CHAPTER 3
CITY ADMINISTRATION

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

3.01 MAYOR *Amended, 09-8-4*

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

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

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

C. APPOINTMENT OF OFFICERS: The Mayor shall have the power and authority to appoint, by and with the advice and consent of the City Council, all officers of the City whose election or appointment is not otherwise provided for. Any vacancies occurring in an appointive office shall be filled in like manner.

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

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

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

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

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

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

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

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

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

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

3.02 CLERK

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3.03 TREASURER *Amended, 08-9-1*

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

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

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

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

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

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

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

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

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

3.04 ATTORNEY

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

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

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

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

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

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

3.05 CITY ADMINISTRATOR

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3.07 RESERVED

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3.09 BONDS OF OFFICERS

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

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

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

Mayor	$ 10,000
Treasurer	$ 100,000

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

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

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

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

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

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

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

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

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

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

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

3.11 CITY RECORDS

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

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

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

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

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

3. Substantive rules;

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

5. Final planning policies, recommendations and decisions;

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

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

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

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

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

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

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

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

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

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

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

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

3.12 ILLINOIS MUNICIPAL RETIREMENT FUND

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

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

3.13 CORPORATE SEAL

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

3.14 FISCAL YEAR

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

3.15 CITY DATUM, BENCH MARK

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

3.16 INDEMNIFICATION

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

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

3.17 CODE OF ETHICS *04-5-3*

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

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

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

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

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

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

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

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

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

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

Employer means the City of Marengo.

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

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

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

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

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

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

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

Prohibited Political Activity means:

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

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

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

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

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

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

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

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

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

10. Preparing or reviewing responses to candidate questionnaires.

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

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

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

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

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

Prohibited Source means any person or entity who:

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

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

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

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

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

D. PROHIBITED POLITICAL ACTIVITIES:

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

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

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

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

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

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

E. GIFT BAN:

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

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

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

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

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

   d. Educational materials and missions.

   e. Travel expenses for a meeting to discuss business.

   f. A gift from a Relative.

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

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

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

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

j. Intra-Governmental and Inter-Governmental gifts.

k. Bequests, inheritances and other transfers at death.

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

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

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

F. ETHICS ADMINISTRATOR:

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

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

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

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

G. ETHICS COMMISSION:

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

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

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

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

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

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

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

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

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

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

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

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

6. COMPLAINTS:

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

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

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

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

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

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

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

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

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

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

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

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

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

H. PENALTIES:

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

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

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

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

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

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

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

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