility facilities, regardless of type, shall be subject to the general location requirements of this Section.

1. No Interference with City Facilities: No utility facilities shall be placed in any location if the Public Works Coordinator determines that the proposed location will require the relocation or displacement of any of the City's utility facilities or will otherwise interfere with the operation or maintenance of any of the City's utility facilities.

2. Minimum Interference and Impact: The proposed location shall cause only the minimum possible interference with the use of the right of way and shall cause only the minimum possible impact upon, and interference with the rights and reasonable convenience of property owners who adjoin said right of way.

3. No Interference with Travel: No utility facility shall be placed in any location that interferes with the usual travel on such right of way.

4. No Limitations on Visibility: No utility facility shall be placed in any location so as to limit visibility of or by users of the right of way.

5. Size of Utility Facilities: The proposed installation shall use the smallest suitable vaults, boxes, equipment enclosures, power pedestals and/or cabinets then in use by the facility owner, regardless of location, for the particular application.

B. Parallel Facilities Located Within Highways:

1. Overhead Parallel Facilities: An overhead parallel facility may be located within the right of way lines of a highway only if:

   a. Lines are located as near as practicable to the right of way line and as nearly parallel to the right of way line as reasonable pole alignment will permit;

   b. Where pavement is curbed, poles are as remote as practicable from the curb with a minimum distance of 2 feet (0.6 m) behind the face of the curb, where available;

   c. Where pavement is uncurbed, poles are as remote from pavement edge as practicable with minimum distance of 4 feet (1.2 m) outside the outer shoulder line of the roadway and are not within the clear zone;

   d. No pole is located in the ditch line of a highway; and

   e. Any ground-mounted appurtenance is located within 1 foot (0.3 m) of the right of way line or as near as possible to the right of way line.

2. Underground Parallel Facilities: An underground parallel facility may be located within the right of way lines of a highway only if:

   a. The facility is located as near the right of way line as practicable and not more than 8 feet (2.4 m) from and parallel to the right of way line;

   b. A new facility may be located under the paved portion of a highway only if other locations are impracticable or inconsistent with sound engineering judgment (e.g., a new cable may be installed in existing conduit without disrupting the pavement); and

   c. In the case of an underground power or communications line, the facility shall be located as near the right of way line as practicable and not more than 5 feet (1.5 m) from the right of way line and any above-grounded appurtenance shall be located within 1 foot (0.3 m) of the right of way line or as near as practicable.

C. Facilities Crossing Highways:

1. No Future Disruption: The construction and design of crossing facilities installed between the ditch lines or curb lines of City highways may require the incorporation of materials and protections (such as encasement or additional cover) to avoid settlement or future repairs to the roadbed resulting from the installation of such crossing facilities.

2. Cattle Passes, Culverts, or Drainage Facilities: Crossing facilities shall not be located in cattle passes, culverts or drainage facilities.

3. 90 Degree Crossing Required: Crossing facilities shall cross at or as near to a 90 degree angle to the centerline as practicable.

4. Overhead Power or Communication Facility: An overhead power or communication facility may cross a highway only if:

   a. It has a minimum vertical line clearance as required by ICC's rules entitled *Construction of Electric Power and Communication Lines* (83 Ill. Adm. Code 305);

   b. Poles are located within 1 foot (0.3 m) of the right of way line of the highway and outside of the clear zone; and

   c. Overhead crossings at major intersections are avoided.

5. Underground Power or Communication Facility: An underground power or communication facility may cross a highway only if:

   a. The design materials and construction methods will provide maximum maintenance-free service life; and

   b. Capacity for the utility's foreseeable future expansion needs is provided in the initial installation.

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

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

E. Freestanding Facilities:

1. The City may restrict the location and size of any freestanding facility located within a right of way.

2. The City may require any freestanding facility located within a right of way to be screened from view in a manner appropriate for the surrounding environment, and the City may require the facility's owner to maintain such screening.

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

1. No other existing facilities in the area are located underground;

2. New underground installation is not technically feasible; and

3. The proposed installation will be made at a location, and will employ suitable design and materials, to provide the greatest protection of aesthetic qualities of the area being traversed without adversely affecting safety. Suitable designs include, but are not limited to, self-supporting armless, single-pole construction with vertical configuration of conductors and cable. Existing utility poles and light standards shall be used wherever practicable; the installation of additional utility poles is strongly discouraged.

G. Facility Attachments to Bridges or Roadway Structures:

1. Facilities may be installed as attachments to bridges or roadway structures only where the utility has demonstrated that all other means of accommodating the facility are not practicable. Other means shall include, but are not limited to, underground, underwater, independent poles, cable supports and tower supports, all of which are completely separated from the bridge or roadway structure. Facilities transmitting commodities that are volatile, flammable, corrosive or energized, especially those under significant pressure or potential, present high degrees of risk and such installations are not permitted.

2. A utility shall include in its request to accommodate a facility installation on a bridge or roadway structure supporting data demonstrating the impracticability of alternate routing. Approval or disapproval of an application for facility attachment to a bridge or roadway structure will be based upon the following considerations:

a. The type, volume, pressure or voltage of the commodity to be transmitted and an evaluation of the resulting risk to persons and property in the event of damage to or failure of the facility;

b. The type, length, value and relative importance of the highway structure in the transportation system;

c. The alternative routings available to the utility and their comparative practicability;

d. The proposed method of attachment;

e. The ability of the structure to bear the increased load of the proposed facility;

f. The degree of interference with bridge maintenance and painting;

g. The effect on the visual quality of the structure; and

h. The public benefit expected from the utility service as compared to the risk involved.

H. Appearance Standards:

1. The City may prohibit the installation of facilities in particular locations in order to preserve visual quality.

2. A facility may be constructed only if its construction does not require extensive removal or alteration of trees or terrain features visible to the right of way user or to adjacent residents and property owners, and if it does not impair the aesthetic quality of the lands being traversed.

38.16 CONSTRUCTION METHODS AND MATERIALS

A. Standards and Requirements for Particular Types of Construction Methods:

1. Boring or Jacking:

a. Pits and Shoring: Boring or jacking under rights of way shall be accomplished from pits located at a minimum distance specified by the Public Works Coordinator from the edge of the pavement. Pits for boring or jacking shall be excavated no more than 48 hours in advance of boring or jacking operations and backfilled within 48 hours after boring or jacking operations are completed. While pits are open, they shall be clearly marked and protected by barricades. Shoring shall be designed, erected, supported, braced, and maintained so that it will safely support all vertical and lateral loads that may be imposed upon it during the boring or jacking operation.

b. Wet Boring or Jetting: Wet boring or jetting shall not be permitted under the roadway.

c. Borings with Diameters Greater Than 6 Inches: Borings over 6 inches (0.15 m) in diameter shall be accomplished with an auger and following pipe, and the diameter of the auger shall not exceed the outside diameter of the following pipe by more than 1 inch (25 mm).

d. Borings with Diameters 6 Inches or Less: Borings of 6 inches or less in diameter may be accomplished by either jacking, guided with auger, or auger and following pipe method.

e. Tree Preservation: Any facility located within the drip line of any tree designated by the City to be preserved or protected shall be bored under or around the root system.

2. Trenching: Trenching for facility installation, repair or maintenance on rights of way shall be done in accord with the applicable portions of Section 603 of IDOT's *Standard Specifications for Road and Bridge Construction.*

a. Length: The length of open trench shall be kept to the practicable minimum consistent with requirements for pipe-line testing. Only one-half of any intersection may have an open trench at any time unless special permission is obtained from the Public Works Coordinator.

b. Open Trench and Excavated Material: Open trench and windrowed excavated material shall be protected as required by Chapter 6 of the *Illinois Manual on Uniform Traffic Control Devices.* Where practicable, the excavated material shall be deposited between the roadway and the trench as added protection. Excavated material shall not be allowed to remain on the paved portion of the roadway. Where right of way width does not allow for windrowing excavated material off the paved portion of the roadway, excavated material shall be hauled to an off-road location.

c. Drip Line of Trees: The utility shall not trench within the drip line of any tree designated by the City to be preserved.

3. Backfilling:

a. Any pit, trench or excavation created during the installation of facilities shall be backfilled for its full width, depth and length using methods and materials in accordance with IDOT's *Standard Specifications for Road and Bridge Construction.* When excavated material is hauled away or is unsuitable for backfill, suitable granular backfill shall be used.

b. For a period of 3 years from the date construction of a facility is completed, the utility shall be responsible to remove and restore any backfilled area that has settled due to construction of the facility. If so ordered by the Public Works Coordinator, the utility, at its expense, shall remove any pavement and backfill material to the top of the installed facility, place and properly compact new backfill material, and restore new pavement, sidewalk, curbs and

driveways to the proper grades, as determined by the Public Works Coordinator.

4. Pavement Cuts: Pavement cuts for facility installation or repair shall be permitted on a highway only if that portion of the highway is closed to traffic. If a variance to the limitation set forth in this paragraph is permitted under Section 38.21, the following requirements shall apply:

   a. Any excavation under pavements shall be backfilled and compacted as soon as practicable with granular material of CA-6 or CA-10 gradation, as designated by the Public Works Coordinator.

   b. Restoration of pavement, in kind, shall be accomplished as soon as practicable, and temporary repair with bituminous mixture shall be provided immediately. Any subsequent failure of either the temporary repair or the restoration shall be rebuilt upon notification by the City.

   c. All saw cuts shall be full depth.

   d. For all rights of way which have been reconstructed with a concrete surface/base in the last 7 years, or resurfaced in the last 3 years, permits shall not be issued unless such work is determined to be an emergency repair or other work considered necessary and unforeseen before the time of the reconstruction or unless a pavement cut is necessary for a JULIE locate.

5. Encasement:

   a. Casing pipe shall be designed to withstand the load of the highway and any other superimposed loads. The casing shall be continuous either by one-piece fabrication or by welding or jointed installation approved by the City.

   b. The venting, if any, of any encasement shall extend within 1 foot (0.3 m) of the right of way line. No above-ground vent pipes shall be located in the area established as clear zone for that particular section of the highway.

   c. In the case of water main or service crossing, encasement shall be furnished between bore pits unless continuous pipe or City-approved jointed pipe is used under the roadway. Casing may be omitted only if pipe is installed prior to highway construction and carrier pipe is continuous or mechanical joints are of a type approved by the City. Bell and spigot type pipe shall be encased regardless of installation method.

d. In the case of gas pipelines of 60 psig or less, encasement may be eliminated.

e. In the case of gas pipelines or petroleum products pipelines with installations of more than 60 psig, encasement may be eliminated only if: (1) extra heavy pipe is used that precludes future maintenance or repair and (2) cathodic protection of the pipe is provided;

f. If encasement is eliminated for a gas or petroleum products pipeline, the facility shall be located so as to provide that construction does not disrupt the right of way.

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

TYPE OF FACILITY	MINIMUM COVER
Electric lines	30 inches (0.8 m)
Communication, cable or video service lines	18-24 inches (0.6 m, as determined by the City)
Gas or petroleum products	30 inches (0.8 m)
Water line	Sufficient cover to provide freeze protection
Sanitary sewer, storm sewer or drainage line	Sufficient cover to provide freeze protection

B. Standards and Requirements for Particular Types of Facilities:

1. Electric Power or Communication Lines:

a. Code Compliance: Electric power or communications facilities within City rights of way shall be constructed, operated and maintained in conformity with the provisions of 83 Ill. Adm. Code Part 305 (formerly General Order 160 of the ICC) entitled *Rules for Construction of Electric Power and Communications Lines*, and the National Electrical Safety Code.

b. Overhead Facilities: Overhead power or communication facilities shall use single-pole construction and, where practicable, joint use of poles shall be used. Utilities shall make every reasonable effort to design the installation so guys and braces will not be needed. Variances may be allowed if there is no feasible alternative and if guy wires are equipped with guy guards for maximum visibility.

c. Underground Facilities:

(1) Cable may be installed by trenching or plowing, provided that special consideration is given to boring in order to

minimize damage when crossing improved entrances and side roads.

(2) If a crossing is installed by boring or jacking, encasement shall be provided between jacking or bore pits. Encasement may be eliminated only if: (a) the crossing is installed by the use of "moles," "whip augers" or other approved method which compress the earth to make the opening for cable installation or (b) the installation is by the open trench method which is only permitted prior to roadway construction or (3) Cable shall be grounded in accordance with the National Electrical Safety Code.

d. Burial of Drops: All temporary service drops placed between November 1 of the prior year and March 15 of the current year, also known as snowdrops, shall be buried by May 31 of the current year, weather permitting, unless otherwise permitted by the City. Weather permitting, utilities shall bury all temporary drops, excluding snowdrops, within 10 business days after placement.

2. Underground Facilities Other than Electric Power or Communication Lines: Underground facilities other than electric power or communication lines may be installed by:

a. The use of "moles," "whip augers" or other approved methods which compress the earth to move the opening for the pipe;

b. Jacking or boring with vented encasement provided between the ditch lines or toes of slopes of the highway;

c. Open trench with vented encasement between ultimate ditch lines or toes of slopes, but only if prior to roadway construction; or

d. Tunneling with vented encasement, but only if installation is not possible by other means.

3. Gas Transmission, Distribution and Service: Gas pipelines within rights of way shall be constructed, maintained and operated in a City-approved manner and in conformance with the Federal Code of the Office of Pipeline Safety Operations, Department of Transportation, Part 192 – Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards (49 CFR §192), IDOT's *Standard Specifications for Road and Bridge Construction* and all other applicable laws, rules and regulations.

4. Petroleum Products Pipelines: Petroleum products pipelines within rights of way shall conform to the applicable sections of ANSI Standard Code for Pressure Piping. (Liquid Petroleum Transportation Piping Systems

ANSI-B 31.4).

5. Water Lines, Sanitary Sewer Lines, Storm Water Sewer Lines or Drainage Lines: Water lines, sanitary sewer lines, storm sewer lines and drainage lines within rights of way shall meet or exceed the recommendations of the current *Standard Specifications for Water and Sewer Main Construction in Illinois*.

6. Ground-Mounted Appurtenances: Ground-mounted appurtenances to overhead or underground facilities, when permitted within a right of way, shall be provided with a vegetation-free area extending 1 foot (305 mm) in width beyond the appurtenance in all directions. The vegetation-free area may be provided by an extension of the mounting pad, or by heavy duty plastic or similar material approved by the Public Works Coordinator. With the approval of the Public Works Coordinator, shrubbery surrounding the appurtenance may be used in place of vegetation-free area. The housing for ground-mounted appurtenances shall be painted a neutral color to blend with the surroundings.

C. Materials:

1. General Standards: The materials used in constructing facilities within rights of way shall be those meeting the accepted standards of the appropriate industry, the applicable portions of IDOT's *Standard Specifications for Road and Bridge Construction*, the requirements of the ICC or the standards established by other official regulatory agencies for the appropriate industry.

2. Material Storage on Right of Way: No material shall be stored on the right of way without the prior written approval of the Public Works Coordinator. When such storage is permitted, all pipe, conduit, wire, poles, cross arms or other materials shall be distributed along the right of way prior to and during installation in a manner to minimize hazards to the public or an obstacle to right of way maintenance or damage to the right of way and other property. If material is to be stored on right of way, prior approval must be obtained from the City.

3. Hazardous Materials: The plans submitted by the utility to the City shall identify any hazardous materials that may be involved in the construction of the new facilities or removal of any existing facilities.

D. Operational Restrictions:

1. Construction operations on rights of way may, at the discretion of the City, be required to be discontinued when such operations would create hazards to traffic or the public health, safety and welfare. Such operations may also be required to be discontinued or restricted when conditions are such that construction would result in extensive damage to the right of way or

other property.

2. These restrictions may be waived by the Public Works Coordinator when emergency work is required to restore vital utility services.

3. Unless otherwise permitted by the City, the hours of construction are those set forth in Section 43.08 of this Code.

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

38.17 VEGETATION CONTROL

A. Electric Utilities – Compliance with State Laws and Regulations: An electric utility shall conduct all tree-trimming and vegetation control activities in the right of way in accordance with applicable state laws and regulations, and additionally, with such local franchise or other agreement with the City as permitted by law.

B. Other Utilities – Tree Trimming Permit Required: Tree trimming that is done by any other utility with facilities in the right of way and that is not performed pursuant to applicable state laws and regulations specifically governing same, shall not be considered a normal maintenance operation, but shall require the application for, and the issuance of, a permit, in addition to any other permit required under this Chapter.

1. Application for Tree Trimming Permit: Applications for tree trimming permits shall include assurance that the work will be accomplished by competent workers with supervision who are experienced in accepted tree pruning practices. Tree trimming permits shall designate an expiration date in the interest of assuring that the work will be expeditiously accomplished.

2. Damage to Trees: Poor pruning practices resulting in damaged or misshapen trees will not be tolerated and shall be grounds for cancellation of the tree trimming permit and for assessment of damages. The City will require compensation for trees extensively damaged and for trees removed without authorization. The formula developed by the International Society of Arboriculture will be used as a basis for determining the compensation for damaged trees or unauthorized removal of trees. The City may require the removal and replacement of trees if trimming or radical pruning would leave them in an unacceptable condition.

C. Specimen Trees or Trees of Special Significance: The City may require that

special measures be taken to preserve specimen trees or trees of special significance. The required measures may consist of higher poles, side arm extensions, covered wire or other means.

D. Chemical Use:

1. Except as provided in the following paragraph, no utility shall spray, inject or pour any chemicals on or near any trees, shrubs or vegetation in the City for any purpose, including the control of growth, insects or disease.

2. Spraying of any type of brush-killing chemicals will not be permitted on rights of way unless the utility demonstrates to the satisfaction of the Public Works Coordinator that such spraying is the only practicable method of vegetation control.

38.18 REMOVAL, RELOCATION OR MODIFICATIONS OF UTILITY FACILITIES

A. Notice: Within 90 days following written notice from the City, a utility shall, at its own expense, protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of any utility facilities within the rights of way whenever the corporate authorities have determined that such removal, relocation, change or alteration, is reasonably necessary for the construction, repair, maintenance or installation of any City-initiated or mandated improvement in or upon, or the operations of the City in or upon, the rights of way.

B. Removal of Unauthorized Facilities: Within 30 days following written notice from the City, any utility that owns, controls or maintains any unauthorized facility or related appurtenances within the rights of way shall, at its own expense, remove all or any part of such facilities or appurtenances from the rights of way. A facility is unauthorized and subject to removal in the following circumstances:

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

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

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

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

C. Emergency Removal or Relocation of Facilities: The City retains the right and privilege to cut or move any facilities located within the rights of way of the City, as the City may determine to be necessary, appropriate or useful in response to any public health or safety emergency. If circumstances permit, the City shall attempt to notify the utility, if known, prior to cutting or removing a facility and shall notify the utility, if known, after cutting or removing a facility.

D. Abandonment of Facilities: Upon abandonment of a facility within the rights of way of the City, the utility shall notify the City within 90 days. Following receipt of such notice the City may direct the utility to remove all or any portion of the facility if the Public Works 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 alteration or removal of all or any portion of the facility by another utility or person.

38.19 CLEAN-UP AND RESTORATION

The utility shall remove all excess material and restore all turf and terrain and other property within 10 days after any portion of the rights of way are disturbed, damaged or destroyed due to construction or maintenance by the utility, all to the satisfaction of the City. This includes restoration of entrances and side roads. Restoration of roadway surfaces shall be made using materials and methods approved by the Public Works 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. The time period provided in this Section may be extended by the Public Works Coordinator for good cause shown.

38.20 MAINTENANCE AND EMERGENCY MAINTENANCE

A. General: Facilities and any associated screening or landscaping on, over, above, along, upon, under, across or within rights of way are to be maintained by or for the utility in a manner satisfactory to the City and at the utility's expense.

B. Emergency Maintenance Procedures: Emergencies may justify non-compliance with normal procedures for securing a permit:

1. If an emergency creates a hazard on the traveled portion of the right of way, the utility shall take immediate steps to provide all necessary protection for traffic on the highway or the public on the right of way including the use of signs, lights, barricades or flaggers. If a hazard does not exist on the traveled way, but the nature of the emergency is such as to require the parking on the shoulder of equipment required in repair operations, adequate signs and lights shall be provided. Parking on the shoulder in such an emergency will only be permitted when no other means of access to the facility is available.

2. In an emergency, the utility shall, as soon as possible, notify the Public Works Coordinator, or his or her duly authorized agent, of the emergency, informing him or her as to what steps have been taken for protection of the traveling public and what will be required to make the necessary repairs. If the nature of the emergency is such as to interfere with the free movement of traffic, the Police Department shall be notified immediately.

3. In an emergency, the utility shall use all means at hand to complete repairs

as rapidly as practicable and with the least inconvenience to the traveling public.

C. Emergency Repairs: The utility must file in writing with the City a description of the repairs undertaken in the right of way within 48 hours after an emergency repair.

38.21 VARIANCES

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

B. Authority to Grant Variances: The Public Works Coordinator shall decide whether a variance is authorized for each provision of this Chapter identified in the variance request on an individual basis.

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

1. One or more conditions not under the control of the utility (such as terrain features or an irregular right of way line) create a special hardship that would make enforcement of the provision unreasonable, given the public purposes to be achieved by the provision; and

2. All other designs, methods, materials, locations or facilities that would conform with the provision from which a variance is requested are not practical in relation to the requested approach.

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

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

38.22 PENALTIES

Any person who violates, disobeys, omits, neglects or refuses to comply with any of the provisions of this Chapter shall be subject to a fine in accordance with the penalty provisions of this Code, not to exceed $750.00 per violation per day. There may be times when the City will

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

38.23 ENFORCEMENT

Nothing in this Chapter shall be construed as limiting any additional or further remedies that the City may have for enforcement of this Chapter.

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 *09-4-5*
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 *Amended, 13-6-4, 13-5-4*

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: Except as provided in Section 40.07-C, 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. EXCEPTIONS: For the purpose of protecting livestock against wildlife predators and hunting, the discharge of firearms is permitted in the AT Agricultural Transition District in the City, provided that persons discharging firearms are not in violation of 720 ILCS 5/24-1 *et seq.* as amended, and the Illinois Department of Natural Resources hunting regulations.

D. EXCEPTIONS: For the purpose of protecting livestock against wildlife predators, the discharge of firearms is permitted in the AT Agricultural Transition District in the City, provided that persons discharging firearms are not in violation of 720 ILCS 5/24-1 *et seq.*

E. 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.

F. 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 *09-4-5*

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, Sale and Use of Tobacco, Smokeless Tobacco, Tobacco Accessories, Smoking Herbs and Alternative Nicotine Products
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 *Amended, 14-3-5*

A. WEAPONS: A person who is not a City Law Enforcement Officer, shall not carry about his person any concealed pistol unless authorized by law, 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 *Amended, 12-10-2*

No person shall sell, offer for sale, use or explode any fireworks in the City except the City Administrator and the Chief of Police may grant a permit for a public display of fireworks under such conditions as the 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 function-

ing 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, SALE AND USE OF TOBACCO, SMOKELESS TOBACCO, TOBACCO ACCESSORIES, SMOKING HERBS AND ALTERNATIVE

NICOTINE PRODUCTS *Amended, 15-2-1, 10-8-2*

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:

Alternative Nicotine Product: a product or device not consisting of or containing tobacco that provides for the ingestion into the body of nicotine, whether by chewing, smoking, absorbing, dissolving, inhaling, snorting, sniffing, or by any other means. Said products include, but are not limited to, Electronic Cigarettes, Vapor Pens and other similar devices.

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.

Electronic Cigarette or E-Cigarette: an electronic device usually composed of a mouthpiece, a heating element or atomizer, a battery, and electronic circuits that provides a gas derived from liquid nicotine, vaping liquids and/or other substances which is inhaled by a user simulating smoking. The term includes such devices, regardless of the details of the product appearance or marketed name, generally manufactured to resemble cigarette, cigars, pipes, or other smoking devices.

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.

Vaping Liquids: any liquid product composed either in whole or part of nicotine, propylene glycol and/or other similar substances and manufactured for use with an e-cigarette, a vapor pen or any other device that converts the liquid into gas for inhaling.

B. PURCHASE AND USE OF BIDI CIGARETTES, SMOKING HERBS, TOBACCO ACCESSORIES AND TOBACCO PRODUCTS:

1. No person under 18 years of age shall purchase any tobacco product in any of its forms. No person shall sell, purchase for, distribute samples of or furnish any tobacco product in any of its forms to any person under 18

years of age. Tobacco products may be sold through a vending machine only when such tobacco products are not sold along with non-tobacco products in the vending machine and only in the following locations:

(a) Factories, businesses, offices, private clubs and other places not open to the general public.

(b) Places to which persons under 18 years of age are not permitted access.

(c) Places where alcoholic beverages are sold and consumed on the premises.

(d) Places where the vending machine is under the direct supervision (which means that the owner or employee has an unimpeded line of sight to the vending machine) of the owner of the establishment or an employee over 18 years of age. The sale of tobacco products from a vending machine under direct supervision of the owner or an employee of the establishment is considered a sale of tobacco products by that person.

(e) Places where the vending machine can only be operated by the owner or an employee over age 18 either directly or through a remote control device if the device is inaccessible to all customers.

2. PENALTY: Any person violating any provision of this Section 43.15-B is guilty of a petty offense and for the first offense shall be fined $200, $400 for the second offense in a 12-month period, and $600 for the third or any subsequent offense in a 12-month period and be responsible for the City's cost of prosecution, including reasonable attorney fees.

C. POSSESSION OF TOBACCO PRODUCTS:

1. No person under 18 years of age shall possess any cigar, cigarette, smokeless tobacco or tobacco in any of its forms.

2. PENALTY: If a minor violates this Section 43.15-C the minor shall be guilty of a petty offense and may be fined $25 or sentenced to 15 hours of community service for the first offense. If a second violation occurs within a 12-month period after the first offense, the fine shall be $50 and 25 hours of community service. For a third or subsequent violation that occurs within a 12-month period after the first offense, the fine shall be $100 and 30 hours of community service. If there is a second or subsequent violation not within a 12-month time period after the first violation, a fine of $25 or 15 hours of community service shall be assessed. For any violation the violator shall be responsible for the City's cost of prosecution, includ-

ing 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:

(a) Except for Section 43-15-D2, any person who knowingly violates or shall knowingly cause the violation of any provision of this Section 43.15-E shall be guilty of a Class C misdemeanor and shall be fined pursuant to 730 ILCS 5/5-4.5-65(e). The violator shall be responsible for the City's cost of prosecution, including reasonable attorney fees.

(b) Any person who knowingly violates or shall knowingly cause the violation of 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 or more than $500, for a second offense within a 2-year period of the first offense, not less than $250 or more than $600, and for a third or subsequent offense within a 2-year period of the first offense, not less than $500 or more than $1,000. In addition, the violator shall be responsible for the City's cost of prosecution, including reasonable attorney fees.

E. PURCHASE, SALE AND POSSESSION OF ALTERNATIVE NICOTINE PRODUCTS

1. PURCHASE BY MINORS: No person under 18 years of age shall purchase any alternative nicotine product or vaping liquids, in any of their forms.

2. SALE/DELIVERY TO MINORS: No person shall sell, purchase for, distribute samples of or furnish any alternative nicotine product or vaping liquids in any of its forms to any person under 18 years of age.

3. SALE/DELIVERY BY MINORS: No person under 18 years of age shall sell, deliver, barter, give or exchange alternative nicotine products or vaping liquids.

4. POSSESSION BY MINORS: No person under 18 years of age shall possess any alternative nicotine products or vaping liquids.

5. VENDING MACHINE SALES: Any sales of alternative nicotine products or vaping liquids by way of vending machine shall comply with the provisions of Chapter 43, Section 15(B)(1).

6. USE OF IDENTIFICATION CARDS: No person in the furtherance or facilitation of obtaining an alternative nicotine product or vaping liquids shall display or use a false or forged identification card or transfer, alter or deface an identification card.

7. WARNING TO MINORS: Any person, firm, partnership, company or corporation operating a place of business where alternative nicotine products and vaping liquids 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 ALTERNATIVE NICOTINE PRODUCTS AND VAPING LIQUIDS 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.

8. PENALTY:

a. If a minor violates Sections 43.15(E)(1) or (4), the minor shall be guilty of a petty offense and may be fined $25 or sentenced to 15 hours of community service for the first offense. If a second violation occurs within a 12-month period after the first offense, the fine shall be $50 and 25 hours of community service. For a third or subsequent violation that occurs within a 12-month period after the first offense, the fine shall be $100 and 30 hours of community service. If there is a second or subsequent violation not within a 12-month time period after the first violation, a fine of $25 or 15 hours of community service shall be assessed. For any violation the violator shall be responsible for the City's cost of prosecution, including reasonable attorneys' fees.

b. Any person who violates Sections 43.15(E)(2),(3), (6) or (7) shall be guilty of a petty offense for which the offender shall be fined as follows: for the first offense, not less than $100 or more than $500, for a second offense within a 2-year period of the first offense, not less than $250 or more than $600, and for a third or subsequent offense within a 2-year period of the first offense, not less than $500 or more than $750. In addition, the violator shall be responsible for the City's cost of prosecution, including reasonable attorney's 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 govern-

ment, 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]

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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.

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[1] Established by Ordinance 02-8-4, 8/26/02

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.

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.