

THE CITY OF WEST PEORIA

TABLE OF CONTENTS

TITLE 3: TRAFFIC AND PARKING

CHAPTER 1 - TURNS PROHIBITED

CHAPTER 2 - STREETS WITH WEIGHT RESTRICTIONS

CHAPTER 3 - REGULATION OF VEHICLES-STOPPING, STANDING AND PARKING

CHAPTER 4 - STOP INTERSECTIONS

CHAPTER 5 - YIELD SIGNS

CHAPTER 6 - SPEED LIMITS

CHAPTER 7 - NO PARKING

CHAPTER 8 - RIGHT OF WAY OBSTRUCTIONS

CHAPTER 9 - CONSTRUCTION OF FACILITIES ON THE PUBLIC RIGHTS-OF-WAY

CHAPTER 10 - MUNICIPAL TELECOMMUNICATIONS INFRASTRUCTURE MAINTENANCE FEE

TITLE 3 TRAFFIC AND PARKING

CHAPTER 1 TURNS PROHIBITED

3-1-1 Turns Prohibited

SECTION 3-1-1 TURNS PROHIBITED

Right turns shall be prohibited between the hours of 7:00 a.m. and 9:00 a.m. and between the hours of 4:00 p.m. and 6:00 p.m., Monday through Friday, at the following locations:

From Western Avenue onto Alice Avenue

Such prohibition shall not apply to buses.

(Ord. 1997-24)

TITLE 3 TRAFFIC AND PARKING

CHAPTER 2 STREETS WITH WEIGHT RESTRICTIONS

3-2-1 Weight Limits

SECTION 3-2-1 WEIGHT LIMITS

- A. Truck traffic on Rohmann Avenue within the City limits from the Swords Avenue to the western end of Rohmann Avenue is limited to vehicles under eight (8) tons other than vehicles performing necessary West Peoria city services to residents. The City shall post the weight limit on the street.
(Ord. 1994-30)
- B. Local vehicles making local deliveries which are under fifteen (15) tons may apply for a permit to exceed the weight limit. Such permit shall be applied for at the City Hall and permit fee shall be as follows:
1. For vehicles from 8 tons to 12 tons: \$12.50 per load
 2. For vehicles from 12.1 to 15 tons: \$20.00 per load

Vehicles in excess of fifteen (15) tons shall be prohibited and shall not be permitted. All vehicles carrying loads in excess of eight (8) tons must obtain permits. Use of the streets by vehicles with permits shall be limited to the hours from 8:30 a.m. to 5:30 p.m.
(Ord. 1994-30)

- C. Vehicles using City streets for the purpose of hauling, construction, business, or industrial purposes which exceed the weight limits may apply for a permit per the following schedule: (i) Vehicles over eight (8) tons but under fifteen (15) tons - \$12.50 per load; (ii) Vehicles over fifteen (15) tons and under twenty-six (26) tons - \$20 per load.
(Ord. 1994-31)
- D. The following vehicles are exempt from the requirements of a permit and payment of the above fees: Vehicles providing municipal and quasi-municipal (such as garbage, water sanitary sewer, and utility services within the City of West Peoria); vehicles making deliveries to West Peoria residents and businesses and performing construction services within the City of West Peoria
(Ord. 1994-31)
- E. All vehicles in excess of the weight limits established in Exhibit C using City streets, whether permitted or exempt, shall reach their destination by a route requiring the least amount of travel on streets with weight limits.
(Ord. 1994-31)
- F. Penalty: Violation of this Title shall constitute a Class B misdemeanor, and violators may be fined a minimum of \$50.00 per violation and a maximum of \$500.00 per violation. Each occurrence is a separate violation.
(Ord. 1994-30)

Exhibit C

The following streets, drives, courts, and avenues or portions thereof are limited to loads of eight (8) TONS:

Richmond, Gentry, Radan, Pierson, Idaho, Vaughn, Magnolia, Rhodora, Hillside, Herold, Market, Ohio, Texas, Iowa, Dakota, Colorado, Edgehill, Woodlawn, Heading Ct., Belle Vista, Bluffcrest, Holling, Rohmann Ct., Rohmann Avenue west of Swords, Alice, Kenwood, Pleasant, Lammers, Coolidge, Ashland, Wendarm, Avon, Ardmore, Downs, Laura, Courtland, Sterling Ave. north of Rohmann, Cedar, LeRoy, Fairway, Dixon, Bergen, Arthur, Moser, Barker, Kellogg, Callender, Ayres, Sherman, Moss, Melrose, and Edna.
(Ord. 1994-31)

The following streets, drives, courts, and avenues or portions thereof are limited to loads of fifteen (15) TONS:

Waverly Ave. between Rohmann and Manor Parkway, and Manor Parkway.
(Ord. 1994-31)

TITLE 3 TRAFFIC AND PARKING

CHAPTER 3 REGULATION OF VEHICLES-STOPPING, STANDING AND PARKING

- 3-3-1 Definitions
- 3-3-2 Stopping, Standing and Parking Prohibited in Special Places
- 3-3-3 Penalty
- 3-3-4 Size Restrictions In Residential Districts
- 3-3-5 No Parking Snow Routes

SECTION 3-3-1 DEFINITIONS

The words, terms, and phrases used in this Ordinance shall have the meanings ascribed to them in the Illinois Vehicle Code (625 ILCS 5/1-100 et seq.), as now or hereafter amended, except where the context clearly indicates a different meaning. (Ord. 2000-03)

SECTION 3-3-2 STOPPING, STANDING AND PARKING PROHIBITED IN SPECIAL PLACES

- A. Except when necessary to avoid conflict with other traffic, or in compliance with law or the directions of a police officer or official traffic-control device, no person shall:
 - 1. Stop, stand, or park a vehicle:
 - a) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
 - b) On a sidewalk or in any way blocking any sidewalk;
 - c) Within an intersection;
 - d) On a crosswalk;
 - e) In a roadway other than parallel with the edge of the roadway headed in the direction of lawful traffic movement and with the curbside wheels of the vehicle within twelve (12) inches of the curb or edge of the roadway; this prohibition shall not apply to the parking of any vehicle in a designated diagonal parking zone or space;
 - f) Between a safety zone and the adjacent curb or within thirty (30) feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by signs or markings;
 - g) Alongside or opposite any street excavation or obstruction when stopping, standing, or parking would obstruct traffic;
 - h) Upon any bridge or other elevated structure upon a highway or within a highway tunnel;
 - i) On any railroad tracks;
 - j) At any place where official signs prohibit stopping;
 - k) On any controlled-access highway;
 - l) In the area between roadways of a divided highway, including crossovers;
 - m) In a public parking area if the vehicle does not display a current annual registration sticker or current temporary permit pending registration (Ord. 2016-07)
 - n) On any roadway for more than seven (7) consecutive calendar days in any one-vehicle sized area. (Ord. 2017-30)
 - 2. Stand or park a vehicle, whether occupied or not, except momentarily to pick up or discharge passengers:
 - a) In front of a public or private driveway;
 - b) Within fifteen (15) feet of a fire hydrant;

- c) Within twenty (20) feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five (75) feet of such entrance (when properly sign-posted);
 - d) At any place where official signs prohibit standing.
 - 3. Park a vehicle, whether occupied or not, except temporarily for the purpose of and while actually engaged in loading or unloading property or passengers:
 - a) Within fifty (50) feet of the nearest rail of a railroad crossing;
 - b) At any place where official signs prohibit parking.
- B. No person shall move a vehicle not lawfully under his control into any such prohibited area or away from a curb such distance as is unlawful.

(Ord. 2000-03)

SECTION 3-3-3 ADDITIONAL PARKING REGULATIONS

- A. Except as otherwise provided in this Section, every vehicle stopped or parked upon a two (2) way roadway shall be so stopped or parked with the right-hand wheels parallel to and within twelve (12) inches of the right-hand curb or as close as practicable to the right edge of the right-hand shoulder.
- B. Every vehicle stopped or parked upon a one (1) way roadway shall be so stopped or parked parallel to the curb or edge of the roadway, in the direction of authorized traffic movement, with its right-hand wheels within twelve (12) inches of the right-hand curb or as close as practicable to the right edge of the right-hand shoulder, or with its left-hand wheels within twelve (12) inches of the left-hand curb or as close as practicable to the left edge of the left-hand shoulder.

(Ord. 2000-03)

SECTION 3-3-3 PENALTY

Violation of this Title shall constitute a Class B misdemeanor and violators may be fined a minimum of twenty-five dollars (\$25.00) per violation and a maximum of seven hundred fifty dollars (\$750.00) per violation. Each occurrence shall constitute a separate violation.

(Ord. 2000-03)

SECTION 3-3-4 SIZE RESTRICTION IN RESIDENTIAL DISTRICT

That any vehicle whose length exceeds two hundred thirty-five (235) inches or whose width, excluding mirrors or similar accessories, exceeds eighty (80) inches, is declared to be a nuisance when parked in a residence district which shall include, but not be limited to, all alleyways therein. This restriction does not apply to any pick-up truck or van smaller than noted above. Further, that no person shall stand or park any truck, tractor, semi-trailer, trailer, cart, camper, motor home, mini-home, recreational vehicle (as defined from time to time in the Zoning Ordinance of the City of West Peoria), or bus on any residential street or in any alleyway for a period longer than is necessary for the reasonably expeditious loading or unloading of such vehicle; except that a driver of a bus may park such a bus in a designed bus zone.

(Ord. 2001-09)

Any such vehicle found in violation of this section is hereby declared to be a nuisance, which may be fined or abated by the appropriate City officer(s). Such fine to be not less than ten dollars (\$10.00) nor more than five hundred dollars (\$500.00). Repeated offences will lead to the impoundment of the vehicle.

(Ord. 2000-15)

SECTION 3-3-5 NO PARKING SNOW ROUTES

All streets within the corporate limits of the City of West Peoria are hereby designated as emergency snow routes. It shall be unlawful to park any vehicles on these streets at any time within twelve (12) hours after a snowfall of two (2) or more inches. Where there has been a snow forecast of two (2) or more inches for any calendar day, it shall be unlawful to park any vehicles on any of these streets for that calendar day.

The owner or lessor of a vehicle in violation of this section shall be subject to the following fine schedules:

1st Offense – if paid within seven (7) days of violation - \$50.00

1st Offense – if paid after seven (7) days, but within ten (10) days of violation - \$75.00

1st Offense – if paid after ten (10) days of violation - \$100.00

2nd Offense - \$150.00

3rd Offense – Towing of the vehicle, any and all charges at vehicle owner's expense.

In all events, each day the violation exists shall constitute a separate offense.

The Street Department Manager is hereby granted the authority and discretion to take any and all actions to remove any vehicle in violation of this Section, including, but not limited to, the towing of such vehicle at the vehicle owner's expense, so as to allow clear and unimpeded snow removal from snow routes. Nothing contained in the preceding paragraphs shall limit the Street Department Manager's authority and discretion to seek the towing of any such vehicle at the vehicle owner's expense, whether in lieu of and/or in addition to any fine imposed under this Section regardless of the number of offenses of such vehicle.

(Ord. 1994-18, 1995-13, 2000-28, 2008-04) (Ord. 2014-24, 2006-17)

TITLE 3 TRAFFIC AND PARKING

CHAPTER 4 STOP INTERSECTIONS

3-4-1 - Stop Signs

SECTION 3-4-1 STOP SIGNS

Stop signs shall be erected and all drivers of vehicles shall be required to stop at the intersections set forth in Exhibit A attached hereto and made a part hereof. The following stop signs shall signify the following stop intersections:

Exhibit A

Corner	Street At	Cross Street
1 SE	Pierson Ave	Nebraska (2)
1 S	Pierson Ave	Nebraska (2)
NE	Richmond St	Pierson Ave
SW	Richmond St	Pierson Ave
NW	Gentry Ct.	Richmond St.
2 NE sides	Pierson Ave	Farmington on both
1 NE side	Idaho St	Southport Rd -Rt 8
1 NW corner of Pierson NW	Idaho St	Southport Rd -Rt 8
Pierson	Idaho St	Southport Rd -Rt 8
SW	Magnolia Ave	Sterling Ave
NE	Rhodora Ave	Sterling Ave
NW	Rhodora Ave	Farmington Rd
SW	Rhodora Ave	Stever Ave
NW	Stever Ave	Farmington Rd
NE	Hillside Ave	Rhodora Ave
SW	Otley Rd	Park Rd
SW	Shirldon Ct	Park Rd
SW	Ohio St	Park Rd
SW	Iowa St	Park Rd
NE	Iowa St	Market St
SW	Dakota St	Park Rd
SW	Colorado St	Park Rd
End of	Richmond St	End
End of	Radan Ct	
SW	Alice Ave	Swords Ave
NE	Alice Ave	Swords Ave
SW	Kenwood Ave	Swords Ave
NE	Kenwood Ave	Swords Ave
SW	Rohmann Ave	Swords Ave
SE	East end Lammers Ave	Rohmann Ave
SE	West end Lammers Ave	Rohmann Ave
SE	Coolidge Ct	Rohmann Ave
NW	Idaho St	Rohmann Ave

Corner	Street At	Cross Street
SE	Idaho St	Alice Ave
SE	Ashland Ct	Rohmann Ave
NW	Ashland Ave	Rohmann Ave
NE	Kenwood Ave	Ashland Ave
SW	Kenwood Ave	Ashland Ave
SW	Kenwood Ave	Sterling Ave
SW	Alice Ave	Ashland Ave
NE	Avon Ct	Ashland Ave
SW	Heading Ave	Ashland Ave
NW	Heading Ct	Heading Ave
NE	Heading Ave	Sterling Ave
SW	Heading Ave	Sterling Ave
SE	Sterling Ave	Heading Ave
SW	Laura Ave	Sterling Ave
SE	Leroy Ave	Heading Ave
SE	Cedar Ave (2)	Heading Ave
SW	Heading Ave	Western Ave
SW	Laura Ave	Western Ave
NE	Laura Ave	Waverly Ave
SW	Laura Ave	Waverly Ave
NW	Cedar Ave	Laura Ave
SE	Cedar Ave	Laura Ave
NW	Cedar Ave	Alice Ave
SE	Cedar Ave	Alice Ave
NW	Cedar Ave	Clarke Ave
SE	Cedar Ave	Clarke Ave
NW	Cedar Ave	Rohmann Ave
SE	Cedar Ave	Rohmann Ave
NW	Cedar Ave	Barker Ave
SE	Cedar Ave	Barker Ave
NW	Cedar Ave	Kellogg Ave
SE	Cedar Ave	Kellogg Ave
NW	Cedar Ave	Callender Ave
SE	Cedar Ave	Callender Ave
NW	Cedar Ave	Ayres Ave
SE	Cedar Ave	Ayres Ave
NW	Cedar Ave	Sherman Ave
SE	Cedar Ave	Sherman Ave
NW	Cedar Ave	Moss Ave
SE	Cedar Ave	Moss Ave
NW	Cedar Ave	Manor Pkwy
SE	Cedar Ave	Manor Pkwy
NW	Cedar Ave	Martin Luther King Dr
NW	Waverly Ave	Rohmann Ave
SE	Waverly Ave	Rohmann Ave
NW	Waverly Ave	Manor Pkwy
NW	Sterling Ave	Rohmann Ave

SE	Sterling Ave	Rohmann Ave
Corner	Street At	Cross Street
NE	Rohmann Ave	Sterling Ave
SW	Rohmann Ave	Sterling Ave
NE	Alice Ave	Waverly Ave
SW	Alice Ave	Waverly Ave
SW	Alice Ave	Western Ave
NE	Clarke Ave	Waverly Ave
SW	Clarke Ave	Waverly Ave
SW	Clarke Ave	Western Ave
NE	Barker Ave	Sterling Ave
SW	Barker Ave	Sterling Ave
NE	Barker Ave	Waverly Ave
SW	Barker Ave	Waverly Ave
SW	Barker Ave	Western Ave
NE	Kellogg Ave	Sterling Ave
NE	Kellogg Ave	Waverly Ave
SW	Kellogg Ave	Waverly Ave
SW	Kellogg Ave	Western Ave
NE	Callender Ave	Sterling Ave
NE	Callender Ave	Waverly Ave
SW	Callender Ave	Waverly Ave
SW	Callender Ave	Western Ave
NE	Ayres Ave	Sterling Ave
NE	Ayres Ave	Waverly Ave
SW	Ayres Ave	Waverly Ave
SW	Ayres Ave	Western Ave
NE	Sherman Ave	Sterling Ave
NE	Sherman Ave	Waverly Ave
SW	Sherman Ave	Waverly Ave
SW	Sherman Ave	Western Ave
NE	Moss Ave	Sterling Ave
NE	Moss Ave	Waverly Ave
SW	Moss Ave	Waverly Ave
SW	Moss Ave	Western Ave
NE	Manor Pkwy	Sterling Ave
NE	Manor Pkwy	Cedar Ave
SW	Manor Pkwy	Cedar Ave
NE	Manor Pkwy	Arthur Ave
SW	Manor Pkwy	Arthur Ave
SW	Manor Pkwy	Western Ave
SW	Edna Ave	Cedar Ave
SE	LeRoy Ave	Rohmann Ave
SE	Swords Ave	Farmington Rd
NW turn	Swords Ave	Farmington Rd
SE	Swords Ave	Farmington Rd
SW	Kellogg Ave	Cedar Ave
NE	Kellogg Ave	Cedar Ave

(Ord. 1994-26) (Ord. 1994-18, 1994-28, 1996-05, 1997-18, 1999-17, 2000-12, 2011-42)

TITLE 3 TRAFFIC AND PARKING

CHAPTER 5 YIELD SIGNS

3-5-1 Yield Signs

SECTION 3-5-1 YIELD SIGNS

Yield signs shall be erected and all drivers of vehicles shall be required to yield the right-of-way at the intersections set forth in Exhibit B attached hereto and made a part hereof. The following locations shall have yield signs located as below. (Ord. 1994-18)

Exhibit B

<u>Corner</u>	<u>Street At</u>	<u>Cross Street</u>
NE	Herold Ave.	Rhodora Ave.
NW	Bluff Crest Ct.	Heading Ave.
SE	Courtland Ave.	Laura Ave.
NW	Courtland Ave.	Laura Ave.
SW	Downs Circle	Sterling Ave.
SE	Waverly Ave.	Heading Ave.
SW	Idaho St.	Kenwood Ave.
NE	Idaho St.	Kenwood Ave.
SE	Pleasant St.	Kenwood Ave.
NW	Pleasant St.	Kenwood Ave.

TITLE 3 TRAFFIC AND PARKING

CHAPTER 6 SPEED LIMITS

3-6-1 Speed Limits

3-6-2 Speed Limits and Penalties in Work Zones

SECTION 3-6-1 SPEED LIMITS

The permitted speed limits on City streets shall be as set forth below, however, on any street not listed and posted the speed limit shall be thirty (30) MPH. The speed limit on all alleys shall be fifteen (15) MPH.

<u>Speed Limit</u>	<u>Street</u>	<u>Cul-De-Sac Streets (15 MPH)</u>
30 MPH	Western	Fairway Dr.
25 MPH	Waverly	Edna Ct.
30 MPH	Sterling (45 MPH on the hill)	Iris Ct.
25 MPH	Ashland	Barker (West of Sterling)
40 MPH	Swords (20 on the curve)	Coolidge Ct.
40 MPH	Park	Wendarm Ct.
25 MPH	Market	Rohmann Ct.
15 MPH	Stever	Rohmann Ave. (West of Pleasant)
25 MPH	Rhodora	Kenwood Ave. (West of Pleasant)
25 MPH	Herold	Alice (West of Pleasant)
25 MPH	Market	Heading (West of Ashland)
40 MPH	Farmington Rd.	Holling Dr.
30 MPH	Pierson	Bluff Crest
30 MPH	Heading	Belle Vista Ct.
25 MPH	Laura	Heading Ct.
25 MPH	Alice	Edgehill Ct.
25 MPH	Clark	Shirldon Ct.
20 MPH	Kenwood	Magnolia
30 MPH	Rohmann	Vaughn Ave.
25 MPH	Barker	Dell Ct.
25 MPH	Kellogg	Idaho Ct.
25 MPH	Callendar	Radan Ct.
15 MPH	Cedar	Richmond (West of Pierson)
25 MPH	Ayres	Gentry Ln.
25 MPH	Sherman	
25 MPH	Moss	
25 MPH	Manor	
25 MPH	Ardmore	
25 MPH	Avon Curve	
25 MPH	Arthur	
25 MPH	Texas St.	
25 MPH	Iowa St.	
25 MPH	Dakota St.	
25 MPH	Colorado St.	

SECTION 3-6-2 SPEED LIMITS AND PENALTIES IN WORK ZONES

Speed limits in all posted work zones in the City of West Peoria shall be twenty (20) miles per hour. Any person found guilty of violating the aforesaid speed limit shall be fined three hundred seventy-five dollars (\$375.00) per offense.

(Ord. 2011-45) (Ord. 2006-11)

TITLE 3 TRAFFIC AND PARKING

CHAPTER 7 NO PARKING

3-7-1 No Parking

SECTION 3-7-1 NO PARKING

- A. Parking is prohibited on all streets where "No Parking" is posted and on that portion of streets where "No Parking Here to Corner" is posted.
- B. No person shall park a vehicle in an alley so as to block the free movement of traffic or the driveway entrance to any property.
- C. The definitions set forth in the Illinois Vehicle Code, 625 ILCS 5/11-100, et.seq. are hereby expressly incorporated herein by reference and made a part hereof.
- D. Vehicles displaying handicapped person identification devices as issued by the Secretary of State (including handicapped person parking permits, transporter of handicapped person parking permits, handicapped person vehicle registration plates and disabled veteran vehicle registration plates) may be parked at specially designated handicapped parking spaces within the City. No vehicle shall be parked in a space designated for vehicles for handicapped persons unless such vehicle shall have displayed thereon a handicapped person parking device as set forth in this section. Any person found guilty of violating this section shall be fined one hundred dollars (\$100.00). Such person shall also pay all required court costs. (Ord. 2001-10)
- E. Parking is prohibited on both sides of Sterling Avenue between Heading and Rohmann. (Ord. 1994-26)
- F. There shall be no parking at any time on the Edna Court cul-de-sac. (Ord. 2018-12)

TITLE 3 TRAFFIC AND PARKING

CHAPTER 8 RIGHT OF WAY OBSTRUCTIONS

3-8-1 Prohibitions

3-8-2 Removal of Obstructions from right-of-way

SECTION 3-8-1 PROHIBITIONS

- A. No person shall blow or shovel snow, leaves or debris into or onto any City street from any other property. The person guilty of same, shall be fined no less than fifty dollars (\$50.00), and not to exceed five hundred dollars (\$500.00).

(Ord. 2008-05)

SECTION 3-8-2 REMOVAL OF OBSTRUCTIONS FROM RIGHT-OF-WAY

It shall be unlawful to place large items of personal property, excluding motor vehicles and including but not limited to portable basketball hoops, on the streets and right-of-way of the City of West Peoria.

The owner of such items which identify their owner and are not allowed on the streets and right-of-way shall be given reasonable notice prior to removing the object as abandoned. The owner of any such items which may be erected or placed upon any street, avenue, alley or sidewalk or other public ground of the city shall remove the same, upon receiving written notice from the Code Enforcement Officer, within forty-eight (48) hours. If the owner of said items is not ascertainable through reasonable efforts at the time the violation occurs, notice will be affixed to the item and deemed received by owner. Failure to remove such items within forty-eight (48) hours is a violation of this subsection and such items remaining on the streets and right-of-way beyond forty-eight (48) hours after notice will be considered abandoned. The person guilty of violating this subsection, shall be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00).

Large items of personal property, excluding motor vehicles and including but not limited to portable basketball hoops, which are found on city streets and right-of-way and which items do not identify their owner, shall be considered abandoned and subject to removal by the police department and/or the Code Enforcement Officer. Should the owner of said item or the person guilty of violating this subsection be identified, they shall be fined not less than fifty dollars (\$50.00) nor more than five hundred (\$500.00).

Abandoned personal property confiscated by the City may be redeemed by the rightful owner upon payment of a fee of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00), said fee calculated to cover the City's cost in removing and storing the item. Any citizen whose property is confiscated in accordance with this subsection, within seven (7) days of confiscation, may request a hearing before a designee of the Mayor to contest whether the item of personal property was properly removed as abandoned property. Said hearing shall be held within twenty-one (21) days of the request for a hearing.

(Ord. 2016-05)

TITLE 3 TRAFFIC AND PARKING

CHAPTER 9 CONSTRUCTION OF FACILITIES ON THE PUBLIC RIGHTS-OF-WAY

- 3-9-1 Purpose and Scope
- 3-9-2 Definitions
- 3-9-3 Annual Registration Required
- 3-9-4 Permit Required; Applications and Fees
- 3-9-5 Action on Permit Applications
- 3-9-6 Effect of Permit
- 3-9-7 Revised Permit Drawings
- 3-9-8 Insurance
- 3-9-9 Indemnification
- 3-9-10 Security
- 3-9-11 Permit Suspension and Revocation
- 3-9-12 Change of Ownership or Owner's Identity or Legal Status
- 3-9-13 General Construction Standards
- 3-9-14 Traffic Control
- 3-9-15 Location of Facilities
- 3-9-16 Construction Methods and Materials
- 3-9-17 Vegetation Control
- 3-9-18 Removal, Relocation, or Modification of Utility Facilities
- 3-9-19 Cleanup and Restoration
- 3-9-20 Maintenance and Emergency Maintenance
- 3-9-21 Variances
- 3-9-22 Penalties
- 3-9-23 Enforcement
- 3-9-24 Severability

SECTION 3-9-1 PURPOSE AND SCOPE

- A. Purpose. The purpose of this Section 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. Facilities Subject to This Section. This Section applies to all facilities on, over, above, along, upon, under, across, or within the public rights-of-way within the jurisdiction of the City. A facility lawfully established prior to the effective date of this Section 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.
- C. 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 Section.
- D. 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 Section 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.
- E. Conflicts with Other Ordinances. This Ordinance supersedes all Ordinances or parts of Ordinances adopted prior hereto that are in conflict herewith, to the extent of such conflict.
- F. Conflicts with State and Federal Laws. In the event that applicable federal or State laws or regulations conflict with the requirements of this Section, the utility shall comply with the requirements of this Section to the maximum extent possible without violating federal or State laws or regulations.
- G. Sound Engineering Judgment. The City shall use sound engineering judgment when administering this Section and may vary the standards, conditions, and requirements expressed in this Section 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.

SECTION 3-9-2 DEFINITIONS

As used in this Section 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 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 Section.

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.

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.

City: The City of West Peoria.

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.

Director of Public Works: The City Street Department Manager or his or her designees.

Disrupt the Right-of-Way: For the purposes of this Section, 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 or a protective casing.

Engineer: The City Engineer or his or her designee.

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 track and rails, wires, ducts, fiber optic cable, communications and video cables and wires, poles, conduits, grates, covers, pipes, cables, and appurtenances thereto) located on, over, above, along, upon, under, across, or within rights-of-way under this Section, except those owned 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 on highway.

Hazardous Materials: Any substance or material which, due to its quantity, form concentration, location, or other characteristics, is determined by the City Engineer 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.

IDOT: Illinois Department of Transportation.

ILCC: 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.

Major Intersection: The intersection of two or more major arterial highways.

Occupancy: The presence of facilities on, over or under 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 this Section.

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 thirty (30) days.

Public Entity: A legal entity that constitutes, or is part of, the government, whether at local, state or federal level.

Restoration: The repair of a right-of-way, highway, roadway, or other area disrupted by the construction of a facility.

Right-of-Way: Any street, alley, other land or waterway, dedicated or commonly used for utility 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" shall not include any real or personal City property that is not specifically described in the previous two (2) 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 its use or consumption and not for sale.

Security Fund: That amount of security required pursuant to this Section.

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.

Street Department Manager: The City Director of Public Works or his or her designee.

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, specialized mobile radio services, or any other transmission of messages or information by electronic or similar means, between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite, or similar facilities. Unless the context clearly requires otherwise, "telecommunications" shall also include wireless telecommunications as defined in the Illinois Telecommunications Infrastructure Maintenance Fee Act, 35 ILCS 635/1 *et seq.*

"Telecommunications" shall not include value added services in which computer processing applications are used to act on the form, content, code, and protocol of the information for purposes other than transmission. "Telecommunications" shall not include purchase of telecommunications by a telecommunications service provider for use as a component part of the service provided by him or her to the ultimate retail consumer who originates or terminates the end-to-end communications. Retailer access charges, right of access charges, charges for use of intercompany facilities, and all telecommunications resold in the subsequent provision and used as a component of, or integrated into, end-to-end telecommunications services shall not be included in gross charges as sales for resale. "Telecommunications" shall not include the provision of cable services through a cable system as defined in the Cable Communications Act of 1984 (47 U.S.C. Sections 521 and following) as now or hereafter amended or cable or other programming services subject to an open video system fee payable to the City through an open video system as defined in the Rules of the Federal Communications Commission (47 C.D.F. 76.1550 and following) as now or hereafter amended.

Telecommunications Provider: Means any person that installs, owns, operates or controls facilities in the public right-of-way used or designed to be used to transmit telecommunications in any form.

Telecommunications Retailer: Means and includes 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 Section.

Vent: A pipe to allow the dissipation into the atmosphere of gases or vapors from an underground casing.

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.

SECTION 3-9-3 ANNUAL REGISTRATION REQUIRED

Every utility that occupies right-of-way within the City shall register on January 1 or the next business day of each year with the Engineer, 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 twenty-four (24) hour telephone number for each such person, and evidence of insurance as required in this Section, in the form of a certificate of insurance. A telecommunications provider that has registered under this Section, shall be deemed to have satisfied the registration requirements under this Section.

SECTION 3-9-4 PERMIT REQUIRED; APPLICATION FEES

- A. Permit Required. No person shall construct (as defined in this Section) 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 (as defined in this Section), 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 City Engineer and obtaining a permit from the City therefor, except as otherwise provided in this Section. 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 Ordinance shall be filed with the City Clerk 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 and telephone and telecopy numbers;
 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:
 - a) A written traffic control plan demonstrating the protective measures and devices that will be employed consistent with the Illinois Manual on Uniform Traffic Control Devices, to prevent injury or damage to persons or property and to minimize disruptions to efficient pedestrian and vehicular traffic; and
 - b) An emergency contingency plan which shall specify the nature of potential emergencies, including, without limitation, construction and hazardous materials emergencies, and the intended response by the applicant. The intended response shall include notification to the City and shall promote protection of the safety and convenience of the public. Compliance with ILCC 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 this Section;
 8. Evidence of posting of the security fund as required in this Section;
 9. Any request for a variance from one or more provisions of this Section; and
 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 Subsection (c) of this Section, 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 new electric power, communications or natural gas distribution system installation, evidence that any "Certificate of Public Convenience and Necessity" has been issued by the ILCC that the applicant is required by law, or has elected, to obtain;
 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, have been satisfied; or
 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 thirty (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 Section shall be accompanied by a fee in the amount of five hundred dollars (\$500.00). No application fee is required to be paid by any telecommunications retailer that is paying the municipal telecommunications infrastructure maintenance fee pursuant to Ordinance 1998-3 or the optional state telecommunications infrastructure maintenance fee pursuant to the Telecommunications Municipal Infrastructure Maintenance Fee Act, or by any electricity utility that is paying the municipal electricity infrastructure maintenance fee pursuant to the Electricity Infrastructure Maintenance Fee Act.

SECTION 3-9-5 ACTION ON PERMIT APPLICATIONS

- A. City Review of Permit Applications. Completed permit applications, containing all required documentation, shall be examined by the City Engineer within a reasonable time after filing. If the application does not conform to the requirements of all applicable ordinances, codes, laws, rules, and regulations, the City Engineer shall reject such application in writing, stating the reasons therefor. If the City Engineer is satisfied that the proposed work conforms to the requirements of this Section and all applicable ordinances, codes, laws, rules, and regulations, the City Engineer shall issue a permit therefor as soon as practicable.
- 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 Section 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 ten (10) days prior to the commencement of work requiring no excavation and not less than thirty (30) days prior to the commencement of work requiring excavation. The City Engineer shall specify the portion of the right-of-way upon which the facility may be placed, used and constructed.
 - 2. In the event that the City Engineer fails to provide such specification of location to the telecommunications retailer within either (i) ten (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) twenty-five (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 Section.
 - 3. Upon the provision of such specification by the City, where a permit is required for work pursuant to this Section, 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 Subsection (a) of this Section.

SECTION 3-9-6 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 Section 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 public rights-of-way.

- B. Compliance with All Laws Required. The issuance of a permit by the City does not excuse the permittee from complying with other requirements of the City and all applicable statutes, laws, ordinances, rules, and regulations.

SECTION 3-9-7 REVISED PERMIT DRAWINGS

In the event that 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 ninety (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 Section, it shall be treated as a request for variance in accordance with this Section. If the City denies the request for a variance, then the permittee shall either remove the facility from the right-of-way or modify the facility so that it conforms to the permit and submit revised drawings or plans therefor.

SECTION 3-9-8 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 in paragraphs 1 and 2 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 one million dollars (\$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 one million dollars (\$1,000,000) per employee and per accident.
- 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 policies required by this Section to the City within ten (10) days following receipt of a written request therefor 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 thirty (30) days after receipt by the City, by registered mail or certified mail, return receipt requested, of a written notice addressed to the City Administrator of such intent to cancel or not to renew.

Within ten (10) days after receipt by the City of said notice, and in no event later than ten (10) days prior to said 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 Subsection (a), or the requirements of Subsections (b), (c) and (d) of this Section. 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 Subsection (a) of this Section, 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.

SECTION 3-9-9 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 Section 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 Section by the City, its officials, officers, employees, agents or representatives.

SECTION 3-9-10 SECURITY

- A. Purpose. The permittee shall establish a Security Fund in a form and in an amount as 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 Section;
 - 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 Section; 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 Section including, without limitation, any damage to public property or restoration work the permittee is required by this Section 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 Section 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 Subsection 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 of Illinois 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 City Engineer Director of Public Works, 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 City Engineer Director of Public Works 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 Subsection (c) for any single phase.
- D. Withdrawals. The City, upon fourteen (14) days' advance written notice clearly stating the reason for, and its intention to, exercise withdrawal rights under this Subsection, may withdraw an amount from the Security Fund, provided that the permittee has not reimbursed the City for such amount within the fourteen (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 Section that the City determines can be remedied by an expenditure of an amount in the Security fund.
- E. Replenishment. Within fourteen (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 Subsection (c) of 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 Subsection (c) of 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 Section 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 Section 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.

SECTION 3-9-11 PERMIT SUSPENSION AND REVOCATION

- A. City Right to Revoke Permit. The City may revoke or suspend a permit issued pursuant to this Section 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 Ordinance;
 3. Permittee's physical presence or presence of permittee's facilities on, over, above, along, upon, under, across, or within the public 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 Section 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 five (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 public 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 ten (10) days after receipt of the written notice or revocation.
- The City may, in its discretion, for good cause shown, extend the time periods provided in this Subsection.
- 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 Subsection (a) of this Section.
- E. Failure or Refusal of the Permittee to Comply. If the permittee fails to comply with the provisions of Subsection (c) of this Section, the City or its designee may, at the option of the City: (1) correct the deficiencies; (2) upon not less than twenty (20) days' notice to the permittee, remove the subject facilities or equipment; or (3) after not less than thirty (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.

SECTION 3-9-12 CHANGE OF OWNERSHIP OR OWNER'S IDENTITY OR LEGAL STATUS

- A. Notification of Change. A utility shall notify the City no less than thirty (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 all applicable laws, ordinances, rules and regulations, including this Section, 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.

SECTION 3-9-13 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:
 - 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 Section, the City Engineer shall determine, in the exercise of sound engineering judgment, which principles apply and such decision shall be final. If requested, the City Engineer shall state which standard or principle will apply to the construction, maintenance, or operation of a facility in the future.

SECTION 3-9-14 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 all applicable federal, state, and local requirements for protection of the public and the utility's workers when performing any work on the public rights-of-way.
- C. Interference with Traffic. All work shall be phased so that there is minimum interference with pedestrian and vehicular traffic.
- D. Notice When Access is Blocked. At least forty-eight (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 this Section, 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.

SECTION 3-9-15 LOCATION OF FACILITIES

A. 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 two (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 four (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 one (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 eight (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 five (5) feet (1.5 m) from the right-of-way line and any above grounded appurtenance shall be located within one (1) foot (0.3 m) of the right-of-way line or as near as practicable.

B. 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. Ninety (90) Degree Crossing Required. Crossing facilities shall cross at or as near to a ninety (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 ILCC's rules entitled, "Construction of Electric Power and Communication Lines" (83 Ill. Adm. Code 305);
 - b) Poles are located within one (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, an emergency phone number. Markers may also be eliminated as provided in current Federal regulations. (49 C.F. R. 192.707 (1989)).
- C. 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.
 - D. 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.
 - E. 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 highway user or impair the aesthetic quality of the lands being traversed.
 - F. Above Ground Installation. 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.
 - 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.

SECTION 3-9-16 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 City Engineer from the edge of the pavement. Pits for boring or jacking shall be excavated no more than forty-eight (48) hours in advance of boring or jacking operations and backfilled within forty-eight (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 Six (6) Inches. Borings over six (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 one (1) inch (25 mm).
- d) Borings with Diameters Six (6) Inches or Less. Borings of six (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 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 City Engineer.
- 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 or 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) 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 three (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 Engineer, 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 Engineer.

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 (4) is permitted under this Section, the following requirements shall apply:
 - a) Any excavation under pavements shall be backfilled as soon as practicable with granular material of CA-6 or CA-10 gradation, as designated by the Engineer.
 - 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 seven (7) years, or resurfaced in the last three (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 J.U.L.I.E. 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 one (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 sixty (60) psia or less, encasement may be eliminated.
 - e) In the case of gas pipelines or petroleum products pipelines with installations of more than sixty (60) psia, encasement may be eliminated only if:
 - (i) extra heavy pipe is used that precludes future maintenance or repair, and
 - (ii) 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
Power or Communication Line (In General)	30 Inches (0.8 m)
Communication Line Installed by the Plowed Method	24 Inches (0.6 m)
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 305 (formerly General Order 160 of the Illinois Commerce Commission) 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. (3) Cable shall be grounded in accordance with the National Electrical Safety Code.

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. Waterlines, 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 one (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 Engineer. With the approval of the Engineer, 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 "Standards Specifications for Road and Bridge Construction," the requirements of the Illinois Commerce Commission, or the standards establish by other official regulatory agencies for the appropriate industry.
2. Material Storage on Right-of-Way. 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 Engineer when emergency work is required to restore vital utility services.

- E. Location of Existing Facilities. Any utility proposing to construct facilities in the City shall contact J.U.L.I.E. 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 J.U.L.I.E., a utility shall locate and physically mark its underground facilities within forty-eight (48) hours, excluding weekends and holidays, in accordance with the Illinois Underground Facilities Damage Prevention Act (220 ILCS 50/1 et seq.)

SECTION 3-9-17 VEGETATION CONTROL

- A. Tree Trimming Permit Required. Tree trimming 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 Section. Under this Section, the Street Department Manager will issue the permit.
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.
- B. **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.
- C. **Chemical Use.** 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 Engineer that such spraying is the only practicable method of vegetation control.

SECTION 3-9-18 REMOVAL, RELOCATION, OR MODIFICATIONS OF UTILITY FACILITIES

- A. **Notice.** Within ninety (90) days following written notice from the City, a utility shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any utility facilities within the rights-of-way whenever the corporate authorities have determined that such removal, relocation, change or alteration, is reasonably necessary for the construction, repair, maintenance, or installation of any City improvement in or upon, or the operations of the City in or upon, the rights-of-way.
- B. **Removal of Unauthorized Facilities.** Within thirty (30) days following written notice from the City, any utility that owns, controls, or maintains any unauthorized facility or related appurtenances within the public rights-of-way shall, at its own expense, remove all or any part of such facilities or appurtenances from the public 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 Section; 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 municipality 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 public rights-of-way of the City, the utility shall notify the City within ninety (90) days. Following receipt of such notice the City may direct the utility to remove all or any portion of the facility if the City Engineer determines that such removal will be in the best interest of the public health, safety and welfare. In the event that 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.

SECTION 3-9-19 CLEANUP AND RESTORATION

Upon completion of all construction or maintenance of facilities, the utility shall remove all excess material and restore all turf and terrain in a timely manner and to the satisfaction of the City. This includes restoration of entrances and side roads. Restoration of roadway surfaces shall be made using materials and methods approved by the City Engineer. Such cleanup and repair may be required to consist of backfilling, regrading, reseeding, re-sodding, 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.

SECTION 3-9-20 MAINTENANCE AND EMERGENCY MAINTENANCE

- A. General. Facilities 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 City Engineer 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 City police 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 of a description of the repairs undertaken in the right-of-way within forty-eight (48) hours after an emergency repair.

SECTION 3-9-21 VARIANCES

- A. Request for Variance. A utility requesting a variance from one (1) or more of the provisions of this Section must do so in writing to the City Engineer with a copy to the City Clerk as a part of the permit application. The request shall identify each provision of this Section from which a variance is requested and the reasons why a variance should be granted.
- B. Authority to Grant Variances. The City Engineer shall decide whether a variance is authorized for each provision of this Section identified in the variance request on an individual basis.
- C. Conditions for Granting of Variance. The City Engineer 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 impracticable in relation to the requested approach.
- D. Additional Conditions for Granting of a Variance. As a condition for authorizing a variance, the City Engineer may require the utility requesting the variance to meet reasonable standards and conditions that may or may not be expressly contained within this Section but which carry out the purposes of this Section.

SECTION 3-9-22 PENALTIES

Any person who violates, disobeys, omits, neglects or refuses to comply with any of the provisions of this Section shall be subject to fine in accordance with the penalty provisions of this Code. There may be times when the City will incur delay or other costs, including third party claims, because the utility will not or cannot perform its duties under its permit and this Section. 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 who does not pay the costs apportioned to it.

SECTION 3-9-23 ENFORCEMENT

Nothing in this Ordinance shall be construed as limiting any additional or further remedies that the City may have for enforcement of this Ordinance.

SECTION 3-9-24 SEVERABILITY

If any section, subsection, sentence, clause, phrase or portion of this Section is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

(Ord. 2000-10)

TITLE 3 TRAFFIC AND PARKING

CHAPTER 10 MUNICIPAL TELECOMMUNICATIONS INFRASTRUCTURE MAINTENANCE FEE

- 3-10-1 Recitals
- 3-10-2 Definitions
- 3-10-3 Registration of telecommunications providers
- 3-10-4 Municipal telecommunications infrastructure maintenance fee
- 3-10-5 Collection, enforcement, and administration of City telecommunications infrastructure maintenance fees
- 3-10-6 Compliance with other laws
- 3-10-7 Existing franchises and licenses
- 3-10-8 Penalties
- 3-10-9 Enforcement
- 3-10-10 Severability
- 3-10-11 Conflict
- 3-10-12 Waiver and fee implementation

SECTION 3-10-1 RECITALS

The facts and statements contained in the preamble to this Section are found to be true and correct and are hereby adopted as part of this Section.

SECTION 3-10-2 DEFINITIONS

As used in this Section, the following terms shall have the following meanings:

Gross charges: means the amount paid to a telecommunications retailer for the act or privilege of originating or receiving telecommunications within the City, and for all services rendered in connection therewith, valued in money whether paid in money or otherwise, including cash, credits, services, and property of every kind or nature, and shall be determined without any deduction on account of the cost of such telecommunications, the cost of the materials used, labor or service costs, or any other expense whatsoever. In case credit is extended, the amount thereof shall be included only as and when paid. "Gross charges" for private line service shall include charges imposed at each channel point within the City, charges for the channel mileage between each channel point within the City, and charges for that portion of the interstate inter-office channel provided within the City. However, "gross charges" shall not include:

- A. Any amounts added to a purchaser's bill because of a charge made under: (i) the fee imposed by this Section; (ii) additional charges added to a purchaser's bill under Section 9-221 or 9-222 of the Public Utilities Act; (iii) amounts collected under Section 8-11-17 of the Illinois Municipal Code; (iv) the tax imposed by the Telecommunications Excise Tax Act; (v) 911 surcharges; or (vi) the tax imposed by Section 4251 of the Internal Revenue Code;
- B. Charges for a sent collect telecommunication received outside the City;
- C. Charges for leased time on equipment or charges for the storage of data or information or subsequent retrieval or the processing of data or information intended to change its form or content. Such equipment includes, but is not limited to, the use of calculators, computers, data processing equipment, tabulating equipment, or accounting equipment and also includes the usage of computers under a time-sharing agreement;

- D. 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;
- E. Charges to business enterprises certified under Section 9-222.1 of the Public Utilities Act to the extent of such exemption and during the period of time specified by the City;
- F. Charges for telecommunications and all services and equipment provided in connection therewith between a parent corporation and its wholly-owned subsidiaries or between wholly-owned subsidiaries, and only to the extent that the charges between the parent corporation and wholly-owned subsidiaries or between wholly-owned subsidiaries represent expense allocation between the corporations and not the generation of profit other than a regulatory required profit for the corporation rendering such services;
- G. 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;
- H. Charges paid by inserting coins in coin-operated telecommunications devices; or,
- I. Charges for telecommunications and all services and equipment provided to the City.

Public right-of-way: means any municipal street, alley, water or public right-of-way dedicated or commonly used for utility purposes, including utility easements wherein the City has acquired the right and authority to locate or permit the location of utilities consistent with telecommunications facilities. "Public right-of-way" shall not include any real or personal City property that is not specifically described in the previous sentence and shall not include City buildings and other structures or improvements, regardless of whether they are situated in the public right-of-way.

Retailer maintaining a place of business in this State: or any like term, means and includes any retailer having or maintaining within the State of Illinois, directly or by a subsidiary, an office, distribution facilities, transmission facilities, sales office, warehouse, or other place of business, or any agent or other representative operating within this State under the authority of the retailer or its subsidiary, irrespective of whether such place of business or agent or other representative is located here permanently or temporarily, or whether such retailer or subsidiary is licensed to do business in this State.

Sale of telecommunications at retail: means the transmitting, supplying, or furnishing of telecommunications and all services rendered in connection therewith for a consideration, other than between a parent corporation and its wholly-owned subsidiaries or between wholly-owned subsidiaries, when the gross charge made by one such corporation to another such corporation is not greater than the gross charge paid to the retailer for their use or consumption and not for sale.

Service address: means the location of telecommunications equipment from which telecommunications services are originated or at which telecommunications services are received. If this is not a defined location, as in the case of wireless telecommunications, paging systems, maritime systems, air-to-ground systems, and the like, "service address" shall mean the location of the customer's primary use of the telecommunications equipment as defined by the location in Illinois where bills are sent.

Telecommunications: includes, but is not limited to, messages or information transmitted through use of local, toll, and wide area telephone service, channel services, telegraph services, teletypewriter service, computer exchange services, private line services, specialized mobile radio services, or any other transmission of messages or information by electronic or similar means, between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite, or similar facilities. Unless the context clearly requires otherwise, " telecommunications" shall also include wireless telecommunications as hereinafter defined. "Telecommunications" shall not include value added services in which computer processing applications

are used to act on the form, content, code, and protocol of the information for purposes other than transmission. "Telecommunications" shall not include purchase of telecommunications by a telecommunications service provider for use as a component part of the service provided by him or her to the ultimate retail consumer who originates or terminates the end-to-end communications. Retailer access charges, right of access charges, charges for use of intercompany facilities, and all telecommunications resold in the subsequent provision and used as a component of, or integrated into, end-to-end telecommunications service shall not be included in gross charges as sales for resale. "Telecommunications" shall not include the provision of cable services through a cable system as defined in the Cable Communications Act of 1984 (47 U.S.C. Sections 521 and following) as now or hereafter amended or cable or other programming services subject to an open video system fee payable to the City through an open video system as defined in the Rules of the Federal Communications Commission (47 C.D.F. 76.1550 and following) as now or hereafter amended.

Telecommunications provider: means (1) any telecommunications retailer; and (2) any person that is not a telecommunications retailer that installs, owns, operates, or controls equipment in the public right-of-way that is used or designed to be used to transmit telecommunications in any form.

Telecommunications retailer: or "retailer" or "carrier" means and includes every person engaged in the business of making sales of telecommunications at retail as defined in this Section. The City may, in its discretion, upon application, authorize the collection of the fee hereby imposed by any retailer not maintaining a place of business within this State, who, to the satisfaction of the City, furnishes adequate security to ensure collection and payment of the fee. When so authorized, it shall be the duty of such retailer to pay the fee upon all of the gross charges for telecommunications in the same manner and subject to the same requirements as a retailer maintaining a place of business within the City.

Wireless telecommunications: includes cellular mobile telephone services, personal wireless services as defined in Section 704(C) of the Telecommunications Act of 1996 (Public Law No. 104-104), 42 U.S.C. §332(c)(7), as now or hereafter amended, including all commercial mobile radio services, and paging services.

SECTION 3-10-3 REGISTRATION OF TELECOMMUNICATIONS PROVIDERS

- A. Every telecommunications provider as defined by this Section shall register with the City within thirty (30) days after the effective date of this Ordinance or becoming a telecommunications provider, whichever is later, on a form to be provided by the City; provided, however, that any telecommunications retailer that has filed a return pursuant to Section Five of this Section shall be deemed to have registered in accordance with this Section
- B. Every telecommunications provider who has registered with the City pursuant to this Section has an affirmative duty to submit an amended registration form or current return as required by Section Five of this Section, as the case may be, to the City within thirty (30) days from the date of the occurrence of any changes in the information provided by the telecommunications provider in the registration form or most recent return on file with the City.

SECTION 3-10-4 MUNICIPAL TELECOMMUNICATIONS INFRASTRUCTURE MAINTENANCE FEE

- A. City telecommunications infrastructure maintenance fee is hereby imposed upon all telecommunications retailers in the amount of one percent (1%) of all gross charges charged by the telecommunications retailer to service addresses within the City for telecommunications originating or received in the City.
- B. Upon the effective date of the City telecommunications infrastructure maintenance fee authorized in this Section, the City telecommunications infrastructure maintenance fee authorized hereunder shall be the only fee or compensation for the use of all public rights-of-way within the City by

telecommunications retailers. Imposition of the City telecommunications infrastructure maintenance fee provided under this Section does not, however, serve as a limitation on the levying of any taxes or imposition of any fees otherwise authorized by law.

- C. The City telecommunications infrastructure maintenance fee authorized by this Section shall be collected, enforced, and administered as set forth in Section Five of this Section.

SECTION 3-10-5 COLLECTION, ENFORCEMENT AND ADMINISTRATION OF CITY TELECOMMUNICATIONS INFRASTRUCTURE MAINTENANCE FEES

- A. A telecommunications retailer shall charge to and collect from each customer an additional charge in an amount equal to the City telecommunications infrastructure maintenance fee attributable to that customer's service address.
- B. Unless otherwise approved by the City, the City telecommunications infrastructure maintenance fee shall be remitted by the telecommunications retailer to the City not later than the last day of the month subsequent to the month in which a bill is issued to the customer; provided, however, that the telecommunications retailer may retain an amount not to exceed two percent (2%) of the City telecommunications infrastructure maintenance fee collected by it to reimburse itself for expenses incurred in accounting for and remitting the City telecommunications infrastructure maintenance fee.
- C. Remittance of the City telecommunications infrastructure maintenance fee to the City shall be accompanied by a return, in a form to be prescribed by the City, which shall contain such information as the City may reasonably require.
- D. Any City telecommunications infrastructure maintenance fee required to be collected pursuant to this Section and any such City telecommunications infrastructure maintenance fee collected by such telecommunications retailer shall constitute a debt owed by the telecommunications retailer to the City. The charge imposed under Section Four of this Section by the telecommunications retailer pursuant to this Section shall constitute a debt of the purchaser to the telecommunications retailer who provides such services until paid and, if unpaid, is recoverable at law in the same manner as the original charge for such services.
- E. If it shall appear that an amount of City telecommunications infrastructure maintenance fee has been paid that was not due under the provisions of this Section, whether as a result of a mistake of fact or an error of law, then such amount shall be credited against any City telecommunications infrastructure maintenance fee due, or to become due, under this Section, from the telecommunications retailer who made the erroneous payment; provided, however, the City may request, and telecommunications retailer shall provide, written substantiation for such credit. However, no claim for such credit may be made more than three (3) years after the date of the erroneous payment unless, (1) the credit is used only to offset a claim of underpayment made by the City within the applicable statutory period of limitations; and (2) the credit derives from an overpayment made by the same telecommunications retailer during the applicable statutory period of limitations.
- F. Amounts paid under this Section by telecommunications retailers shall not be included in the tax base under any of the following acts as described immediately below:
 - 1. "gross charges" for purposes of the Telecommunications Excise Tax Act;
 - 2. "gross receipts" for purposes of the municipal utility tax as prescribed in Section 8-11-2 of the Illinois Municipal Code;
 - 3. "gross charges" for purposes of the municipal telecommunications tax as prescribed in Section 8-11-17 of the Illinois Municipal Code;
 - 4. "gross revenue" for purposes of the tax on annual gross revenue of public utilities prescribed in Section 2-202 of the Public Utilities Act.

- G. The City shall have the right, in its discretion, to audit the books and records of all telecommunications retailers subject to this Section to determine whether the telecommunications retailer has properly accounted to the City for the City telecommunications infrastructure maintenance fee. Any underpayment of the amount of the City telecommunications infrastructure maintenance fee due to the City by the telecommunications retailer shall be paid to the City plus five percent (5%) of the total amount of the underpayment determined in an audit, plus any costs incurred by the City in conducting the audit, in an amount not to exceed five percent (5%) of the total amount of the underpayment determined in an audit. Said sum shall be paid to the City within twenty-one (21) days after the date of issuance of an invoice for same.
- H. The City may promulgate such further or additional regulations concerning the administration and enforcement of this Section, consistent with its provisions, as may be required from time to time and shall notify all telecommunications retailers that are registered pursuant to Section Three of this Section of such regulations.

SECTION 3-10-6 COMPLIANCE WITH OTHER LAWS

Nothing in this Section shall excuse any person or entity from obligations imposed under any law, including, but not limited to:

- A. Generally applicable taxes; and,
- B. Standards for construction on, over, under, or within, use of or repair of the public rights-of-way, including standards relating to free standing towers and other structures upon the public rights-of-way, as provided; and,
- C. Any liability imposed for the failure to comply with such generally applicable taxes or standards governing construction on, over, under, or within, use of or repair of the public rights-of-way; and,
- D. Compliance with any ordinance concerning uses or structures not located on, over, or within the right-of-way.

SECTION 3-10-7 EXISTING FRANCHISES AND LICENSES

Any franchise, license, or similar agreements between telecommunications retailers and the City entered into before the effective date of this Ordinance regarding the use of public rights-of-way shall remain valid according to and for their stated terms except for any fees, charges, or other compensation to the extent waived.

SECTION 3-10-8 PENALTIES

Any telecommunications provider who violates, disobeys, omits, neglects, or refuses to comply with any of the provisions of this Section shall be subject to a fine of not more than five hundred dollars (\$500.00) for each and every offense.

SECTION 3-10-9 ENFORCEMENT

Nothing in this Section shall be construed as limiting any additional or further remedies that the City may have for enforcement of this Section.

SECTION 3-10-10 SEVERABILITY

If any section, subsection, sentence, clause, phrase, or portion of this Section is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

SECTION 3-10-11 CONFLICT

This Ordinance supersedes all ordinances or parts of ordinances adopted prior hereto which are in conflict herewith, to the extent of such conflict. (Ord. 1998-03)

SECTION 3-10-12 WAIVER AND FEE IMPLEMENTATION

- A. The City hereby waives all fees, charges, and other compensation that may accrue, after the effective date of the waiver, to the City by a telecommunications retailer pursuant to any existing City franchise, license, or similar agreement with a telecommunications retailer during the time the City imposes the City telecommunications infrastructure maintenance fee. This waiver shall only be effective during the time the City telecommunications infrastructure maintenance fee provided for in this Section is subject to being lawfully imposed on the telecommunications retailer and collected by the telecommunications retailer from the customer.
- B. The City Clerk shall send a notice of the waiver by certified mail/return receipt requested to each telecommunications retailer with whom the City has a franchise.
- C. The City telecommunications infrastructure maintenance fee provided for in this Section shall become effective and imposed on the first day of the month not less than ninety (90) days after the City provides written notice by certified mail to each telecommunications retailer with whom the City has an existing franchise, license, or similar agreement that the City waives all compensation under such existing franchise, license, or similar agreement during such time as the City telecommunications infrastructure maintenance fee is subject to being lawfully imposed and collected by the retailer and remitted to the City. The City telecommunications infrastructure maintenance fee shall apply to gross charges billed on or after the effective date as established in the preceding sentence.

(Ord. 1998-03)